

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

CONOCOPHILLIPS ALASKA NATURAL GAS)
CORPORATION) FE DOCKET NO. 13-155-LNG
)

ORDER GRANTING BLANKET AUTHORIZATION
TO EXPORT LIQUEFIED NATURAL GAS BY VESSEL
FROM THE KENAI LNG FACILITY NEAR KENAI, ALASKA
TO NON-FREE TRADE AGREEMENT NATIONS

DOE/FE ORDER NO. 3418

APRIL 14, 2014

TABLE OF CONTENTS

I. INTRODUCTION..... 1

II. PUBLIC INTEREST STANDARD 2

 A. Statutory Standard..... 2

 B. Application of Standard to Proposed Exports from Alaska..... 5

III. DESCRIPTION OF REQUEST..... 6

 A. Background 6

 1. Description of Applicant..... 6

 2. Procedural History 6

 B. Current Application..... 8

 C. Environmental Review..... 9

IV. APPLICANT’S PUBLIC INTEREST ANALYSIS 9

 A. Regional Need for Proposed Exports During the Export Period 10

 1. Request by the State of Alaska’s Department of Natural Resources for CPANGC
 to Resume LNG Export Operations..... 10

 2. Cook Inlet Natural Gas Supply..... 11

 3. Needs of the Southcentral Alaskan Utilities..... 12

 4. Natural Gas Storage in the Cook Inlet..... 13

 5. Diversion of LNG Feedstock Gas in Times of Peak Need..... 14

 6. Base Level of Demand to Prevent Well Shut-In 14

 B. Other Public Interest Factors..... 15

 C. Letters In Support of Application 15

V. MOTION TO INTERVENE AND COMMENTS IN RESPONSE TO THE NOTICE OF
APPLICATION..... 16

 A. Overview..... 16

 B. Comments Supporting the Application..... 16

 C. APGA’s Motion to Intervene and Comments..... 17

VI. DISCUSSION AND CONCLUSIONS..... 17

 A. APGA’s Motion to Intervene 17

 B. CPANGC’s Application..... 18

VII. TERMS AND CONDITIONS 18

 A. Agency Rights..... 18

 B. Export Quantity and Combined FTA and Non-FTA Export Authorization Volume ... 20

VIII. FINDINGS 20

IX. ORDER 20

FREQUENTLY USED ACRONYMS

APGA	American Public Gas Association
Bcf	Billion Cubic Feet
Bcf/d	Billion Cubic Feet per Day
CPANGC	ConocoPhillips Alaska Natural Gas Company
DNR	Alaska Department of Natural Resources
DOE	U.S. Department of Energy
FE	Office of Fossil Energy, U.S. Department of Energy
FERC	Federal Energy Regulatory Commission
FLEX	Freeport LNG Expansion, L.P., <i>et al.</i>
FTA	Free Trade Agreement
LNG	Liquefied Natural Gas
NEPA	National Environmental Policy Act
NGA	Natural Gas Act

I. INTRODUCTION

On December 11, 2013, ConocoPhillips Alaska Natural Gas Corporation (CPANGC) filed an application (Application)¹ with the Office of Fossil Energy (FE) of the Department of Energy (DOE) under section 3(a) of the Natural Gas Act (NGA), 15 U.S.C. § 717b(a),² requesting blanket authorization to export liquefied natural gas (LNG) in a volume equivalent to approximately 40 billion cubic feet (Bcf) of natural gas on a cumulative basis for a two-year period commencing on the date of this Order.

CPANGC states that it has the ability to produce LNG from natural gas extracted from fields in the Cook Inlet region of Southcentral Alaska and transported to existing natural gas liquefaction and marine terminal facilities located near Kenai, Alaska (Kenai LNG Facility). CPANGC seeks to export the LNG by vessel from the Kenai LNG Facility to any country with which the United States does not have a free trade agreement (FTA) requiring national treatment for trade in natural gas (non-FTA countries). CPANGC requests authorization to export this LNG on its own behalf and as agent for other entities who hold title to the LNG at the time of export.

As discussed below, this authorization is the latest in a series of export authorizations issued to CPANGC and its predecessors over the past 47 years permitting the export of LNG from the State of Alaska. The most recent short-term or “blanket” authorization³ approving the export of LNG to Japan and certain non-FTA countries, issued in DOE/FE Order No. 2860,

¹ Application of ConocoPhillips Alaska Natural Gas Corp. for Blanket Authorization to Export Liquefied Natural Gas from Alaska to Non-Free Trade Agreement Countries, FE Docket No. 13-155-LNG (Dec. 11, 2013) [hereinafter App.].

² The authority to regulate the imports and exports of natural gas, including liquefied natural gas, under section 3 of the NGA (15 U.S.C. § 717b) has been delegated to the Assistant Secretary for FE in Redelegation Order No. 00-002.04F issued on July 11, 2013.

³ Short-term or blanket authorizations grant export authority for two years or less.

expired on March 31, 2013.⁴ CPANGC states that, following the expiration of DOE/FE Order No. 2860 approximately one year ago, circumstances have changed to justify the filing of the instant Application.

Based on a review of the record in this proceeding, DOE/FE finds that the exports proposed in the Application are not inconsistent with the public interest. In particular, we find that the proposed exports of natural gas are not needed to meet regional demand in the Cook Inlet, Alaska area during the two-year period of this authorization. For these and other reasons discussed below, we grant CPANGC's Application. This authorization permits the requested LNG exports by vessel on a short-term or spot market basis from the Kenai LNG Terminal to non-FTA countries, subject to the terms and conditions set forth below.⁵

II. PUBLIC INTEREST STANDARD

A. Statutory Standard

Section 3(a) of the NGA sets forth the standard for review of CPANGC's Application:

[N]o person shall export any natural gas from the United States to a foreign country or import any natural gas from a foreign country without first having secured an order of the [Secretary of Energy⁶] authorizing it to do so. The [Secretary] shall issue such order upon application, unless after opportunity for hearing, [he] finds that the proposed exportation or importation will not be consistent with the public interest. The [Secretary] may by [the Secretary's] order grant such application, in whole or part, with such modification and upon such terms and conditions as the [Secretary] may find necessary or appropriate.

⁴ *ConocoPhillips Alaska Natural Gas Corp. & Marathon Oil Co.*, DOE/FE Order No. 2860, Order Granting Authorization to Export Liquefied Natural Gas from Alaska (Oct. 5, 2010) [hereinafter *CPANGC & Marathon Oil Co.*] (approving the export of LNG from the Kenai LNG Facility to Japan and/or other countries in the Pacific Rim with which trading is not prohibited by U.S. law).

⁵ Although the Application does not state CPANGC's planned mode of transport for the proposed exports, DOE/FE notes that the Kenai LNG Facility is limited to export by vessel and historically has only exported LNG by vessel. Therefore, DOE/FE is approving the proposed exports from the Kenai LNG Facility by vessel.

⁶ The Secretary's authority was established by the Department of Energy Organization Act, 42 U.S.C. § 7151(b), which transferred jurisdiction over imports and export authorizations from the Federal Power Commission to the Secretary of Energy.

15 U.S.C. § 717b(a). This provision creates a rebuttable presumption that a proposed export of natural gas is in the public interest. DOE/FE must grant such an application unless opponents of the application overcome that presumption by making an affirmative showing of inconsistency with the public interest.⁷

While section 3(a) establishes a broad public interest standard and a presumption favoring export authorizations, the statute does not define “public interest” or identify criteria that must be considered. In prior decisions, however, DOE/FE has identified a range of factors that it evaluates when reviewing an application for export authorization. These factors include economic impacts, international impacts, security of natural gas supply, and environmental impacts, among others.

DOE/FE’s prior decisions have also looked to certain principles established in its 1984 Policy Guidelines, which were explicitly intended to minimize federal control and involvement in energy markets and to promote a balanced and mixed energy resource system.⁸ The Guidelines state that:

The market, not government, should determine the price and other contract terms of imported [or exported] natural gas. The federal government’s primary responsibility in authorizing imports [or exports] will be to evaluate the need for the gas and whether the import [or export] arrangement will provide the gas on a competitively priced basis for the duration of the contract while minimizing regulatory impediments to a freely operating market.⁹

While the Guidelines are nominally applicable to natural gas import cases, DOE/FE held in DOE/FE Order No. 1473 that the same policies should be applied to natural gas export

⁷ See, e.g., *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 2961, Opinion and Order Conditionally Granting Long-Term Authorization to Export Liquefied Natural Gas From Sabine Pass LNG Terminal to Non-Free Trade Agreement Nations, at 28 (May 20, 2011); *Phillips Alaska Natural Gas Corp. & Marathon Oil Co.*, DOE/FE Order No. 1473, Order Extending Authorization to Export Liquefied Natural Gas from Alaska, at 13 (April 2, 1999) [hereinafter *Phillips Alaska Natural Gas*], citing *Panhandle Producers & Royalty Owners Ass’n v. ERA*, 822 F.2d 1105, 1111 (D.C. Cir. 1987).

⁸ New Policy Guidelines and Delegations Order Relating to Regulation of Imported Natural Gas, 49 Fed. Reg. 6684 (Feb. 22, 1984) [hereinafter 1984 Policy Guidelines].

⁹ *Id.* at 6685.

applications.¹⁰

Specifically, in Order No. 1473, DOE/FE stated that it was guided by DOE Delegation Order No. 0204-111, which directed the Administrator to regulate exports based on a consideration of the domestic need for the gas to be exported and such other matters as the Administrator finds in the circumstances of a particular case to be appropriate.¹¹

Although DOE Delegation Order No. 0204-111 has ceased to be in effect,¹² DOE/FE's review of export applications involving natural gas produced from the lower-48 states continues to focus on: (i) the domestic need for the natural gas proposed to be exported, (ii) whether the proposed exports pose a threat to the security of domestic natural gas supplies, (iii) whether the arrangement is consistent with DOE/FE's policy of promoting market competition, and (iv) any other factors bearing on the public interest described herein. To conduct this review, DOE/FE looks to record evidence developed in the application proceeding.¹³

In addition, 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.

¹⁰ See *Phillips Alaska Natural Gas*, DOE/FE Order No. 1473, at 14, citing *Yukon Pacific Corp.*, DOE/FE Order No. 350, Order Granting Authorization to Export Liquefied Natural Gas from Alaska, 1 FE ¶ 70,259, at 71,128 (1989).

¹¹ See *id.* at 13-14, citing DOE Delegation Order No. 0204-111, at 1; see also 1984 Policy Guidelines, 49 Fed. Reg. at 6690.

¹² In February 1989, the Assistant Secretary for Fossil Energy assumed the delegated responsibilities of the Administrator of the Economic Regulatory Administration. See *Applications for Authorization to Construct, Operate, or Modify Facilities Used for the Export or Import of Natural Gas*, 62 Fed. Reg. 30,435, 30,437 n.15 (June 4, 1997) (citing DOE Delegation Order No. 0204-127, 54 Fed. Reg. 11,436 (Mar. 20, 1989)).

¹³ Under this rubric, DOE/FE has issued to date one final and six conditional orders authorizing the long-term export of domestically produced LNG from the lower-48 states to non-FTA countries under NGA section 3(a). DOE/FE's analysis of these public interest factors is set forth in detail in each of those orders. See, e.g., *Jordan Cove Energy Project, L.P.*, DOE/FE Order No. 3413, Order Conditionally Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Jordan Cove LNG Terminal in Coos Bay, Oregon, to Non-Free Trade Agreement Nations, at 2-3, 136-46 (Mar. 24, 2014) (summarizing other LNG non-FTA export orders).

B. Application of Standard to Proposed Exports from Alaska

Where an applicant proposes to export LNG produced in Alaska, DOE/FE has determined that the traditional “domestic need” criterion should be focused specifically on the *regional* need of the natural gas proposed to be exported from the local gas market in Alaska. In DOE/FE Order No. 1473 (an order issued to CPANGC’s predecessors in 1999), DOE/FE rejected the argument that a consideration of “general domestic or national need” was relevant to its public interest analysis when considering proposed exports of LNG from Alaska.¹⁴ Instead, DOE/FE concluded that “regional need is the only relevant need consideration” due to the “geographic isolation of Alaska and the Cook Inlet area from the rest of the United States.”¹⁵ As we have observed, “[b]ecause there is no natural gas pipeline interconnection between Alaska and the lower 48 states, those LNG export markets generally are viewed as distinct.”¹⁶

Even within Alaska, DOE/FE evaluates regional need based on the particular region where the gas is produced: (i) the Cook Inlet Basin of Southcentral Alaska, at issue here; and (ii) the Alaska North Slope, with gas derived from the area of Alaska north of the Brooks Range, including the continental shelf of the United States under the Beaufort Sea.¹⁷

¹⁴ *Phillips Alaska Natural Gas*, DOE/FE Order No. 1473, at 15 n.48.

¹⁵ *Id.*

¹⁶ *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 3282, Order Conditionally Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel From the Freeport LNG Terminal on Quintana Island, Texas, to Non-Free Trade Agreement Nations, at 13-14 n.36 (May 17, 2013).

¹⁷ *See, e.g., Phillips Alaska Natural Gas*, DOE/FE Order No. 1473, at 31-32 & n.84; *CPANGC & Marathon Oil Co.*, DOE/FE Order No. 2860, at 16. We note that section 12 of the Alaska Natural Gas Transportation Act of 1976 (ANGTA) (Public Law 94-586 (Oct. 22, 1976)) requires that “before any Alaska natural gas in excess of 1,000 Mcf [thousand cubic feet] per day may be exported to any nation other than Canada or Mexico, the President must make and publish an express finding that such exports will not diminish the total quantity or quality nor increase the total price of energy available to the United States.” As defined in section 4 of ANGTA, the term “Alaska natural gas” means natural gas derived from the area of the State of Alaska generally known as the North Slope of Alaska, including the Continental Shelf thereof. In the event that an applicant in the future seeks authority under the NGA to export natural gas produced on the North Slope, a presidential determination under section 12 of ANGTA would also be required prior to commencement of export operations.

DOE/FE applied a similar “regional need” standard in DOE/FE Order No. 2500, issued to CPANGC and its predecessor in 2008.¹⁸ More recently, in DOE/FE Order No. 2860, DOE/FE summarized its view as follows:

The standard of review in Order No. 2500, as here, is whether the proposed export is inconsistent with the public interest standard and, in particular, whether there is a shortage of natural gas supplies in the local Southeastern Alaska market such that local needs for natural gas cannot be met¹⁹

Accordingly, in evaluating CPANGC’s Application, we consider the regional need for the proposed exports in the Cook Inlet region and any other public interest considerations that may be relevant, based on the record evidence.

III. DESCRIPTION OF REQUEST

A. Background

1. Description of Applicant

CPANGC is a Delaware corporation with its principal place of business in Anchorage, Alaska. CPANGC is a wholly-owned subsidiary of ConocoPhillips Company (ConocoPhillips), a publicly-traded Delaware corporation. CPANGC is authorized to do business in the State of Alaska, among other states. As noted above, CPANGC is the operator and owner of the Kenai LNG Facility.²⁰

2. Procedural History

The history of CPANGC’s and its predecessors’ export authorizations from the Kenai LNG Facility is recounted in DOE/FE Order Nos. 2860 and 2500, as well as in the Application.

¹⁸ *ConocoPhillips Alaska Natural Gas Corp. & Marathon Oil Co.*, DOE/FE Order No. 2500, Order Extending Authorization to Export Liquefied Natural Gas from Alaska, at 45 (June 3, 2008) [hereinafter *CPANGC & Marathon Oil Co.*].

¹⁹ *CPANGC & Marathon Oil Co.*, DOE/FE Order No. 2860, at 16.

²⁰ CPANGC states that, effective August 2, 2011, it became the sole owner of the stock interests and assets in the natural gas liquefaction and export facilities at Kenai, Alaska, having taken ownership of the 30% interest in such stock and assets previously owned by Marathon Oil Company. After that date, Marathon has ceased to have any direct or indirect ownership or operating interest in such facilities.

CPANGC and its predecessors have received numerous, sequential LNG export authorizations over the past four decades. The first authorization was issued in 1967 by the Federal Power Commission to CPANGC predecessor Phillips Petroleum Company and Marathon Oil Company.²¹ It authorized Phillips and Marathon to construct the Kenai LNG Facility and to export LNG by vessel from Alaska to supply two Japanese utilities (Tokyo Electric Power Company, Inc. and Tokyo Gas Company Limited) for a 15-year period terminating on May 31, 1984.

Until last year, the various orders ran continuously, without interruption in export authorization. As noted above, the most recent order authorizing exports to Japan and certain other non-FTA countries, DOE/FE Order 2860, expired on March 31, 2013. According to CPANGC, it did not seek an extension of that order because of “uncertainties regarding the near-term adequacy of natural gas supplies in the Cook Inlet region for regional needs.”²² CPANGC states that circumstances later changed to remove those uncertainties and to justify its immediate request for a new two-year blanket authorization.

Therefore, on December 11, 2013, CPANGC submitted to DOE/FE both: (i) the current Application, requesting a two-year blanket authorization to export LNG to non-FTA countries, and (ii) a separate application requesting a two-year blanket authorization to export LNG from the Kenai LNG Facility to those nations with which the United States currently has, or in the future will have, a FTA requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (FTA countries).²³ On February 19, 2014, DOE/FE

²¹ *Phillips Petroleum Co. & Marathon Oil Co.*, 37 FPC ¶ 777 (Apr. 19, 1967).

²² App. at 6.

²³ The United States currently has FTAs requiring national treatment for trade in natural gas with Australia, Bahrain, Canada, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Republic of Korea, and Singapore. FTAs with Israel and Costa Rica do not require national treatment for trade in natural gas.

granted the FTA application in DOE/FE Order No. 3392, pursuant to section 3(c) of the NGA, 15 U.S.C. § 717b(c).²⁴

CPANGC states that the total volume of LNG proposed for export in both applications was equivalent to approximately 40 Bcf of natural gas on an aggregate (*i.e.*, non-additive) basis. The authorization in this proceeding is conditioned to reflect that fact.

B. Current Application

CPANGC seeks blanket authorization to export, on its own behalf or as an agent for other entities, LNG in a volume equivalent to 40 Bcf of natural gas from the Kenai LNG Facility to non-FTA countries over the two-year period of the authorization. This volume is roughly equivalent to 0.055 Bcf per day (Bcf/d) of natural gas. CPANGC states that the natural gas will be produced from the Cook Inlet region of Alaska and transported to the Facility by CPANGC or its affiliate-owned pipeline, where it will be liquefied.

CPANGC is requesting this export authorization on a short-term or spot basis, with the two-year authorization period to commence on the date this Order is issued. CPANGC states that it will comply with the agency requirements imposed by DOE/FE in a series of recent orders.²⁵ CPANGC states that it expects LNG prices to vary from time to time to reflect changes in market conditions. CPANGC did not file natural gas purchase and sales contracts as part of the Application, which it states is consistent with DOE/FE precedent. CPANGC certifies that

²⁴ *ConocoPhillips Alaska Natural Gas Corp.*, DOE/FE Order No. 3392, Order Granting Blanket Authorization to Export Liquefied Natural Gas by Vessel from the Kenai LNG Facility to Free Trade Agreement Countries (Feb. 19, 2014).

²⁵ See App. at 4 (citing *Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC*, DOE/FE Order No. 2913, Order Granting Long-Term Authorization to Export Liquefied Natural Gas from Freeport LNG Terminal to Free Trade Nations (Feb. 10, 2011)).

there are no other proceedings related to this Application currently pending at DOE or any other Federal agency.²⁶

C. Environmental Review

NEPA requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. In the Application, CPANGC states that no environmental review of this Application is required under NEPA. According to CPANGC, the proposed exports would not require new facilities to be constructed, nor any changes made to the existing Kenai LNG Facility. CPANGC states that the Facility has been maintained in cold standby mode since March 31, 2013 (when DOE/FE Order No. 2860 expired), and that it meets all requirements of the Federal Energy Regulatory Commission necessary to resume export activity once this authorization is granted.

Under these circumstances, DOE's NEPA procedures provide for a categorical exclusion for which neither an environmental assessment nor an environmental impact statement is required.²⁷ Accordingly, on April 3, 2014, DOE/FE issued a Categorical Exclusion Determination for the proposed export action.²⁸

IV. APPLICANT'S PUBLIC INTEREST ANALYSIS

CPANGC states that its proposed exports are not inconsistent with the public interest under NGA section 3(a) for two principal reasons. First, according to CPANGC, the natural gas to be exported is not needed to meet regional gas demand during the proposed export period.

²⁶ CPANGC also requested expedited action on its Application to allow the requested LNG export activity to resume during the second quarter of 2014. Issuance of this Order, although not expedited, should accord with CPANGC's timeline.

²⁷ "Approvals or disapprovals of new authorizations or amendments of existing authorizations to import or export natural gas under section 3 of the Natural Gas Act that involve minor operational changes (such as changes in natural gas throughput, transportation, and storage operations) but not new construction." 10 C.F.R. Part 1021.410 & App. B to Subpart D of Part 1021, Categorical Exclusions in B5.7.

²⁸ U.S. Dept. of Energy Categorical Exclusion Determination Form, Office of Fossil Energy, issued to ConocoPhillips Alaska Natural Gas Corp., FE Docket No. 13-155-LNG (Apr. 3, 2014).

Second, the proposed exports will provide an additional source of demand for natural gas from wells in the Cook Inlet Basin, particularly during warmer months when domestic demand is low. This demand, in CPANGC's view, will benefit the local community by preserving gas well deliverability, enhancing regional supply security, and providing an economic incentive and market opportunity for continued exploration and additional gas supply development in the region. Below, we summarize the evidence submitted by CPANGC to support its public interest analysis. We note that the evidence is uncontested in this proceeding. *See infra* Section V.

A. Regional Need for Proposed Exports During the Export Period

Citing DOE/FE Order Nos. 1473 and 2500, CPANGC asserts that DOE/FE evaluates regional need in Southcentral Alaska by determining whether there is sufficient evidence that regional natural gas supplies will be adequate to meet both regional needs and the proposed LNG export during the relevant export period. CPANGC states that there are sufficient gas supplies to meet regional needs during the two-year export term, for the reasons discussed below.

1. Request by the State of Alaska's Department of Natural Resources for CPANGC to Resume LNG Export Operations

In support of its Application, CPANGC submitted a letter from the State of Alaska's Department of Natural Resources (DNR) to ConocoPhillips Alaska, appended to the Application as Appendix C. The DNR letter, dated September 5, 2013, requests that CPANGC file an application with DOE/FE for authorization to export LNG from the Kenai LNG Facility—which CPANGC did approximately three months later when it filed both its FTA and non-FTA applications.

According to CPANGC, the DNR letter highlights the vital role that the Facility plays in providing natural gas supply security in Southcentral Alaska, as well as serving as an additional

source of demand for natural gas in the Cook Inlet region during warmer months when domestic demand is low.

CPANGC also notes DNR's concern that future budgets for natural gas exploration in the Cook Inlet may be scaled back now that local utility demand is contracted until 2018 (as discussed below in § IV.A.3). The DNR is concerned that companies will lack the incentive to invest in continued exploration activities if there are no market opportunities for natural gas (such as LNG exports), which could lead to supply contractions as the production of existing wells decline. Further, the DNR notes that current lack of natural gas demand threatens the long-term deliverability of both existing and future wells in the Cook Inlet Basin.²⁹ For these reasons, the DNR states that renewed operations and exports from the Kenai LNG Facility would provide an additional market for produced gas during the warmer seasons, helping to avoid negative impacts to well deliverability and resource recovery in the Cook Inlet region. The DNR also states that, in addition to promoting energy security, the renewed operations and exports would advance the State's interests in economic health and robust employment, among other benefits.

2. Cook Inlet Natural Gas Supply

CPANGC states that in June 2011 the DNR's Division of Oil and Gas issued a study entitled *Cook Inlet Natural Gas Production Cost Study* (2011 DNR Study).³⁰ According to CPANGC, this Study built upon a similar DNR study conducted in 2009 that was discussed by DOE/FE in Order No. 2860.

²⁹ CPANGC states that, during periods of low demand (such as during the warmer seasons), producing wells may need to be shut-in, which allows water encroachment and saturation, as well as destabilization of the reservoir near the well bore. These conditions may cause a loss of well deliverability and a decline in the recovery of the gas resource.

³⁰ App. at 10, citing State of Alaska, Dept. of Natural Resources, Division of Oil & Gas, *Cook Inlet Natural Gas Production Cost Study* (June 2011), available at http://dog.dnr.alaska.gov/ResourceEvaluation/Documents/Cook_Inlet_Natural_Gas_Production_Cost_Study.pdf [hereinafter 2011 DNR Study].

According to CPANGC, the 2011 DNR Study analyzed the level of investment and associated producer revenues required to generate specific rates of return from developing the Cook Inlet natural gas reserves identified in the 2009 DNR Study to meet existing Cook Inlet natural gas demand requirements through 2025. CPANGC summarizes the key portions of the 2011 DNR Study as follows:

- The Study estimated that there are approximately 1,500 Bcf of natural gas reserves in existing fields in Cook Inlet;
- The Study assumed no LNG export demand following the expiration of DOE/FE Order No. 2860 on March 31, 2013, but also assumed the absence of exploratory success; and
- The Study concluded that, given sufficient continued investments, the Cook Inlet basin is capable of supplying regional natural gas needs through 2018-20, and possibly longer.

Turning back to the DNR's September 5, 2013 letter, CPANGC emphasizes the DNR's conclusion that there will be enough natural gas to support both regional natural gas needs and LNG exports during the proposed export period. CPANGC states that, in addition to DNR's discovered reserves assessments, DNR's letter indicates that the United States Geological Survey estimated that the Cook Inlet basin may contain trillions of cubic feet of undiscovered gas resources (potentially ranging from more than 3,100 to more than 28,000 Bcf of natural gas), and notes that the Potential Gas Committee of the Colorado School of Mines, using more conservative gas resource estimating methods, indicates a total likely gas resource of more than 4,400 Bcf.

3. Needs of the Southcentral Alaskan Utilities

CPANGC states that utilities in Southcentral Alaska have already contracted for all regional demand through the first quarter of 2018. According to CPANGC, this serves as confirmation that the volume of natural gas sought for export in this Application will be surplus

to local needs for the duration of the two-year export period (*i.e.*, through April 13, 2016).

CPANGC states:

- The Regulatory Commission of Alaska approved supply contracts to meet the needs of Chugach Electric Association, Inc., the largest utility in Southcentral Alaska, through the first quarter of 2018;
- ENSTAR Natural Gas Company’s supply requirements have been met through the first quarter of 2018;
- CPANGC, ConocoPhillips, and ConocoPhillips Alaska, Inc., have entered into a supplemental gas purchase agreement with Municipal Light & Power through 2019; and
- Matanuska Electric Association recently filed a gas supply contract with Hilcorp Alaska, LLC for approval by the Regulatory Commission of Alaska, which would meet Matanuska’s fuel requirements for a new power plant through the first quarter of 2018.³¹

In light of these commitments, CPANGC asserts that the proposed exports “can be safely assumed not to be needed to satisfy the requirements of utilities in Southcentral Alaska during the ... export period.”³²

4. Natural Gas Storage in the Cook Inlet

CPANGC states that there have been significant natural gas storage developments in Cook Inlet since June 2010, when CPANGC filed its previous export application. CPANGC notes that, in 2012, Cook Inlet Natural Gas Storage Alaska, LCC began operation as a new underground natural gas storage facility, with a working capacity of 11 Bcf to date. According to CPANGC, the natural gas injected into the storage facility during the summer months by local utilities provided incremental deliverability in peak periods of demand during the winter of 2012-2013. CPANGC asserts that the availability of natural gas storage reduces the risk that

³¹ Appended to the Application in Appendix E is a letter from Matanuska Electric Association to ConocoPhillips Alaska, dated December 4, 2013, in which Matanuska makes the same representations and states its support for CPANGC to re-establish LNG exports from the Kenai LNG Facility.

³² App. at 12.

supplies exported through the Kenai LNG Facility during the two-year export period will be needed to meet local demand.

5. Diversion of LNG Feedstock Gas in Times of Peak Need

CPANGC states that historically it has diverted gas from the Kenai LNG facility during times of peak need, and that it will continue this practice to meet its supply obligations to local utilities during times of peak demand (even though, as noted above, the utilities' natural gas requirements are met through the first quarter of 2018 or longer). CPANGC quotes DOE/FE's statement in Order No. 2500 that "'market forces will drive the installation of adequate [local] delivery mechanisms ...' such as 'additional gas storage and other peak-shaving resources ...'"³³ According to CPANGC, this prediction from 2008 has proved true, such that during the requested export period, CPANGC anticipates that the Kenai LNG Facility primarily will support local winter deliverability by balancing demand during warmer months and avoiding negative impacts to wells and resource recovery.

6. Base Level of Demand to Prevent Well Shut-In

Finally, CPANGC explains that the operation of the Kenai LNG Facility for exports historically has provided a base level of demand for natural gas during the summer months. This continued demand ensures that natural gas wells are not curtailed or "shut in" due to decreased local utility demand during warmer months. According to CPANGC, this demand protects natural gas reserves and well deliverability throughout the year, thus ensuring that utility demand may be served during the colder months.

In the summer of 2013, however, CPANGC states that the Facility's summer demand for natural gas was absent because DOE/FE Order No. 2860 had expired on March 31, 2013, eliminating export demand. Citing data from the Alaska Oil and Gas Conversation Commission,

³³ *Id.* at 13, quoting *CPANGC & Marathon Oil Co.*, DOE/FE Order No. 2500, at 52-53.

CPANGC states that “this lack of base demand for natural gas led to the shut-in of as much as 145 MMcf [million cubic feet] per day, as a monthly average, of Cook Inlet production during summer 2013.”³⁴ CPANGC asserts that the proposed exports will help to alleviate this problem by restoring the base level of gas demand historically provided by the Kenai LNG Facility during the summer season.

B. Other Public Interest Factors

Although the focus of CPANGC’s Application is discussing “regional need” gas supply considerations, CPANGC identifies several economic benefits as also relevant to DOE/FE’s public interest determination. According to CPANGC, the Kenai LNG Facility plays an important role in the economy of Southcentral Alaska. CPANGC states that the Facility, when operating, employs approximately 50 people directly and 128 people indirectly, generating an estimated \$13.4 million in personal income. CPANGC estimates that the Facility brings a net economic benefit of \$20.1 million per year to the state and local economy. CPANGC further states that, in part by purchasing natural gas during warmer periods when local demand is low, the Facility facilitates the generation of many millions of dollars per year in royalties for the State of Alaska, as well as other tax revenues for the Kenai Peninsula Borough. CPANGC cites these regional benefits as another factor favoring a grant of the Application.

C. Letters In Support of Application

In Appendix E to its Application, CPANGC appends letters in support of the Application from the following four entities:

- Buccaneer Alaska, LLC, a local producer of natural gas in the Cook Inlet region;
- Cook Inlet Energy, one of the largest independent producers of oil and natural gas in Southcentral Alaska;

³⁴ *Id.* at 14 (and table).

- Matanuska Electric Association, Alaska’s oldest and second largest electric utility and provider to the Cook Inlet region; and
- NordAq Energy, Inc., an independent oil and gas exploration company working in the Cook Inlet Basin.

According to CPANGC, these letters provide additional evidence that the requested blanket authorization will be consistent with the public interest and is important to the supply security of the Cook Inlet region.

V. MOTION TO INTERVENE AND COMMENTS IN RESPONSE TO THE NOTICE OF APPLICATION

A. Overview

On January 29, 2014, DOE/FE published a Notice of ConocoPhillips’s Application in the Federal Register.³⁵ The Notice of Application called on interested persons to submit protests, motions to intervene, notices of intervention, and comments by February 28, 2014. In response to the Notice of Application, DOE/FE received one timely filed comment in support of the Application from Alaska State Representative Mike Chenault, and one timely filed motion for leave to intervene and comments from the American Public Gas Association (APGA).

B. Comments Supporting the Application

State Representative Mike Chenault, Speaker of the Alaska State House of Representatives, states that the Kenai LNG Facility has a long history of safe, reliable operation, and is a significant asset to the communities on the Kenai Peninsula. Representative Chenault maintains that the Kenai LNG Facility employs approximately 50 people directly and 128 people indirectly, and provides approximately \$13.4 million in personal income to the Kenai community. He observes that, in addition to this personal income, the Facility provides local property taxes, state taxes, and royalties.

³⁵ Application for Blanket Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Countries on a Short-Term Basis, 79 Fed. 4677 (Jan. 29, 2014).

According to Representative Chenault, exports from the Facility will provide market opportunities for gas producers in the Cook Inlet region that otherwise would not be available, given that local utility demand is already supported by existing contracts until 2018. For these reasons, he urges DOE/FE to approve the Application.

C. APGA's Motion to Intervene and Comments

APGA states that it is an association of municipal gas distribution systems, public utility districts, and other public agencies. According to APGA, it has a continuing concern with the export of natural gas to non-FTA countries, and thus has a direct and substantial interest in CPANGC's Application. APGA notes that it has intervened in other LNG proceedings proposing exports to non-FTA countries, and maintains that granting such authorizations would be inconsistent with the public interest because (in APGA's view) the exports proposed in those proceedings would substantially raise the price of natural gas for American consumers. APGA distinguishes CPANGC's Application, however, by observing that CPANGC requests only limited export volumes from Alaska—a state without access to a pipeline connected to the continental United States. Therefore, in APGA's view, granting the requested authorization should not materially affect prices paid by natural gas consumers within the continental United States. For these reasons, APGA states that it is not protesting CPANGC's Application, but intends to monitor the proceeding for any changes that might adversely affect natural gas consumers in the continental United States.

VI. DISCUSSION AND CONCLUSIONS

A. APGA's Motion to Intervene

APGA's motion to intervene is unopposed, and therefore it is deemed granted. 10 C.F.R. § 590.303(g).

B. CPANGC's Application

We have reviewed the evidence in the record and have not found an adequate basis to conclude that CPANGC's export of LNG to non-FTA countries in a total volume equivalent to approximately 40 Bcf of natural gas will be inconsistent with the public interest under NGA section 3(a), 15 U.S.C. § 717b(a). As noted above, the evidence submitted by CPANGC is unchallenged. In the submissions cited in or accompanying the Application (including the Alaska DNR's letter dated September 5, 2013, and the 2011 DNR Study), CPANGC introduced substantial evidence projecting a future supply of natural gas in the Cook Inlet region sufficient to support both the proposed export authorization and regional demand for natural gas during the two-year authorization period. Further, DOE/FE is persuaded by CPANGC's evidence that the proposed exports will provide regional benefits to the local and state economy.

In sum, on the basis of CPANGC's Application, and because no party to this proceeding submitted evidence to rebut the statutory presumption that the requested authorization is consistent with the public interest, we grant the Application as filed. 15 U.S.C. § 717b(a).

VII. TERMS AND CONDITIONS

To ensure that the blanket authorization issued by this Order is not inconsistent with the public interest, DOE/FE has attached the following terms and conditions to the authorization. The reasons for each term or condition are explained below. CPANGC must abide by each term and condition or face rescission of its authorization or other appropriate sanction.

A. Agency Rights

As described above, CPANGC requests authorization to export LNG on its behalf and as agent for other entities who themselves hold title to the LNG. DOE/FE previously addressed the

issue of Agency Rights in DOE/FE Order No. 2913,³⁶ which granted Freeport LNG Expansion, L.P., *et al.* (FLEX) authority to export LNG to FTA countries. In that order, DOE/FE approved a proposal by FLEX to register each LNG title holder for whom FLEX sought to export LNG as agent. DOE/FE found that this proposal was an acceptable alternative to the non-binding policy adopted by DOE/FE in *Dow Chemical*, which established that the title for all LNG authorized for export must be held by the authorization holder at the point of export.³⁷ We find that the same policy considerations that supported DOE/FE's acceptance of the alternative registration proposal in Order No. 2913 apply here as well. DOE/FE reiterated its policy on Agency Rights procedures in *Gulf Coast LNG Export, LLC*.³⁸ In *Gulf Coast*, DOE/FE confirmed that, in LNG export orders in which Agency Rights have been granted, DOE/FE shall require registration materials filed for, or by, an LNG title-holder (Registrant) to include the same company identification information and long-term contract information of the Registrant as if the Registrant had filed an application to export LNG on its own behalf.³⁹

To ensure that the public interest is served, the authorization granted herein shall be conditioned to require that where CPANGC proposes to export LNG as agent for other entities who hold title to the LNG (Registrants), CPANGC must register with DOE/FE those entities on whose behalf it will export LNG in accordance with the procedures and requirements described herein.

³⁶ *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 2913, Order Granting Long-Term Authorization to Export Liquefied Natural Gas from Freeport LNG Terminal to Free Trade Nations (Feb. 10, 2011).

³⁷ *Dow Chem. Co.*, DOE/FE Order No. 2859, at 7-8, *discussed in Freeport LNG*, DOE/FE Order No. 2913, at 7-8.

³⁸ *Gulf Coast LNG Export, LLC*, DOE/FE Order No. 3163, Order Granting Long-Term Multi-Contract Authority to Export LNG by Vessel from the Proposed Brownsville Terminal to Free Trade Agreement Nations (Oct. 16, 2012).

³⁹ *See id.* at 7-8.

B. Export Quantity and Combined FTA and Non-FTA Export Authorization Volume

As set forth herein, this Order authorizes the export of LNG from the Kenai LNG Facility to non-FTA countries in the full amount requested by CPANC, up to the equivalent of 40 Bcf/yr of natural gas. Additionally, CPANGC is authorized pursuant to DOE/FE Order No. 3392 to export LNG from the Kenai LNG Facility to FTA countries in the same volume of natural gas. CPANGC states that it seeks blanket authorization to export the proposed volume on an aggregate basis under both the FTA and non-FTA authorizations. DOE/FE therefore will authorize the LNG export quantity in this Order in a volume equivalent to approximately 40 Bcf of natural gas on both a stand-alone basis and also when combined with the LNG exports authorized in Order No. 3392.

VIII. FINDINGS

On the basis of the findings and conclusions set forth above, we find that it has not been shown that a grant of the requested authorization will be inconsistent with the public interest. We therefore find that the Application should be granted subject to the terms and conditions set forth herein.

IX. ORDER

Pursuant to section 3 of the Natural Gas Act, it is ordered that:

A. CPANGC is authorized to export LNG from the Kenai LNG Facility located near Kenai, Alaska, in a volume equivalent to approximately 40 Bcf of natural gas, pursuant to transactions that have terms of no longer than two years. CPANGC is authorized to export this LNG on its own behalf or as agent for other entities who hold title to the natural gas at the time of export. This authorization shall be effective for a two-year term beginning on April 14, 2014, and extending through April 13, 2016.

B. The LNG export quantity authorized in this Order is not additive to CPANGC's FTA authorization, set forth in DOE/FE Order No. 3392.

C. This LNG may be exported to any country with which the United States does not have an FTA requiring the national treatment for trade in natural gas, which currently has or in the future develops the capacity to import LNG, and with which trade is not prohibited by U.S. law or policy.

D. CPANGC shall ensure that all transactions authorized by this Order are permitted and lawful under United States laws and policies, including the rules, regulations, orders, policies, and other determinations of the Office of Foreign Assets Control of the United States Department of the Treasury and FERC. Failure to comply with this requirement could result in rescission of this authorization and/or other civil or criminal remedies.

E. CPANGC, or others for whom CPANGC acts as agent, shall include the following provision in any agreement or other contract for the sale or transfer of LNG exported pursuant to this Order:

Customer or purchaser acknowledges and agrees that it will resell or transfer LNG purchased hereunder for delivery only to countries identified in Ordering Paragraph C of DOE Order No. 3418, issued April 14, 2014, in FE Docket No. 13-155-LNG, and/or to purchasers that have agreed in writing to limit their direct or indirect resale or transfer of such LNG to such countries. Customer or purchaser further commits to cause a report to be provided to ConocoPhillips Alaska Natural Gas Corporation that identifies the country of destination, upon delivery, into which the exported LNG was actually delivered, and to include in any resale contract for such LNG the necessary conditions to insure that ConocoPhillips Alaska Natural Gas Corporation is made aware of all such actual destination countries.

F. CPANGC is permitted to use its authorization to export LNG as agent for other entities, after registering the other parties with DOE/FE. Registration materials shall include an acknowledgement and agreement by the Registrant to supply CPANGC with all information

necessary to permit CPANGC to register that person or entity with DOE/FE, including: (1) the Registrant's agreement to comply with this Order and all applicable requirements of DOE/FE's regulations at 10 C.F.R. Part 590, including but not limited to destination restrictions; (2) the exact legal name of the Registrant, state/location of incorporation/registration, primary place of doing business, and the Registrant's ownership structure, including the ultimate parent entity if the Registrant is a subsidiary or affiliate of another entity; and (3) the name, title, mailing address, e-mail address, and telephone number of a corporate officer or employee of the Registrant to whom inquiries may be directed.

G. Each registration submitted pursuant to this Order shall have current information on file with DOE/FE. Any changes in company name or contact information, or other relevant modification, shall be filed with DOE/FE within 30 days of such change(s).

H. As a condition of this authorization, CPANGC shall ensure that all persons required by this Order to register with DOE/FE have done so. Any failure by CPANGC to ensure that all such persons or entities are registered with DOE/FE shall be grounds for rescinding in whole or in part the authorization.

I. Monthly Reports: With respect to the LNG exports authorized by this Order, CPANGC shall file with the Office of Oil and Gas Global Security and Supply, within 30 days following the last day of each calendar month, a report indicating whether exports of LNG have been made. The first monthly report required by this Order is due not later than the 30th day of the month following the month of first export. In subsequent months, if exports have not occurred, a report of "no activity" for that month must be filed. If exports of LNG have occurred, the report must give the following details of each LNG cargo: (1) the name(s) of the authorized exporter registered with DOE/FE; (2) the name of the U.S. export terminal; (3) the

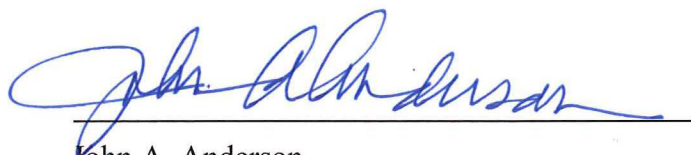
name of the LNG tanker; (4) the date of departure from the U.S. export terminal; (5) the country (or countries) of destination into which the exported LNG was actually delivered; (6) the name of the supplier/seller; (7) the volume in Mcf; (8) the price at point of export per million British thermal units (MMBtu); (9) the duration of the supply agreement; and (10) the name(s) of the purchaser(s).

(Approved by the Office of Management and Budget under OMB Control No. 1901-0294)

J. All monthly report filings shall be made to U.S. Department of Energy (FE-34), Office of Fossil Energy, Office of Oil and Gas Global Security and Supply, P.O. Box 44375, Washington, D.C. 20026-4375, Attention: Natural Gas Reports. Alternatively, reports may be e-mailed to ngreports@hq.doe.gov or may be faxed to Natural Gas Reports at (202) 586-6050.

K. APGA's motion to intervene is granted.

Issued in Washington, D.C., on April 14, 2014.



John A. Anderson
Director, Division of Natural Gas Regulatory Activities
Office of Oil and Gas Global Security and Supply
Office of Oil and Natural Gas