LEGISLATIVE BUDGET & AUDIT COMMITTEE

REPRESENTATIVE RALPH SAMUELS, CHAIRMAN

March 28, 2008

Anthony M. Palmer
Vice-President Alaska Development
TransCanada PipeLines Limited
450 – 1st Street S.W.
Calgary, AB, T2P 5H1
Canada

SENT BY FACSIMILIE TRANSMISSION

Dear Mr. Palmer:

This letter is our fifth request for additional information and clarification on issues surrounding your AGIA application. This letter will cover a range of issues.

1. **Recourse Rates and Negotiated Rates** – TransCanada proposes Recourse Rates for Alaska and both Recourse Rates and Negotiated Rates for Canada. ***Are there certain terms of the tariff that we should be aware of that react differently to Recourse Rates or Negotiated Rates? Is there a reason why Negotiated Rates were not offered in Alaska?***

2. **Precedent Agreements – Section 2.2.3.3** of the TransCanada Proposal states that "TransCanada expects to work with interested stakeholders prior to the Open Season to develop a mutually acceptable Precedent Agreement." The Proposal continues by saying that "…the final terms and conditions to be included in the Precedent Agreement would be determined during the pre-Open Season period as part of the engagement process with prospective Shippers and other interested stakeholders, such as the State." ***Does TransCanada intend to include Anadarko and other potential independent shippers in their engagement process as well?***

3. **Bids submitted after the close of the open season – Page 2.2-55** TransCanada states that "All bids received prior to the expiry date of the Open Season will be evaluated." TransCanada then states its concerns with the FERC Open Season Regulations by stating: "The FERC Open Season Regulations require the Project sponsor to accept bids that are submitted late, unless to do so would adversely impact the timely development of the Project, as determined by FERC pursuant to 18 C.F.R. 157.34(d)(2). TransCanada is concerned that this might discourage

participation by potential shippers in the initial Open Season and thereby has the potential to defer development." ***Please explain how TransCanada intends to comply with 18 C.F.R 157.34(d) (2) and the AGIA "must have" at AS 43.90.130(3) (A). Does TransCanada intend to comply with the FERC and AGIA obligation to consider bids submitted after the close of the open season on the Canadian portion of the pipeline?***

4. **<u>Shipper Obligation – TransCanada at page 2.2-59</u>** lists the obligations of the Shippers. One of the requirements listed is for the shipper to demonstrate to the satisfaction of TransCanada that "sufficient take-away capacity has been secured at the Delivery Point" by the shipper. ***Is this a requirement that the shipper must meet at the time of the open season i.e., approximately 18 months from the license award? How developed would an LNG or in-state pipeline proposal need to be to demonstrate to TransCanada that it has satisfactorily met this requirement? Would a plan to build or expand another pipeline be sufficient to meet TransCanada's test or would it need to be developed beyond a plan?***

5. **<u>Northern Pipeline Act Requirements</u>** – TransCanada, in its March 14, 2008, response to the Legislative Budget & Audit Committee stated that "The Northern Pipeline Act requires Foothills to provide delivery points at Whitehorse and several small communities in Yukon, as well as a specific capital contribution towards the cost of that service." ***Could you be more specific on what the Northern Pipeline Act requires? How many small communities must be provided delivery points? What is the specific capital contribution required? What is the estimated impact to the main line tariff from these requirements?***

6. **<u>FERC Certificate after failed open season – TransCanada at page 2.2-81</u>** commits to "apply for FERC approval to use the pre-filing procedures set out in 18 C.F.R. § 157.21." ***In the event of an unsuccessful open season, what assumptions will TransCanada make regarding pipe size and throughput in order to complete the applications necessary to proceed to FERC Certificate? If TransCanada is ultimately wrong in its projection of pipe size and throughput, how much additional time and cost will be required to amend TransCanada's application to the FERC?***

Representative_Ralph_Samuels@legis.state.ak.us
Session: Alaska State Capitol, Juneau, Alaska 99801-1182 • Phone (907) 465-2705 Fax (907) 465-5003
Interim: 716 W. 4th Ave., Anchorage, Alaska 99501-2133 • Phone (907) 269-0240 Fax (907) 269-0242

7. **Point Thomson impacts on failed open season** – ***In the event of a failed open season and if Point Thomson gas is not available to the pipeline at the time of commencement of pipeline production, what assumptions will TransCanada make regarding pipe size and throughput to complete the applications necessary to proceed to FERC Certificate?***

8. **Point Thomson impacts on successful open season** – ***If Point Thomson gas is not available to commit to the first binding open season and is not available to the pipeline at the time of commencement of pipeline production resulting in an insufficient amount of gas available for FT commitment to warrant a 48 inch pipe, what size pipeline will TransCanada propose to the FERC and NEB? Will TransCanada design a pipe and take FT risk on the assumption that Point Thomson gas will eventually be committed to the pipeline? Based on TransCanada's requirement for the shipper to demonstrate it has sufficient volumes of natural gas covering the first 10 years of shipping commitments, will TransCanada allow any potential shipper to back its FT commitment with Point Thomson gas while its ownership is still being litigated?***

9. **Other Permits** – TransCanada at page 2.2-81 states that "A comprehensive list of all of the primary required approvals for the Alaska portion of the Project is set forth in Appendix P1 "Major U.S. Regulatory Approvals." ***In the event of a failed open season, is it TransCanada's intent to pursue those regulatory approvals concurrent with pursuing the FERC certificate of public convenience and necessity? Will TransCanada pursue certification under the NPA and all regulatory approvals in Canada concurrent with pursuing the FERC certificate of public convenience and necessity? Will the absence of those additional approvals or any action towards obtaining them affect the ability to obtain FERC or NEB certificates? If TransCanada does not pursue the other primary approvals concurrent with the FERC and NEB certificates, how much additional time will be required to obtain the other approvals once TransCanada decides to proceed with the project?***

10. **Anchor Shipper** – TransCanada at page 2.2-69 states: "TransCanada recognizes the desire of some potential Shippers to have an ownership position in the GTP, Alaska Section, and Yukon-BC; therefore, as an inducement to attract Shippers in the initial Open Season, TransCanada is prepared to offer an ownership option in these segments of the Project to Shippers that subscribe in the initial Open Season, subject to a minimum threshold volume for each Shipper, and whose

volume commitments, in aggregate, meet the minimum 3.5 bcf/d firm shipping capacity requirement for the Project." ***What percentage of equity ownership is TransCanada prepared to offer on each of the pipeline Sections? Will TransCanada offer differing ownership participation for the GTP on the Alaska Section and the Canadian Section? If there are expansions or new builds downstream of the Alberta Hub, what ownership positions on those pipelines will TransCanada offer shippers?***

11. **Rights-of-Way** – TransCanada at page 2.2-84 states: "The Foothills Subsidiaries have easement rights for the entire route through Yukon. The exercise of rights under the easement agreement is subject only to the prior written consent of the Minister responsible for the Northern Pipeline Agency." In the AGIA public comments by Chief David Johnny on behalf of White River First Nation, Chief Laird Mcmillan on behalf of Laird First Nation, and Eric Morris on behalf of Teslin Tlingit Council expressed a different position on TransCanada's authority to move forward without their consent. ***Does TransCanada have the authority to move forward with the pipeline project in the Yukon without the approval of the First Nations?***

12. **Alaska Hire and Contracting** – In its Execution Plan, TransCanada addresses its obligation under AS 43.90.130 for local hire and contracting. Its contracting strategy on page 2.3-18 does not mention its obligation to Alaska businesses and the Alaska Hire Section on page 2.3-19 is merely a restatement of the statute without elaboration. ***Can you elaborate on how TransCanada plans to comply with the Alaska hire and contracting requirements of AGIA?***

13. **Project Viability/Cash flow** – TransCanada at page 2.10-6 estimates the aggregate cash flows of the various Project stakeholders. ***If there is a 50% or 100% cost overrun, how does the aggregate cash flow change for the various Project stakeholders?*** TransCanada referred to a 100% cost overrun as an example of a stress case in its presentation before the House Open Caucus. ***Please recreate the TransCanada chart on p. 2.10-6 based on a 50% cost overrun and a 100% cost overrun.***

14. **Economics of Cost Overruns** - TransCanada has proposed several vehicles to pay for cost overruns in their application. ***What would the impact be on the following elements under both a 50% and 100% cost overrun?***
    - **Capital Cost Overrun Loan** – TransCanada has proposed to allocate the portion necessary of the U.S. Loan Guarantee to finance the Capital Cost Overrun. Should there be a Capital Cost Overrun, it would be funded 100% by the U.S. Loan Guarantee backstopped Project Loan. ["Capital Cost Overrun Loan"]. ***If there are insufficient funds to backstop both the capital cost overruns and the initial project costs, how would using the U.S. Loan to backstop the cost overruns affect the financing of the initial project costs?***
    - **Surcharge Concept** – TransCanada proposes to use the surcharge concept to service the Capital Cost Overrun Loan.
        - *a.* **Negotiated Rate Shippers** – Negotiated Rate shippers will be provided the option to elect for their share of the Capital Cost Overrun Loan servicing requirement to be collected via the surcharge. The surcharge would be required to be paid only when market gas prices at the Alberta Hub are above a predetermined threshold. ***Does the percentage of what TransCanada uses to pay off the Capital Cost Overrun Loan above the predetermined threshold change as the cost overruns increase?***
        - *b.* **Recourse Rate Shippers** – Recourse Rate shippers and those Negotiated Rate Shippers that have not elected the surcharge option would be required to pay a transportation toll that is inclusive of their share of the Capital Cost Overrun Loan servicing requirement regardless of the level of the market gas prices. ***Since Recourse rate shippers are paying for the cost overruns in their initial tolls, does their tariff rate decrease with the first couple of expansions or do they pay the additional expansion toll surcharge just like the negotiated rate shippers until the cost overruns are paid off?***
- **Expansion Tolls** – In addition to collecting surcharges from the Surcharge Shippers and tolls from the Non-Surcharge Shippers, TransCanada proposes to keep the transportation rates for all Shippers at the initial rate for any expansions that normally would result in lower rolled-in rates and utilize such incremental revenue to service the Capital Cost Overrun Loan. ***If the pipeline is expanded to 5.9 bcf/d, how long would it take for TransCanada to pay off the cost overruns using the surcharge from expansion tolls?***
- **Authorized Overrun Service** – TransCanada also proposes to use the revenues collected from selling the non-firm based transportation services, such as balancing services and authorized overrun service, to pay for the cost overrun debt. ***How much AOS service do you project? Will this have a significant impact on paying off the cost overruns?***
- **TransCanada's Reduced ROE** – Even though TransCanada's return on equity is reduced in the event of a Capital Cost Overrun, TransCanada proposes that

Shippers would continue to pay a transportation rate that reflects the full rate of return on equity until the Capital Cost Overrun Loan is paid off. Until the earlier of (i) 5 years following the In-Service Date, or (ii) the date the Capital Cost Overrun Loan is paid off, TransCanada would utilize revenues collected from the spread of the rate of return on equity to service the Capital Cost Overrun Loan to pay for the cost overrun debt. ***What is the value of this surcharge? How much of the cost overruns will this surcharge pay off in 5 years?***

- **Rejection of proposal by FERC or NEB** – The above proposed use of U.S. Loan Guarantee for Capital Cost Overrun credit support and the associated surcharge tolling concept are contingent upon approvals of the FERC and the NEB. In the event TransCanada is unsuccessful in securing approvals from these authorities to use the U.S. Loan Guarantee as contemplated above, all Capital Cost Overruns will be financed and treated the same as the Base Capital Cost and Shippers would be required to pay a base toll that includes 100% recovery of Capital Cost Overruns. ***See question below regarding DOE rejection of TransCanada Capital Cost Overrun Proposal.***

15. **ANNGT withdrawn partners** – In its response to the State of Alaska regarding the ANNGT liabilities TransCanada states that "neither the TransCanada AGIA Applicants nor any other TransCanada entity will have any obligation to the Withdrawn Partners if the TransCanada AGIA Applicants succeed in building the pipeline proposed in their November 30, 2007 AGIA application." ***If TransCanada is found liable to the withdrawn partners and the liability was incorporated into the tariff, would only the Alaska section of the pipeline be impacted or would TransCanada spread that liability over the entire pipeline?*** TransCanada has made a statement assuring the State that "in the highly unlikely event that the TransCanada AGIA Applicants or any of their affiliates or subsidiaries were somehow required to pay an obligation to a Withdrawn Partner of ANNGT, the TransCanada AGIA Applicants hereby commit not to include such payment in the rates for the project proposed in their AGIA application." ***What form of documentation will your commitment take, e.g., waiver, release, letter of credit, etc., and when can the State expect to see that documentation?***

16. **Cost Overruns surcharge** – TransCanada states at p. 2.2-71 that "For Negotiated Rate Shippers who have elected the Capital Cost Overrun Surcharge option ("Surcharge Shippers") their share of the Capital Cost Overrun Loan servicing requirement will be collected via the surcharge. Such surcharge would be required to be paid only when market gas prices at the Alberta Hub are above a predetermined threshold." ***What is that predetermined threshold? Please explain the elements of what will be used in determining the threshold? When***

will the shippers know how the threshold will be calculated? Is it TransCanada's intent to base the threshold on the cost of the tariff, the cost of the tariff plus a return to the shipper, etc.? What portion of the "net profit" above the predetermined threshold would be retained by TransCanada? For example, if the predetermined threshold was $3, and the sales price of the gas was $8, how much of the $5 above the predetermined threshold would TransCanada retain to pay off the cost overruns?

17. **DOE Rejection of TransCanada Capital Cost Overrun Proposal** – TransCanada states at p.2.2-72 "In the event TransCanada is unsuccessful in securing approvals from these authorities to use the U.S. Loan Guarantee as contemplated above, all Capital Cost Overruns will be financed and treated the same as the Base Capital Cost and Shippers would be required to pay a base toll that includes 100% recovery of Capital Cost Overruns." ***Does this mean that TransCanada will withdraw its proposed reduction in return on equity? If not, would the result be a reduction in toll? Does this mean that the Capital Cost Surcharge option is not available to Negotiated Rate Shippers? Does this mean that Expansion tolls would be reduced instead of paying off the Capital Cost Overruns? How will AOS receipts be allocated?***

18. **TransCanada Conditions Precedent to Proceed to Construction** – TransCanada states at pp 2.2-60 to 61 that commencement of construction by TransCanada would be subject to several precedent conditions. The State of Alaska, in AS 43.90.240, requires the project to be abandoned only if it is determined that the project is proved to be uneconomic. Some of TransCanada's conditions precedent to moving forward with construction of the project do not seem to rise to the level of proving to be uneconomic required by AS 43.90.240. ***How does TransCanada reconcile the two positions?***

Again, we look forward to your timely response to these questions.

Sincerely,

Ralph Samuels, Chair
Legislative Budget and Audit Committee

Representative_Ralph_Samuels@legis.state.ak.us
Session: Alaska State Capitol, Juneau, Alaska 99801-1182 • Phone (907) 465-2705 Fax (907) 465-5003
Interim: 716 W. 4th Ave., Anchorage, Alaska 99501-2133 • Phone (907) 269-0240 Fax (907) 269-0242