

[6450-01-P]

DEPARTMENT OF ENERGY

[FE Docket No. 10-63-LNG]

ConocoPhillips Alaska Natural Gas Corporation and Marathon Oil Company; Application for Blanket Authorization to Export Liquefied Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application, filed jointly on June 8, 2010, by ConocoPhillips Alaska Natural Gas Corporation (CPANGC) and Marathon Oil Company (Marathon) (collectively Applicants), requesting blanket authorization to export a quantity of liquefied natural gas (LNG) equal to the difference between the 99 trillion British thermal units (TBTus) authorized in DOE/FE Order Nos. 2500 and 2500-A, and the cumulative volume that is ultimately exported by Applicants under their currently-effective blanket authorization from April 1, 2009, through March 31, 2011. Applicants seek blanket authorization to export this volume of LNG from facilities located near Kenai, Alaska, to Japan and/or one or more other countries globally with which trading is not prohibited by U.S. law for a two-year period commencing April 1, 2011, and terminating March 31, 2013. The application was filed under section 3 of the Natural Gas Act (NGA), as amended by section 201 of the Energy Policy Act of 1992, and 10 CFR part 590 of DOE's regulations. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed at the address listed below in

ADDRESSES no later than 4:30 p.m., eastern time, [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES:

U.S. Department of Energy (FE-34)
Office of Oil and Gas Global Security and Supply
Office of Fossil Energy
Forrestal Building, Room 3E-042
1000 Independence Avenue, S.W.
Washington, D.C. 20585

FOR FURTHER INFORMATION CONTACT:

Larine Moore or Marc Talbert
U.S. Department of Energy (FE-34)
Office of Oil and Gas Global Security and Supply
Office of Fossil Energy
Forrestal Building, Room 3E-042
1000 Independence Avenue, S.W.
Washington, D.C. 20585
(202) 586-9478; (202) 586-7991

Edward Myers
U.S. Department of Energy
Office of the Assistant General Counsel for
Electricity and Fossil Energy
Forrestal Building, Room 6B-159
1000 Independence Ave. S.W.
Washington, D.C. 20585
(202) 586-3397

SUPPLEMENTARY INFORMATION:

Background

CPANGC, a Delaware corporation with its principal place of business in Anchorage, Alaska, is a wholly-owned subsidiary of ConocoPhillips Company, a publicly-traded Delaware corporation. Marathon is an Ohio corporation with its principal place of business in Houston,

Texas. CPANGC and Marathon are not affiliated. Applicants are joint indirect owners of natural gas liquefaction and marine terminal facilities near Kenai, Alaska, (Kenai LNG Facility)¹ on Cook Inlet in Southcentral Alaska.

Existing Blanket Authorization

On June 3, 2008, in DOE/FE Order No. 2500, FE granted Applicants blanket authorization to export up to 99 TBtus of LNG (the equivalent of 98.1 Billion cubic feet (Bcf) of natural gas) from the Kenai LNG Facility to Japan and/or one or more countries on either side of the Pacific Rim for a two-year term, which extends through March 31, 2011. DOE/FE denied rehearing of DOE/FE Order No. 2500 in DOE/FE Order No. 2500-A issued on July 30, 2008.

Current Application

In the instant application, Applicants seek a two-year blanket authorization commencing April 1, 2011, and terminating March 31, 2013, for a quantity of LNG equal to the difference between the 99 TBtus (the equivalent of 98.1 billion cubic feet (Bcf) of natural gas) that FE authorized Applicants to export in DOE/FE Order No. 2500, and the cumulative volume of LNG that is ultimately exported by Applicants under their currently-effective blanket authorization from April 1, 2009, through March 31, 2011, as reflected in the monthly export reports filed with FE by Applicants. Applicants note that they do not seek blanket authorization to export volumes of LNG beyond those authorized by DOE/FE Order No. 2500, but seek authorization that would, in effect, allow an additional two years to export the currently-authorized volume.

Applicants expect to continue exporting LNG to Japan and/or one or more countries globally with which trade is not prohibited by U.S. law, acting on their own behalf or as agent for others, pursuant to the requested blanket authorization.

¹ The Kenai LNG Facility is owned by the Kenai LNG Corporation. CPANGC has a 70% ownership interest and Marathon has a 30% ownership interest in Kenai LNG Corporation.

Applicants state that the application is being filed to ensure Applicants will have necessary blanket authorization should they elect to continue LNG exports after March 31, 2011. Applicants state that whether they ultimately continue LNG exports after March 31, 2011, could be impacted by: (1) LNG market conditions; (2) the ability to secure LNG shipping at economic rates; and (3) strategic decisions regarding the future role of the Kenai LNG Facility. Further background information on the Applicant's prior long-term authorizations to export LNG and exports under Order No. 2500 can be found in the application.

Public Interest Considerations

In support of their application, Applicants state that under section 3 of the NGA, FE must authorize an export of natural gas from the United States to a foreign country unless there is a finding that the export "will not be consistent with the public interest."² Applicants state that FE found that section 3 of the NGA creates a statutory presumption in favor of approval of a properly-framed export application, which opponents bear the burden of overcoming.³ Applicants state that FE's public interest determination is guided by DOE Delegation Order No. 0204-111, which "designates domestic need for the natural gas proposed to be exported as the only explicit criterion that must be considered in determining the public interest."⁴ Applicants state that FE has found the regional need for the natural gas proposed to be exported to be the principal focus of its review for an application for authorization to export LNG from the State of Alaska.⁵ Applicants also state that FE has in turn evaluated regional need by determining whether there is sufficient evidence that

² 15 U.S.C. § 717b. Natural gas is defined to include LNG in 10 CFR part 590.102(i) (2010).

³ DOE/FE Order No. 1473 at p. 13, *citing*, *Panhandle Producers and Royalty Owners Association v. ERA*, 822 F. 2d 1105, 1111 (D.C. Cir. 1987); the court found Section 3 of the NGA "requires an affirmative showing of inconsistency with the public interest to deny an application" and that a "presumption favoring ... authorization ... is completely consistent with, if not mandated by, the statutory directive." See also *Independent Petroleum Association v. ERA*, 870 F. 2d 168, 172 (5th Cir. 1989); *Panhandle Producers and Royalty Owners Association v. ERA*, 847 F. 2d 1168, 1176 (5th Cir. 1988).

⁴ Order No. 1473 at p. 14 *citing*, Delegation Order No. 0204-111, 49 Fed. Reg. 6684 (Feb 22, 1984).

⁵ Order No. 1473 at P. 15, n. 48; DOE/FE Order No. 2500 at pp. 44-45.

regional natural gas supplies will be adequate to meet both regional needs and the proposed LNG export during the relevant export period, and that FE has also considered other factors to the extent they are shown to be relevant to the public interest determination for an export authorization.

Finally, Applicants state that the application is not inconsistent with the public interest for the following reasons, as well as more detailed reasons set forth in the application:

First, the Applicants contend that the natural gas to be exported has already been determined to be surplus to regional needs on a reserve basis by FE in DOE/FE Order No. 2500. Therefore, according to the Applicants, the LNG to be exported during the two-year period will not be needed to satisfy regional demand for natural gas;

Second, the Applicants allege that allowing them to have an additional two years to complete the export of these volumes will not jeopardize service to the local markets into which this natural gas might otherwise be sold; to the contrary, it will serve to enhance the supply security of these markets on a day-by-day basis during the export term in the following ways:

- (a) The Kenai LNG Facility will continue to provide a critical back-up natural gas supply service for the local market in times of peak needs on the coldest days of the year; and
- (b) During the summer months, the Kenai LNG Facility's base level of demand will ensure that production from natural gas wells are not curtailed or shut-in, thereby protecting reserves and well deliverability to serve utility demand during the colder months.

Third, the Applicants maintain that in the longer term, the maintenance of the Kenai LNG Facility creates options for future uses that would enhance natural gas supplies for local consumption, including possible retrofitting of the facility to provide regasification capacity so that

it could function as a storage facility; conversion into an import and LNG regasification terminal; and use of the existing terminal for exports to support the economic viability of a “bullet line” from Alaska’s North Slope.

Fourth, the Applicants submit that a number of studies of natural gas reserves support the conclusion that there are sufficient supplies to satisfy local demand and the proposed export authorization.

Fifth, with the recent execution of two natural gas supply contracts with local utilities, the Applicants maintain that virtually all of the local utilities’ projected gas needs through the term of the requested authorization will be satisfied; and Applicants, as suppliers to these utilities, will take their supply obligations into account in determining the extent to which to use their requested export authorization.

Sixth, the Applicants contend that the Kenai LNG Facility provides local economic benefits, including as an employer and as a source of royalties and taxes for the State of Alaska and the Kenai Peninsula Borough.

Request for Expedited Action

Applicants request that FE act upon their application as expeditiously as possible, preferably within 90 days.

Environmental Impact

Applicants state that approval of the requested export authorization is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. § 4321 *et seq.*, and no environmental impact statement or environmental assessment is required. Applicants state that the proposed export of

LNG would not require any changes to the Kenai LNG Facility. Applicants state that the LNG manufacturing and storage facilities that will be utilized during the blanket authorization already exist and have been operated safely without major disruption of supply or accident from their startup in 1969.

DOE/FE Evaluation

This export application will be reviewed pursuant to section 3 of the NGA, as amended, and the authority contained in DOE Delegation Order No. 00-002.00I (Nov. 10, 2009) and DOE Redefinition Order No. 00-002.04D (Nov. 6, 2007). In reviewing this LNG export application, DOE will consider domestic need for the gas, as well as any other issues determined to be appropriate, including whether the arrangement is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties that may oppose this application should comment in their responses on these issues.

The National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene, or notice of intervention and written comments, as provided in DOE's regulations at 10 CFR 590.301, *et seq.* Any person wishing to become a party to the proceeding and to have their written comments considered as a basis for any decision on the application must file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to the application will not serve to make the protestant a party to the proceeding, although protests and comments received from

persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments shall be filed with the Office of Oil and Gas Global Security and Supply at the address listed above.

A decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The application filed by Applicants is available for inspection and copying in the Office of Oil and Gas Global Security and Supply docket room, 3E-042, 1000 Independence Avenue, S.W.,

Washington, D.C. 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The application is also available electronically by going to the following web address: <http://www.fe.doe.gov/programs/gasregulation/index.html>.

Issued in Washington, D.C., on June 28, 2010.

A handwritten signature in black ink, appearing to read "John A. Anderson". The signature is fluid and cursive, with the first name "John" being the most prominent.

John A. Anderson,
Manager, Natural Gas Regulatory Activities
Office of Oil and Gas Global Security and Supply
Office of Fossil Energy