

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

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Phillips Alaska Natural Gas Corporation )  
and )  
Marathon Oil Company )

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ERA Docket No. 88-22-LNG  
FE Docket No. 96-99-LNG

ORDER AMENDING AUTHORIZATION  
TO EXPORT LIQUEFIED NATURAL GAS  
FROM ALASKA

DOE/FE OPINION AND ORDER NO. 261-F

JUNE 20, 2000

## I. Background

On March 22, 2000, Phillips Alaska Natural Gas Corporation (PANGC) and Marathon Oil Company (Marathon) jointly filed an application with the Department of Energy's (DOE) Office of Fossil Energy, under section 3 of the Natural Gas Act (NGA)<sup>1/</sup> and DOE Delegation Order Nos. 0204-111 and 0204-127, to amend their authorization to export liquefied natural gas (LNG) from the Kenai peninsula of Alaska to Japan. The Applicants seek approval of a revision in the pricing provisions of their Japanese sales contracts.

PANGC, a Delaware corporation with its principal place of business in Bartlesville, Oklahoma, is a wholly owned subsidiary of Phillips Petroleum Company, a Delaware corporation. Marathon, an Ohio corporation with its principal place of business in Houston, Texas, is a wholly owned subsidiary of USX Corporation, also a Delaware corporation. PANGC and Marathon are not affiliated with each other. They own and operate natural gas liquefaction and marine terminal facilities at Kenai, Alaska.

The Applicants have maintained an uninterrupted export relationship with Japan's two largest utilities, The Tokyo Electric Power Company Inc. (Tokyo Electric) and Tokyo Gas Company Limited (Tokyo Gas) since 1967.<sup>2/</sup> Their original export authorization has been amended and extended numerous times in the years that followed.<sup>3/</sup>

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<sup>1/</sup> 15 U.S.C. § 717b.

<sup>2/</sup> See Federal Power Commission Order issued April 19, 1967 (37 FPC 777).

<sup>3/</sup> See DOE/ERA Opinion and Order No. 49 (1 ERA ¶ 70,116, December 14, 1982) (extended export authority); DOE/ERA Opinion and Order 49-A (1 ERA ¶ 70,127, April 3, 1986) (transferred authorization from Phillips Petroleum Company to Phillips 66 Natural Gas Company); DOE/ERA Opinion and Order No. 206 (1 ERA ¶ 70,128, November 16, 1987) (amended pricing formula); DOE/ERA Opinion and Order No. 261 (1 ERA ¶ 70,130, July 28, 1988) (extended export authority); DOE/FE Opinion and Order No. 261-A (1 FE ¶ 70,454, June 18, 1991) (amended pricing formula); DOE/FE Opinion and Order No. 261-B (1 FE ¶ 70,506, December 19, 1991) (transferred authorization from Phillips 66 Natural Gas Company to PANGC; DOE/FE Opinion and Order

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DOE/FE Opinion and Order No. 261-D, issued March 21, 1995, approved the currently authorized pricing formula applicable to the Applicants' LNG export sales.<sup>4/</sup> This formula is described in an April 19, 1994, "Third Amendatory Agreement" to the Applicants' June 17, 1988, LNG sales contract with Tokyo Electric and Tokyo Gas. It reflects the weighted average price over periods of three consecutive months relative to all crude oils imported into Japan each month. The crude oil prices are obtained from *Japan Exports and Imports Monthly*, a publication of the Japan Tariff Association. The arithmetic average price is subject to a ceiling of \$26.00 per barrel and a floor of \$13.00 per barrel. If the arithmetic price is outside this range, the formula provides for redetermination of the contract price.

In response to changes in the Japanese LNG markets, the parties met in 1999 to discuss the comparability of Alaska LNG pricing with that of other projects supplying LNG to Japan under long-term contracts. As a result of these discussions, they signed a "Fourth Amendatory Agreement" on November 16, 1999, which revises the authorized pricing formula. The applicants ask DOE to approve the new formula for use during the period April 1, 1998, through March 31, 2009.

Under the new formula, the price is calculated monthly based primarily on the weighted average price of all crude oils imported into Japan in the third month prior to the time the LNG is unloaded. In addition, the revised price formula includes an adjustment factor to keep the

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261-C (1 FE ¶ 70,607, July 15, 1992) (increased annual export authority from 52 trillion Btu's to 64.4 trillion Btu's -the provision for yearly sales of up to 106 percent of annual contract quantity remained unchanged); DOE/FE Opinion and Order No. 261-D (1 FE ¶ 71,087, March 2, 1995) (amended pricing formula); DOE/FE Opinion and Order No. 261-E (1 FE ¶ 71,429, July 18, 1997) (dismissed complaint); and DOE/FE Opinion and Order No. 1473 (Order 1473) (2 FE ¶ 70,317) (extended export authority). The most recent of these, Order 1473, was issued in FE Docket No. 96-99-LNG.

<sup>4/</sup> *Supra* note 2. DOE/ERA Opinion and Order No. 261, the lead Order in this sequence of authorizations, was issued July 28, 1988, in ERA Docket No. 88-22-LNG.

Applicants' LNG competitive with other LNG sold into the Japanese market.<sup>5/</sup> Redetermination of the contract price is triggered when the weighted average price of crude oil is outside the range of \$11.00 to \$25.00 per barrel.

The Applicants assert the revised formula is similar to the price formulas used by most other LNG projects that sell into the Japanese market. They also assert the new formula will permit "more market responsive" pricing, thereby maintaining the competitiveness of their LNG exports.

## II. Notice of The Application

The DOE issued a notice of the application on May 2, 2000, inviting protests, motions to intervene, notices of intervention, and comments.<sup>6/</sup> Responses were due June 1, 2000. No responses were received.

## III. Decision

This application has been evaluated to determine if the requested export amendment meets the public interest requirements of section 3 of the Natural Gas Act (NGA).<sup>7/</sup> Under section 3, an export from Alaska to a foreign country must be authorized unless there is a finding it "will not be consistent with the public interest."<sup>8/</sup> When LNG export applications are reviewed, DOE considers

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<sup>5/</sup> For example, if the weighted average price of crude oil imported into Japan is \$18.00 per barrel (equivalent to \$3.10 per million Btu (MMBtu)), DOE calculated the LNG would be sold for \$3.37 per MMBtu using the current pricing scheme. In contrast, DOE estimated the LNG sales price would be \$3.44 per MMBtu under the new contract methodology. (The heat content of one barrel of crude oil is approximately 5.8 MMBtu).

<sup>6/</sup> 65 Fed. Reg. 25475 (May 2, 2000).

<sup>7/</sup> 15 U.S.C. § 717b.

<sup>8/</sup> *Id.*

domestic need for the gas and any other issue determined to be appropriate in a particular case. The DOE previously determined there is no domestic need for the gas involved in this LNG export.<sup>9/</sup>

After considering all of the information in the record of this proceeding, we find PANGC and Marathon's negotiated amendment to their authorization to export LNG, as set forth in their application, is not inconsistent with section 3 of the NGA and DOE policy.

#### ORDER

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

A. DOE/ERA Opinion and Order No. 261 (Order 261), issued to the predecessor of Phillips Alaska Natural Gas Corporation and Marathon Oil Company (Applicants) on July 28, 1988, as amended, is further amended. The Applicants are hereby authorized to use the pricing formula stipulated in the November 16, 1999, "Fourth Amendatory Agreement" to their June 17, 1988, LNG sales contract with Tokyo Electric Power Company Inc. and Tokyo Gas Company Limited from April 1, 1998, through March 31, 2009.

B. All other terms and conditions contained in Order 261 and its amendments will remain in full force and effect.

Issued in Washington, D.C., on June 20, 2000.

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John W. Glynn  
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Import & Export Activities  
Office of Fossil Energy

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<sup>9/</sup> See DOE/FE Opinion and Order No. 1473 (2 FE ¶ 70,317)