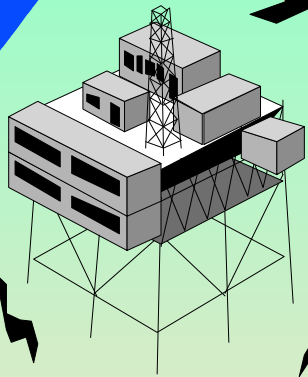


Brazil Round 1



Transportation of Oil, Refined Products and Natural Gas

Carlos Valois Maciel Braga
Supt. Transportation





Federal Constitution



- **Art. 177, Item IV**
 - **Maritime transportation of crude oil or refined products produced in Brazil and pipeline transportation of crude oil, refined products and natural gas of any origin are Federal Government monopolies**
- **Art. 177, Par. 1 - The Federal Government may contract state owned or private companies to carry out these activities**
- **Art. 25, Par. 2 - Local distribution of gas by pipeline is a monopoly of the states**



The Petroleum Law (Law 9.748/97)



- **Art. 5 - Transportation of crude oil, refined products or natural gas produced in Brazil will be regulated and monitored by the Federal Government**
- **Companies engaging in such activities must be authorized to do so, must be established under Brazilian law and must have their headquarters and management in Brazil**



Petroleum Law (*continued*)



- **Art. 6 - Technical definitions**
 - **Item VII - "Transportation"** means the shipment of oil, refined products or natural gas over routes considered to be of general interest
 - **Item VIII - "Transfer"** means the shipment of oil, refined products or natural gas over routes considered to be of specific and exclusive interest to the owner or developer of the facilities
 - **Item XXII - "Gas Distribution by Pipeline"** means local distribution of gas through pipeline networks to end users, which is a monopoly of the states, exercised directly or through concessions, in accordance with the Federal Constitution
- **ANP regulation of natural gas transportation ends at the city gate.**



- **Art. 7 - Creation of ANP and its authority**
 - **Item V - to authorize transportation activities**
 - **Item VI - to establish criteria for the calculation of pipeline transportation tariffs and to arbitrate disputes regarding such tariffs**
 - **Item VIII - aid in judicial proceedings to obtain rights-of-way and easements for pipelines and other facilities**



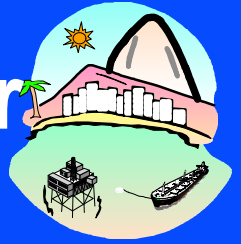
Petroleum Law (*continued*)



- **Art. 56 - Transportation**
 - **Any company or consortium may be authorized by ANP to construct installations and perform any kind of transportation**
 - **ANP issues rules, consistent with environmental and safety requirements, about:**
 - **Qualifications of interested parties**
 - **Conditions for issuance, ownership and transfer of permits**



Open Access Requirements under the Petroleum Law



Art. 58

- Any interested party will be granted the right to use "transportation" pipelines and maritime terminals, existing or to be built, with adequate compensation to the owner of the installation
- ANP has authority to
 - Set amounts of compensation due for transportation services, if the parties fail to agree
 - Regulate the preference to be accorded to the owner of the installation, with the goal of promoting maximum use of transportation capacity

Art. 59

- "Transfer" pipelines shall be reclassified by ANP as transportation pipelines, if clear need for use by third parties can be proved
 - ANP considering appropriate implementation of this provision



Construction and Operation of Pipelines and Other Facilities



- ANP Portaria 170/98 (November 26, 1998) - construction and operation authorizations
 - **Covers transportation and transfer installations for crude oil, petroleum products and natural gas**
 - Pipelines
 - Onshore and offshore terminals
 - LNG liquefaction and regasification facilities
 - **No authorization required for pipelines inside industrial plants**
 - Fields considered industrial plants
 - **Separate authorizations required for construction and operation**



Construction and Operation of Pipelines and Other Facilities (continued)



- **Requirements of Construction Authorization**
 - **Applicant's by-laws or articles of association, registration with federal and state tax authorities**
 - **Summary of the project**
 - **Preliminary facilities plan**
 - **Physical and financial construction timetable**
 - **Permit for installation issued by competent environmental authority**
 - **ANP decision due within 90 days**



Construction and Operation of Pipelines and Other Facilities (continued)



- **Construction Authorization (continued)**
 - **ANP may publish summary of the proposal in the *Diário Oficial* for public comment (30-day comment period)**
 - **In the case of natural gas transportation pipelines, authorization will be granted only to entities solely engaged in the construction and operation of these pipelines**
 - **Direct and indirect ownership interests of Carriers in Shippers (and ownership interests of Shippers in Carriers) must be disclosed**
 - **ANP may revoke any construction authorization if scheduled project implementation is delayed without justification**



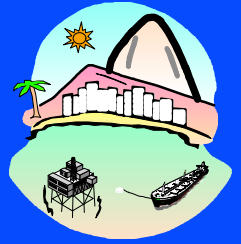
Construction and Operation of Pipelines and Other Facilities (continued)



- Requirements for obtaining Authorization to Operate
 - **Operating Permit issued by the competent environmental authority**
 - **Certification of safety and technical adequacy of facilities issued by an independent organization**
 - **Plans for maintenance and quality assurance systems for the operating phase**
 - **ANP decision within 30 days**



Open Access to Gas Pipelines



- ANP Portaria 169/98 of November 26, 1998 - open access to gas pipelines
 - **Not applicable to LNG installations**
- Carrier (owner and operator of facilities) must allow third parties access to available capacity on a "firm" basis and unused contracted capacity on an interruptible basis
 - **Available capacity defined as capacity not covered by a contract or for carrier's own use**
 - **"Firm basis" means uninterruptible contracting**
- Tariff: To be agreed between Carrier and Shipper
 - **Failing agreement, ANP will arbitrate**



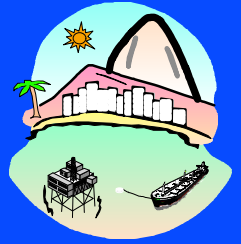
Open Access to Gas Pipelines (continued)



- Available capacity must be publicly offered during each "Open Season"
 - 30 days during the second quarter of each year
 - 120 days prior to the expiration of any contract for transportation services or the date of any increase in capacity of transportation facilities
 - Available capacity will be allocated among the parties that make the best offers as decided by Carrier
- Out of the Open Season
 - Carriers and Shippers may negotiate without public offer
 - If approached by a Shipper, Carrier must negotiate
 - Carriers may offer available capacity to public at any time



Open Access to Gas Pipelines (continued)



- If Carrier is operating at full capacity but below the capacity level approved by ANP and there is demand for greater capacity, Carrier must increase capacity up to level approved by ANP
- Interested parties may purchase unused contracted capacity on an "interruptible service" basis
 - Carriers must respond to requests within 7 days
 - Shippers may not sell unused contracted capacity
 - Shipper with unused contracted capacity will receive 90% of net revenues received from Shippers that purchase such capacity on an interruptible basis



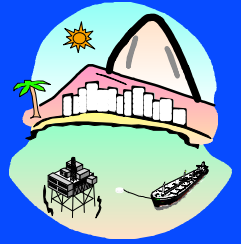
Open Access to Gas Pipelines (continued)



- Carriers must justify any refusal of requests for available capacity to the requesting party and the ANP
 - Within 30 days for available capacity
 - Within 7 days for unused contracted capacity
- Transportation agreements between Shippers and Carriers
 - Must be in writing
 - Must specify tariffs to be paid
 - Must be submitted to ANP within 15 days after execution, for information purposes



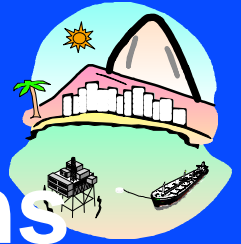
Open Access to Gas Pipelines (continued)



- Factors to be considered by ANP in arbitrating tariff disputes:
 - Supply conditions (firm, interruptible, etc.)
 - Volume transported
 - Distance covered
 - Tax burdens
 - Operating and maintenance costs
 - Adequate return on investment
 - Other special considerations



Open Access to Gas Pipelines - Related Company Considerations



- If a Shipper and Carrier are affiliated at more than 25%, volumes contracted for transport must be consistent with volumes actually sold (or, in the case of an LDC, purchased) by Shipper
 - **Excess contracted volume will be considered available capacity**



Open Access to Gas Pipelines (continued)



- Operational data regarding transported volumes must be submitted to the ANP semi-annually
- Disputes regarding open access, tariffs, capacities, etc. will be decided by ANP within 60 days
- Open hearings may be held at ANP's discretion

General



- ANP knows the products and volumes transported through transportation and transfer pipelines in 1997 and 1998
 - Thus familiar with unused capacity in existing pipeline system
- ANP is developing tariff models to be used in resolving possible controversies
- ANP is preparing a regulation on open access to oil pipelines and maritime terminals, expected to be issued by mid-1999
 - Will be made available for public comment before issuance