

Cited as "1 FE Para. 70,454"

Phillips 66 Natural Gas Company and Marathon Oil Company (FE Docket No. 91-10-LNG), June 18, 1991.

DOE/FE Opinion and Order No. 261-A

Order Amending Authorization to Export Liquefied Natural Gas to Japan

I. Background

On January 30, 1991, Phillips 66 Natural Gas Company (Phillips 66) and Marathon Oil Company (Marathon) filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE), under section 3 of the Natural Gas Act (NGA), requesting an amendment to their existing authorization to export liquefied natural gas (LNG) from the Kenai peninsula of Alaska to Japan.

Under DOE/ERA Opinion and Order No. 261 1/ (Order 261), issued July 28, 1988 (1 ERA Para. 70,130), Phillips 66 and Marathon currently are authorized to export annually 52.0 trillion Btus of LNG per year, subject to certain adjustments, through March 31, 2004. The LNG is exported from their Kenai LNG liquefaction plant in the Cook Inlet area of Alaska to two Japanese customers, the Tokyo Electric Power Company, Inc., and the Tokyo Gas Company, Ltd.

Order 261 approved application of the following price formula to these LNG sales:

DELIVERED PRICE: A base price of five hundred ninety-two and eight tenths (592.8) U.S. cents per million Btu (MMBtu) as indexed and adjusted in accordance with the below formula so as to reflect changes in the monthly weighted average of the Government Selling Prices of a basket of twenty (20) crude oils imported into Japan plus an adjustment factor.

Delivered Price for calendar month (U.S. Cents per million BTUs) = 592.8	x	Avg GSP (Month Prior to Calendar Month) ----- 34.48	+ Adjustment
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WHERE: Avg GSP is the average of the Government Selling Prices (in U.S. dollars per barrel) applicable on the last day of the preceding calendar month weighted by the volumes for the top twenty (20) crude oils (ranked by descending volumes) imported into Japan during the preceding calendar year.

Adjustment is a factor negotiated from time to time between Buyers and Sellers to better allow the price of LNG sold under the contract to respond to market conditions. The adjustment is limited to a range of plus or minus 30.0 U.S. cents per MMBtu purchased and sold.

In response to continued volatility in the international crude oil and LNG markets, applicants and their Japanese customers executed two agreements, referred to as the 1989 Memorandum 2/ and the 1990 Agreement, which revise the pricing formula approved in Order 261 for sales made from April 1, 1989, through March 31, 2004.

The applicants have requested approval to revise the LNG pricing formula authorized in Order 261 in accordance with the 1989 Memorandum and the 1990

Memorandum in the following respects:

1. Using an arithmetic average price over a three month period (rolling average) of the weighted average price of all crude oils (including raw oils) imported into Japan in each of those three months (the JCC) less 68 cents per barrel rather than using a single month weighted average Government selling price of the top twenty crude oils imported into Japan during the preceding calendar year (average GSP);
2. Determining the current month's crude oil prices by averaging the current and preceding two months' prices;
3. Applying the revised pricing formula to the price of LNG sold and delivered from October 1, 1989, through March 31, 2004.
4. Deducting the 68 cents from the JCC in order to reflect the historic difference between the JCC and the formerly used GSP; and
5. Applying a Special Adjustment Factor (SN) for LNG sold and delivered from October 1, 1990, through March 31, 1993.

In support of their application, Phillips 66 and Marathon assert that the revised pricing formula makes this LNG competitive with other energy sources, including other LNG, imported into Japan. According to the application, since the approval of Order 261, the Government Selling Price has ceased to be a reliable indicator of the actual selling price of crude oil. Furthermore, LNG market prices in Japan have changed, affecting the applicants' ability to market LNG in Japan. Therefore, the applicants have sought to adopt a more flexible and market responsive pricing formula.

A notice of this application was published in the Federal Register on May 3, 1991, inviting protests, motions to intervene, notices of intervention, and comments to be filed by June 4, 1991. 3/ No protests, motions to intervene, or notices of intervention were received.

II. Decision

The application filed by Phillips 66 and Marathon has been evaluated to determine if the proposed amendment meets the public interest requirements of section 3 of the NGA. Under section 3, an import or export must be authorized unless there is a finding that it "will not be consistent with the public interest." 4/ In reviewing natural gas exports, DOE considers domestic need for the gas and any other issue determined to be appropriate.

The applicants' uncontested proposal to amend the pricing provisions of their existing authorization, as set forth in the application, is consistent with section 3 of the NGA and DOE's international gas trade policy. FE finds that the proposed changes in the pricing provisions of the applicants' existing authority under Order 261 will further the Secretary of Energy's policy goal of reducing trade barriers by encouraging market forces to determine pricing arrangements for the LNG that is being exported to Japan.

After taking into consideration all of the information in the record of this proceeding, I find that approving the proposed amendment, as requested by the joint applicants, is not inconsistent with the public interest. 5/

ORDER

For the reasons set forth above, under section 3 of the Natural Gas Act, it is ordered that:

A. DOE/ERA Opinion and Order No. 261, issued to Phillips 66 Natural Gas Company (Phillips 66) and Marathon Oil Company (Marathon) on July 28, 1988, is hereby amended in accordance with the modified pricing terms described in the application and this Opinion.

B. Phillips 66 and Marathon are required to file with FE within 30 days following each calendar quarter, reports indicating the volume of gas, by month, exported pursuant to this Order and the average sale price of this gas on a per unit (MMBtu and Mcf) basis.

Issued in Washington, D.C. on June 18, 1991.

--Footnotes--

1/ The LNG export authorization held by Phillips 66 and Marathon was granted originally by the Federal Power Commission on April 19, 1967 (37 FPC 777), and was subsequently amended by DOE/ERA Opinion and Order No. 49 (1 ERA Para. 70,116, December 14, 1982); DOE/ERA Opinion and Order No. 49A (1 ERA Para. 70,127, April 3, 1986); DOE/ERA Opinion and Order No. 206 (1 ERA Para. 70,128, November 16, 1987); and DOE/ERA Opinion and Order No. 261 (Order 261) (1 ERA Para. 70,130, July 28, 1988).

2/ Phillips 66 and Marathon maintain that the actual LNG prices established under the 1989 Memorandum are within the price ranges previously permitted under Order 261.

3/ 56 FR 20424, May 3, 1991.

4/ 15 U.S.C. Sec. 717b.

5/ Because the export of LNG uses existing facilities, the DOE has determined that granting this application is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act (42 U.S.C. 4321, et seq.) and therefore an environmental impact or environmental assessment is not required. See 40 CFR Sec. 1508.4 and 54 FR 12474 (March 27, 1989).