

**UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY**

ConocoPhillips Alaska)
Natural Gas Corporation)
)
Marathon Oil Company) **FE Docket No. 07-02-LNG**

**ORDER GRANTING MOTIONS OF THE STATE OF ALASKA
AND ENSTAR NATURAL GAS COMPANY
FOR LEAVE TO FILE SUPPLEMENTAL COMMENTS**

I

On January 4, 2008, the State of Alaska (the State), an intervenor in this proceeding, filed a motion (State’s motion) requesting leave to file supplemental comments in the instant proceeding. By its supplemental comments, included with the motion, the State advised the Department of Energy (DOE) that the State now unconditionally supports the application of ConocoPhillips Alaska Natural Gas Corporation and Marathon Oil Company (applicants) in this proceeding for a license to export liquefied natural gas. A copy of a settlement agreement between the State and the applicants is also appended to the State’s motion. While both parties to the settlement have executed the settlement agreement, the agreement is contingent upon DOE’s approval of the pending export license application in the export amount requested by applicants.

On January 18, 2008, Chugach Electric Association, Inc. (Chugach), an intervenor, filed a motion (Chugach’s motion) seeking additional time until February 7, 2008 to comment on the settlement agreement between the State and the applicants and the State’s motion. Chugach states that its request is supported by Agrium, Inc. (Agrium). Chugach and Agrium are both intervenors in this proceeding. Chugach stated that the settlement agreement purports “to address a (small) portion of Chugach’s future gas supply needs while ignoring the remainder of those needs.” (motion at 4). Chugach also indicated that it intended to discuss the settlement agreement with the State, the applicants, and other customers as promptly as possible and that additional time was needed until February 7, 2008 to hold such discussions and to respond thereto. Other than Chugach and Agrium, no other party responded to the State’s motion.

On January 23, 2008, I issued an order granting Chugach’s motion for additional time until February 7, 2008 to comment on the settlement agreement between the applicants and the State. The January 23 order also deferred action on the State’s motion until such time as DOE reviews and acts upon Chugach’s anticipated comments.

Also on January 23, 2008, ENSTAR Natural Gas Company (Enstar), an intervenor, filed a motion for leave to file supplemental comments and supplemental comments. Enstar stated in its motion that it had reached a settlement with the applicants and that it wished to withdraw its previous requests that DOE approve the requested authorization subject to conditions that would ensure that domestic supply needs can be met. Enstar asked that DOE promptly approve the pending application for an export license without condition. No party responded to Enstar's motion.

Chugach filed its anticipated comments on February 7, 2008. In its comments, Chugach noted that it was not a party to the settlement between the State and the applicants and that the settlement did not provide sufficient assurances that its future gas supply needs and deliverability requirements would be met:

Chugach continues to generate nearly fifty percent (50%) of all electric power sold by utilities in the [S]tate of Alaska. Chugach continues to depend on natural gas to meet ninety percent (90%) of its loads. Chugach's existing gas supplies still face imminent exhaustion in 2010 and 2011. Chugach still has no agreement with any producer for any gas supplies beyond those dates. The Settlement Agreement changes none of these facts.

Chugach motion at 2.

Chugach asserted, therefore, that the settlement agreement between the State and the applicants did not alter its position that the application should not be approved until problems that Chugach has experienced in obtaining adequate natural gas supplies are resolved, or unless the export authorization sought by the applicants is conditioned on the applicants "demonstrating that agreements have been reached under which Chugach's supply and deliverability needs will be met, not only during the requested extension period [2009-2011] but for a reasonable period thereafter" (Chugach comments at 7).

Notwithstanding its continued opposition to a grant of the application, as filed, Chugach stated that it was not requesting by its motion or comments that DOE delay issuance of an order on the merits of the application. Chugach also stated that it was not requesting a hearing or that additional procedural steps be taken but that it would continue working with the applicants to try to reach a purchase and sale agreement for the acquisition of an adequate supply of natural gas.

On February 13, 2008, the applicants submitted a response to Chugach's comments. The applicants allege that Chugach is attempting to leverage the pending application as a means of obtaining improved commercial terms in a purchase and sale agreement. While the applicants state that they continue to engage in good faith efforts to complete a gas sales agreement with Chugach, they ask that DOE not sanction Chugach's leveraging tactic within this proceeding. The applicants agree, however, with Chugach that the pendency of Chugach's opposition to a grant of the application as filed should not delay a decision in this proceeding and they ask that DOE issue its decision on the merits as soon as possible.

II

Upon review, the motions by the State and Enstar for leave to file supplemental comments shall be granted. Both parties have settled their opposition to the application as filed. In light of the settlement agreements, the requests by the State and by Enstar that the authority sought by the applicants should be conditioned will be deemed withdrawn. While these settlement agreements achieve a result sought by the parties to each settlement, the settlements should not be construed as affecting DOE's responsibility under the Natural Gas Act to independently evaluate the application.

Moreover, both the State and Enstar remain parties to this proceeding and other parties are reminded to serve copies of all filings on the settling parties.

I note the continued opposition of Chugach to the application as filed. Those comments, as well as the response filed by the applicants, are part of the official record in the proceeding and I will address the merits of the comments at such time as an order is issued on the application.

It is ordered:

1. The State's motion for leave to file supplemental comments is granted and its opposition to the application as filed and request that the authority sought herein be conditioned are deemed withdrawn; and

2. Enstar's motion for leave to file supplemental comments is granted and its opposition to the application as filed and request that the authority sought herein be conditioned are also deemed withdrawn.

Issued in Washington, D.C. on February 21, 2008.



Robert F. Corbin
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Office of Fossil Energy