

Issues for the Municipal Advisory Gas Project Review Board to consider regarding the Alaska LNG project impact aid fund, grant program and PILT

It appears the task ahead for the Municipal Advisory Gas Project Review Board is two-fold:

1. Assist the administration in preparing for its fiscal negotiations with the Alaska LNG project sponsors by providing a credible, reasonable estimate of the amount of funds that affected municipalities would need to cover their additional expenses during project construction, in lieu of assessing and collecting property taxes on the development. And then assist the administration in designing and implementing a grant program to administer those impact aid funds during project construction.
2. Advise the administration in designing a system (and formula) to determine and allocate project payments received during operations in lieu of assessed property taxes.

The municipalities might feel more comfortable with their estimates of direct-impact expenses during project construction if they had a sense of where the grant program was headed and how the payment-in-lieu-of-taxes (PLIT) calculation and distribution during operations would be structured.

As such, the Kenai Peninsula Borough is setting out its thoughts on how to deal with all three questions in a timely fashion, so as not to delay progress in negotiations between the state and its partners in the Alaska LNG project.

BACKGROUND

The intent for an impact aid fund during project construction is contained in the January 2014 Heads of Agreement between the state of Alaska and partners ConocoPhillips, BP, ExxonMobil and TransCanada. Sec. 9.3.1(b) states: “The Parties would establish a series of impact payments to be paid by the Alaska LNG Parties to help offset increased service and other costs borne by the State and local governments during construction of the Alaska LNG Project.”

The issue also was addressed in Senate Bill 138, adopted by the Legislature and signed into law by the governor in 2014. Sec. 74 establishes a municipal advisory planning group and directs the group to recommend changes in the property tax structure to “mitigate impacts to communities affected by development of a North Slope natural gas project,” including “options to minimize the financial impact to communities” that are in proximity — and not in proximity — of project construction.

Building on the legislative direction for financial assistance to communities in proximity to the project, and also those not in direct proximity, the Municipal Advisory Gas Project Review

Board in its 2014 annual report recommended “two tiers of impact payments: direct and indirect.”

It seems the questions for the municipal advisory group and state officials include:

- How to determine each community’s direct impacts during construction and how to assign a dollar value to the costs of those services in communities in proximity to construction so that the state can total up those costs, include the estimated costs for state services, and present a complete impact aid request to the project sponsors in negotiations this year.
- How to estimate impacts that will be borne by Alaska communities not in direct proximity of the project.
- And how to answer those impact questions — and provide credible cost estimates — without detailed project development information from the sponsors, such as size and exact location of work camps, staffing needs and ramp-up timelines in each community, construction traffic and such.

Much of that specific construction planning information likely will not be available until next year, which means the communities — and the state — will need to provide their best good-faith estimates for fiscal impacts if negotiations with the project sponsors are to remain on schedule this year. Not ideal, but workable, particularly if the affected communities believe the state will be flexible in administering the impact aid fund to account for variations from the 2015 good-faith community estimates.

To this end, it probably makes sense for all of the affected communities along the project route to share their estimates in a work session to ensure that everyone is using similar assumptions, similar estimates, similar anticipated impact measurements, thus arriving at a statewide total that is consistent and credible rather than representing an assortment of assumptions.

Such as, it would be unfair for one community to expect the project to pay for completely new roads when, perhaps, other communities assume the project would merely repair road damages after the fact. Should the impact aid pay for new emergency response equipment in full, or only an assigned value for the construction years of the equipment’s lifespan? Consistency would be valuable in this process when state negotiators put the number on the table with the project sponsors.

As to estimating indirect impacts on communities not directly along the project route, it seems that is best left to the state. Whereas the municipal advisory group certainly could raise issues, highlight possible needs, make sure items are on the list, it’s probably better for the state to run the calculation rather than for directly impacted communities to weigh in on how much their indirectly affected brethren should receive. Pitting one set of communities against the other could create resentment. In the case of non-proximity communities, they would not be giving

up property tax revenues from the project the same as proximity communities, so it stands to reason that their expectations to dip into the impact aid fund should be different.

After adding up the anticipated impacts and putting the number on the table with the project sponsors, if the affected communities believe their needs will be met, those communities likely would feel more comfortable with waiting until later in the process to hash out the precise terms for a state grant program to distribute the funds. This assumes the communities are generally satisfied with the early discussions around the grant program.

As to the grant program, in general terms, the Kenai Peninsula Borough would propose for consideration at a later date:

- The grant program reside at the Department of Commerce, Community and Economic Development. The department has a long history of administering community grant programs — no sense in starting over somewhere else in state government. The impact aid fund is about covering municipal expenses (in lieu of property taxes) during construction of the mega-project. It is not about building energy projects, developing or expanding businesses or representing the state in a commercial enterprise, which would be points against placing the grant program at the Alaska Energy Authority, Alaska Industrial Development and Export Authority or Alaska Gasline Development Corp.
- The grant program needs to be simple enough that municipalities do not have to hire a legion of grant writers, yet secure enough that municipalities do not receive more than their entitled share.
- There should be a reasonable appeal process if a municipality disagrees with a grant decision, with the appeal going to the commissioner rather than an administrative hearing officer. Leaving appeals with the commissioner would create more consistency in decisions, rather than relying on randomly selected administrative hearing officers.
- The grant fund should make disbursements to municipalities based on anticipated expenses, rather than requiring the municipalities to expend the funds and then wait for reimbursement. The state should place reasonable limits on the disbursement of grant funds in advance of actual expenditures, so that municipalities are not “enticed” to turn the advance payments into a source of investment earnings.
- The intent is to make communities whole, not pay for neglected infrastructure, and the grant program instructions should attempt to define and clarify the differences so that municipalities can more easily determine eligibility when preparing their applications. There should also be a simple amendment process so grant funds can be repurposed, if appropriate.
- The grant program should be authorized up front by the Legislature as a capital appropriation of the impact aid funds, not subject to annual appropriations in the operating budget. This especially important to the municipalities, considering the state’s budget deficits and long-term fiscal gap.

As to allocating payments in lieu of taxes (PILT) during project operations:

It makes sense — especially with three separate PILT calculations for the North Slope gas treatment plant, the 800-mile pipeline, and the LNG plant and marine terminal — to allocate the PILT proceeds based on the proportional value of each of the three distinct “projects” that are within the boundaries of each municipality. As the gas treatment plant would be entirely within the North Slope Borough, and the LNG plant and terminal entirely within the Kenai Peninsula Borough, the only “project” left to divide among multiple municipalities and the state based on tax-collection apportionment (as intended by current statute) would be the pipeline.

But even for the gas treatment plant and LNG, there needs to be discussion between the state and municipalities over how to share — and even if to share — the PILT revenues from those components of the Alaska LNG project. Unlike the current property tax regime, where the state is entitled to whatever is left of a 20-mill assessment cap after a municipality takes its local share, there is no such automatic allocation as yet in PILT. In addition, since the LNG plant would not be covered under existing state statute for property taxes on oil and gas exploration, production and transportation property, that issue, too, needs to be resolved.

As to the pipeline, a strictly mileage-based apportionment of PILT revenues would miss the additional value of compressor stations along the pipeline route. Therefore, apportionment of the PILT revenues from the pipeline would need to take into account the value of property within each jurisdiction. This could be done on a cost basis at the start-up of operations, with the PILT allocations locked in at that point based on the proportional share of project value within each jurisdiction.

It appears the municipalities are in agreement with the state that the PILT formulas should be based on volume — the amount of gas moving through each of the three project components. The matter of where to set each component’s rate (how many cents per mcf for PILT) is in great part a matter of:

- How much of a government take can the project afford while still remaining competitive in the global LNG marketplace.
- How much of the government take is shared with the municipalities.
- How much is reasonable for the municipalities to receive in lieu of property tax mill levy assessments.

It’s not for the municipal advisory panel to set an absolute PILT rate; that is best left to the state in its fiscal negotiations with the project sponsors. But the municipalities should explain their needs to the administration (such as the ongoing, long-term demand on municipal services during project operations) and explain that other property owners should not be expected to fund the long-term impacts of the project. The municipalities are entitled to share in the financial benefits of an expanded tax base in their communities and PILT is the way to get there.

Simply put, PILT, unlike impact aid, is not only about making the municipalities whole during construction. It is about providing a fair share of the government take to allow the communities to benefit from the project and spread their budgetary needs upon an expanded tax base.