



House Seeks To Improve Municipal Bond Market

Local sewage infrastructure projects would get a boost from legislation a House committee approved on July 30. The House Financial Services Committee approved the Municipal Bond Fairness Act (H.R. 6308) by a voice vote, indicating that the bill was non-controversial, and could be passed by the House quickly and sent over to the Senate. The bill requires credit rating agencies, which have come under severe fire in the past year, to use the same criteria for rating municipal bonds as other bonds.

Rep. Barney Frank (D-MA), chairman of the committee and the sponsor of the bill, notes that counties, cities and states have to pay higher interest costs than are necessary on sewer bonds because they are not rated on the same scale as corporate bonds. If they were, municipal bonds, which almost never default, would have much higher credit ratings, and localities would have to pay less in interest. At hearings in March, Rep. Spencer Bachus (R-AL), top Republican on the Frank committee, related how his home county of Jefferson County, AL, has had to more than triple the interest rate it offers on its sewer bonds, from three to 10 percent.

The National Utility Contractors Association (NUCA) has endorsed the Frank bill. NUCA is concerned that local governments are having difficulty both selling sewage bonds to the public and raising funds through the sale of general revenue bonds, revenue that could be used as the city or county 20 percent match for a loan from the Clean Water State Revolving Fund.

SRF funding has been badly crimped this decade, falling from what had been a normal level of \$1.35 billion a year to the Bush administration's proposal for fiscal 2009 of \$555 million, continuing a trend from previous administrations. That has increased the importance of sale of sewage bonds, since SRF loans are now hard to come by. However, it is likely that Congress will appropriate more than \$555 million. The House appropriations subcommittee with responsibility for the Clean Water SRF bumped the total up to \$850 million for fiscal 2009, which begins on Oct. 1. It remains to be seen whether that figure stands up as the appropriations bill moves through the entire Congress. Meanwhile, Democrats have talked about a second economic stimulus bill which could include additional funds for the Clean Water SRF along with other "infrastructure" spending.

FERC Approves Midcontinent Express Pipeline

Major gas producers lost their battle to stop

construction of the 506-mile Midcontinent Express Pipeline (MEP) when FERC cleared the project in late July. Apache, Chevron and Marathon, among others, tried to stop the new pipeline arguing that Midcontinent's lease of capacity in Oklahoma from Enogex would endanger Enogex's firm section 311 service to the producers. But in its July 25 decision, FERC said, "We find that the lease payments (to MEP) are satisfactory, there are significant benefits, and those benefits outweigh any potential harm to Enogex's customers. Therefore, we find that the proposed lease is required by the public convenience and necessity, subject to the conditions described herein."

MEP is jointly owned by Kinder Morgan Energy Partners LP and ETC Midcontinent Express Pipeline LLC, a subsidiary of Energy Transfer Partners LP. Midcontinent proposes to construct its project in two phases at a total estimated cost of approximately \$1.34 billion - \$1.28 billion for the initial phase and \$60 million for the expansion phase. The pipeline will start in Oklahoma and terminate in Alabama at a Transco connection.

Higher MAOP Not A Wrap

Pipeline companies who have been pressing PHMSA to increase maximum allowable operating pressures (MAOPs) in three class areas have some problems with the proposal on that subject the agency released in March, raising questions about whether the Bush administration will issue a final rule before it leaves office. Pipelines want PHMSA clearance to increase MAOP routinely as a means of increasing throughput and decreasing operating costs.

The proposed rule PHMSA issued last March would have allowed pipelines to increase MAOP to 80, 67 and 60 percent of specified minimum yield strength (SMYS) in Class 1, 2 and 3 areas as long as they meet certain preconditions having to do with the type of pipe used, how it is coated, how the companies check for dents and many, many other issues. Currently, the MAOP for sparsely populated Class 1 locations is a maximum of 72 percent of SMYS of the steel. The operating pressures in more populated Class 2 and Class 3 locations are limited to 60 and 50 percent of SMYS, respectively.

PHMSA has granted Special Permits to pipelines allowing the higher limits. But the agency wants to move away from those permits, which are labor intensive, and revise its policy in a new federal regulation. Alan Mayberry, director, engineering and emer-

gency support at PHMSA, made a presentation at the June 10 meeting of the Technical Pipeline Safety Standards Committee. He outlined some of the changes PHMSA was considering making to the proposed rule as a result of suggestions made by pipeline companies. But it was clear that while the impending changes were welcome, they did not go far enough for some of the representatives at the meeting.

Then, on July 23, INGAA filed a 40-page comment letter with PHMSA supporting the rulemaking in "concept and direction" but suggesting numerous changes. Many of INGAA's concerns echoed those voiced at the June 10 meeting by Andy Drake, vice president of engineering and construction, Spectra Energy and Jeryl Mohn, senior vice president, operations and engineering, Panhandle Energy. Drake and Mohn said they were generally pleased with the proposed rule. Drake voiced concerns about such things as requirements for temperature limitations for pipeline coatings, whether a requirement for macro etching of pipelines should apply to existing pipelines, and criteria for anomaly repair. In addition, he made it clear that pipelines who have already applied for a Special Permit so as to be able to increase MAOP on a certain pipeline should not have those applications nullified. "I think that would be a huge waste and disruption to the marketplace and this process," he said.

INGAA's comment letter also hit hard on that last point. It noted PHMSA has the ability to revoke Special Permits. "All Special Permits granted to date should be grandfathered as a part of this final rulemaking, and all pending Special Permit applications should be considered using prevailing standards rather than the standards that will emerge from this rulemaking," INGAA emphasized.

But some state regulators are urging PHMSA to resist adopting all of industry's suggested changes. Donald Stursma, an Iowa Utilities Board regulator, agreed at the June meeting that pipelines should be able to operate at a higher MAOP if that ability is linked to "a higher quality of pipeline material construction and maintenance." But he complained that PHMSA, in an effort to give the industry everything it wanted, had thrown everything "but the kitchen sink" into the proposed rule. He added, "And I guess I would encourage you not to use criteria of corporations into this rulemaking, whether it has been in a special permit or not, but rather if it can show technical merit to the individual proposals." ■