



INTERSTATE OIL AND GAS COMPACT COMMISSION

P.O. Box 53127, Oklahoma City, OK 73152-3127 • 900 N.E. 23rd Street, Oklahoma City, OK 73105
Phone: 405/525-3556 • Fax: 405/525-3592 • E-mail: iogcc@iogcc.state.ok.us
World Wide Web <http://www.iogcc.state.ok.us>

626

Chairman:
Governor Tony Knowles, Alaska

Vice Chairman:
Tony Garza, Texas

Second Vice Chairman:
Philip Asprodites, Louisiana

Executive Director:
Christine Hansen

October 4, 2001

Chair
Council on Environmental Quality
Executive Office of the President
722 Jackson Place, N.W.
Washington, D.C. 20503

Attn: V.A. Stephens, Energy Project Streamlining Task Force

COMMENTS OF THE INTERSTATE OIL AND GAS COMPACT COMMISSION

The Interstate Oil and Gas Compact Commission (IOGCC) is responding to the Federal Register Notice of August 20, 2001 (Volume 66, Number 161) request for comments concerning the Energy Task Force, under the leadership of the Chairman of the Council on Environmental Quality (CEQ), established by President George W. Bush on May 18, 2001.

The IOGCC is an organization of the 30 oil and gas producing states, with 7 associate state members and represents states which produce more than 99% of all of the oil and natural gas produced domestically in the United States. The governors of the 30 states use the Compact to promote wise development of petroleum resources in their states and to ensure that states, not the federal government, regulate production and environmental protection.

The Energy Task Force formed by President Bush (Executive Order 13212) is to be commended. The oil and gas producing states in this nation have long struggled with the interference of the federal government in our long-standing environmental practices for the exploration and production of oil and natural gas in this country. The states have regulated this production since the 1800's and the state regulatory systems have been a model for many governments around the world, as well as for the Bureau of Land Management in the U.S. Department of the Interior.

However, the states collectively spend literally thousands of hours every year combating regulation proposed by various branches of the federal government. The waste of taxpayer money on both the state and federal level for these bureaucratic exercises is phenomenal. If the states were able to commit this time to their own duties, and if the federal bureaucrats were able to commit their time to productive activities, both would benefit. More importantly, the citizens of the nation would benefit.

MEMBER STATES Alabama • Alaska • Arizona • Arkansas • California • Colorado • Florida • Illinois • Indiana • Kansas • Kentucky • Louisiana • Maryland • Michigan • Mississippi • Montana • Nebraska • Nevada • New Mexico • New York • North Dakota • Ohio • Oklahoma • Pennsylvania • South Dakota • Texas • Utah • Virginia

West Virginia • Wyoming **ASSOCIATES** Georgia • Idaho • Missouri • North Carolina • Oregon • South Carolina • Washington

INTERNATIONAL AFFILIATES Alberta • Egypt • Newfoundland and Labrador • Nova Scotia • Venezuela

\\IOGCCSVR\USERS\Joan\commentsEnergyTaskForce.doc

The states have encountered not only numerous challenges from the Washington, D.C. level of government, but also encountered challenges from various regional offices of these agencies. For instance, the EPA regional offices can interpret the same regulation in vastly different ways causing untold confusion for the states. The same is true of BLM regional offices, the U.S. Forest Service.

The Federal Register notice states that the task force will be organized into eight functional categories. It is not clear from the Federal Register notice where exploration and production activities fall in this grouping.

While exploration and production activities are regulated primarily at the state level, with the federal government doing some regulation on federal lands, it would still be appropriate to coordinate the "upstream" functions of exploration and production into this task force. Without attention to exploration and production issues, other infrastructure becomes unimportant. That is, if we aren't producing natural gas in this country, the pipeline system carrying it around and the processing plants cleaning it are not so important.

The states of the Interstate Oil and Gas Compact Commission would be pleased to work closely with whichever task force group is handling exploration and production of natural gas and oil. The states have a great deal of knowledge to impart. The states are anxious to share their experiences with the task force.

For instance, the states would like to tell the task force about the current EPA efforts to regulate hydraulic fracturing of natural gas wells, based on an inappropriate Circuit Court decision. Rather than working with the states to clarify the Safe Drinking Water Act to exclude already regulated oil and gas activities, EPA staff has undertaken years of "study" of this issue and has basically given short shrift to repeated state comments about our decades of experience with this particular well completion technique.

The states have had this same experience repeated regularly over the years with each Administration. The knowledge of states is dismissed, while various federal agencies work to reinvent the wheel. The states invented the petroleum exploration and production regulatory wheel, and the states have perfected it over decades of field experience. The states do not have static regulatory programs, but continue to strive for perfection in those programs.

In working toward this constant improvement, the states could certainly use the support of the federal government. What the states experience, rather than support, is often the need to spend hours reacting to federal initiatives which do not advance them.

The proposed Energy Task Force of the Council on Environmental Quality could assist the states, while performing its coordinating role, if you gave the states an opportunity to occasionally comment on issues before the task force with which the states may have some detailed knowledge.

October 4, 2001

Page 3

In addition, there may be areas of current federal jurisdiction which states could handle more expeditiously. It was the recommendation of the prior Administration that states take over the inspection and enforcement programs for oil and natural gas wells on federal lands. The states worked for years to effect this transfer, but were unsuccessful in negotiations with the Bureau of Land Management.

The states have established that their excellent inspection and enforcement programs cost about one tenth of what BLM spends on oil and gas parallel programs, and states issue permits within days rather than the weeks or months required for BLM permits.

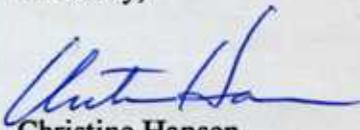
The examples in these comments are but two of many I could mention. The states are willing to be of assistance to the Energy Task Force and offer the IOGCC as a mechanism the Task Force can use to communicate with the states on a variety of state-federal issues.

We also urge the Task Force to create an internal reporting mechanism when issues are sent to the federal agencies for resolution. If the Task Force undertakes a monitoring role of agency actions, the requested actions will remain "front and center" for the individual agencies, rather than suffering a long death by neglect when individuals within an agency may not agree with the proposed action.

The states, working cooperatively as an IOGCC/National Association of Regulatory Utility Commissioners (NARUC) group, have also addressed the critical need for increased natural gas pipeline infrastructure. The two organizations worked for a year to study the problems of natural gas pipeline siting, as set out clearly in the 1999 report of the National Petroleum Council (NPC). The states have a common purpose with the federal government in this regard. The state officials also had federal representatives on this task force, and coordinated with industry to ensure they were adequately characterizing the problems.

The work product of that group is attached. Some of the recommendations would work equally well for the siting of petroleum product pipelines, electric transmission lines and other utility transportation infrastructure issues. Coordination at the state and local level, and communication with the general public, is critical to any smooth siting of energy infrastructure. Again, the states stand willing to be of assistance to the federal government. We have a common purpose.

Sincerely,



Christine Hansen
Executive Director

CH:jo
Enclosure

Final Report
of the
IOGCC / NARUC
Pipeline Siting Work Group

July 2001

Overview

In early 2000, the National Association of Regulatory Commissioners (NARUC) Committee on Gas and the Interstate Oil and Gas Compact Commission (IOGCC) Legal and Regulatory Committee formed a work group to address regulatory challenges of substantial expansion to the U.S. natural gas pipeline system.

In a report to the U.S. Secretary of Energy, the National Petroleum Council (NPC) in late 1999 projected a need to build 38,000 miles of natural gas transmission pipeline and 255,000 miles of distribution mainlines to meet the needs of increased demand. Much of the demand for more natural gas stems from most new electric power plants using gas as their fuel source.

New pipelines must also be constructed to bring natural gas from new producing areas, and increased pipeline capacity will be required in areas of the country growing in size. The infrastructure required to deliver gas to market must be optimized and expanded to accommodate the increase in demand as well as the changing logistics of getting new supply to all customers, from residential home heating customers to 850 MW power plants.

Capital expenditures for the expanded pipeline system are estimated to be from \$33.6 to \$43.7 billion nationally. The NPC report discusses the myriad of regulatory layers involved in siting a natural gas pipeline and calls on government, industry, and other stakeholders to address the uncertainty of addressing market demand when regulatory processes take many years.

Thus, the IOGCC and NARUC formed a work group to make recommendations addressing regulatory issues. The work group approached the issue by first examining current permitting practices. The group found that the states did not really have a comprehensive list of all-regulatory requirements, so turned to the pipeline industry which provided the group with detailed information about the number and nature of permits. The group also looked at FERC regulation and was impressed with the many modifications in recent years aimed at streamlining the FERC process.

The work group also visited a pipeline under construction through a variety of areas – suburban residential, wetlands, a school yard, light industrial and under a river. They looked at the kinds of challenges faced in pipeline construction and gained a greater understanding of the need for a variety of regulatory roles.

At their initial meeting, the work group decided they would make no recommendations adding additional regulation, nor would they recommend elimination of any regulations. Their goal was to make recommendations to streamline existing processes. These are their recommendations.

RECOMMENDATIONS OF THE NARUC/IOGCC PIPELINE WORK GROUP

Sustaining Economic Expansion

States striving to sustain and encourage economic development will find the challenge increasingly dependent upon energy availability. As a result of recent events, new and expanding businesses often no longer assume needed energy supplies will be available. In order to expand, or develop new businesses, as well as meet basic human needs of the population, states must ensure that an adequate energy infrastructure is available. The recent California experience with energy shortages has prompted businesses, generally, to ask state development offices about the availability of electricity and natural gas within a state. Governors will increasingly be called upon, as they promote economic development in their states, to respond to the energy availability question.

The current natural gas infrastructure was not planned to meet the expected rate of natural gas consumption growth which the nation will see in the next decade, particularly demand driven by needs in electric power generation. More than 90 percent of all planned new power generation in the United States will be fueled by natural gas. Almost all small, supplemental back-up generating units (such as those used by hospitals and schools) are powered by natural gas. Natural gas demand has been well documented by the National Petroleum Council (NPC) report which spurred creation of this work group.

One of the key challenges to energy availability is an adequate natural gas pipeline and distribution system to provide an ever increasing gas demand across the country. The NPC report estimates over 38,000 miles of new transmission lines will be needed, as well as 263,000 miles of new distribution lines. That much pipeline will require the attention of every state, and many regulatory bodies within the states. It will require the attention of the Federal Energy Regulatory Commission (FERC), the Bureau of Land Management (BLM), the U.S. Forest Service and many other federal entities.

The work group has found pipeline siting controlled by a variety of state and local government offices, as well as by the federal government. In terms of permit volume, the bulk of individual permits, required for infrastructure expansion, are state and local. State and local regulations are not only necessary, but add an element of local oversight which is critical to a project being reviewed with the unique interests of the state or locality at the forefront. However, only a few states have effective coordination of the natural gas pipeline permitting process while state and local regulatory steps can add many months – and sometimes years – to building a pipeline.

State and local regulation is perhaps the most effective level of regulation because it rests closest to the public being served. However, state and local regulation is sometimes duplicative both between levels of government and between different state agencies, and for interstate pipelines must take federal requirements into consideration.

Recommendations

1. Every governor should establish within the office of governor a coordinating effort to organize and expedite the activities of all state and local natural gas permitting entities. The purpose of the coordination would be to monitor the process and encourage prompt consideration, while eliminating duplication of effort. This coordinating effort will not be a new level of regulation, but will draw upon the expertise of the appropriate state agencies. The coordinating effort will insure all data needed are provided by the applicant in a timely fashion and will facilitate sharing of information and experts among state and federal agencies, and with local government.
2. States should decide, prior to beginning a natural gas pipeline siting process, what information they need to collect and communicate that information to the general public and to the pipeline. States should identify all of the participants in the permitting process and coordinate regulatory roles, to the goal of processing information only once. States should consider naming a lead agency which would have the authority to monitor processing schedules within existing regulatory requirements.

3. Every state economic development office (Commerce Department) should be involved with the coordination effort and recommend actions to streamline the process.
4. States should work with the federal government to conduct regional needs and pipeline/utility corridor identification. This federal-state coordination is endorsed in Executive Order 13212, issued May 18, in which President Bush created a federal interagency task force charged with "...setting up appropriate mechanisms to coordinate federal, state, tribal and local permitting in geographic areas where increased permitting activity is expected."
5. States should consider a special task force of state environmental experts to focus and coordinate all environmental issues stemming from the proposed pipeline. When time-sensitive issues arise, the governors need a plan for reaction, which would be coordinated with federal entities where appropriate. This is recognized in the National Energy Policy released in May by the Bush Administration which recommends that "...the President direct agencies to continue their interagency efforts to improve pipeline safety and expedite pipeline permitting in an environmentally sound manner and encourage the Federal Energy Regulatory Commission to consider improvements in the regulatory process governing approval of interstate natural gas pipeline projects."
6. States should encourage research spending, including government, university and pipeline spending, to continue the development of pipeline installation techniques to disturb less surface, complete the installation more quickly and enhance safety.
7. States should undertake a comprehensive review of policies, procedures and regulations for the siting and installation of natural gas pipelines to determine how to eliminate duplication, reduce the cost and time of review, without any compromise to state regulatory oversight.
8. States should be a partner in FERC pipeline pre-filing citizen meetings, and consider developing similar citizen meetings for intrastate projects. Stakeholder notification and involvement in the process must be adequate to evaluate their interests.

9. States should encourage public education and outreach on the part of the pipeline. Pipelines, and states, should exchange innovative and high quality effective public outreach techniques, including informing the public about economic development and human needs issues as they link to new natural gas infrastructure requirements. Such public education should include adequate information about steps taken to ensure public safety, details of construction and contingency plans (i.e. what happens when it rains for a week in the middle of construction?), and information about the direct benefits of the project.

10. States should consider developing a model for clear and accessible state and local regulations governing the siting of natural gas pipelines.

IOGCC/NARUC PIPELINE SITING WORKGROUP

Working Group Coordinators

Christine Hansen
Executive Director
Interstate Oil and Gas Compact Commission

Commissioner Edward J. Holmes
Chairman
NARUC Committee on Gas

IOGCC Participants

Commissioner Philip Asprodites
Commissioner of Conservation
Division Natural Resources
Office of Conservation

Staff:

Mariano G. Hinojosa
Director of Pipelines
Louisiana Division Natural Resources
Office of Conservation

Commissioner Don Mason
Utility Commissioner
Public Utilities Commission of Ohio

John T. King
Supervisor, Gas Division
Petroleum Engineering Section
Michigan Public Service Commission

Staff:

Bill Bokram
Gas Division
Michigan Public Service Commission

Department of the Interior (BLM) Participant

Bob Anderson
Deputy Assistant Director
Minerals, Realty and Resources Protection
Bureau of Land Management
U. S. Department of the Interior

FERC Participant

Randolph E. Mathura
Director
Division of Pipeline Certificates
FERC - Office of Energy Projects

INGAA Participants

Cuba Wadlington, Jr.
President and Chief Executive Officer
Williams Gas Pipeline

Geoffrey A. Emerson
Regulatory State Government Affairs Director
CMS Energy

NARUC Participants

Commissioner Frederick Butler
New Jersey Board of Public Utilities

Staff:

John Caleca
Assistant to Commissioner Butler
New Jersey Board of Public Utilities

Commissioner Clark Jones (retired)
Utah Public Service Commission

Commissioner R. Marshall Johnson
Minnesota Public Utilities Commission

AGA Participant

Jeff Petrash
American Gas Association

US DOE Participant

Yvonne Caudillo
Natural Gas Analyst
United States Department of Energy
Office of Fossil Energy