UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

CONOCOPHILLIPS ALASKA NATURAL GAS CORPORATION	))))	FE DOCKET NO. 15-149-LNG

ORDER GRANTING BLANKET AUTHORIZATION
TO EXPORT LIQUEFIED NATURAL GAS BY VESSEL
FROM THE KENAI LNG FACILITY NEAR KENAI, ALASKA,
AND VACATING PRIOR EXPORT AUTHORIZATION

DOE/FE ORDER NO. 3784

FEBRUARY 8, 2016

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FREQUENTLY USED ACRONYMS

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., *et al.*
FTA	Free Trade Agreement
LNG	Liquefied Natural Gas
NEPA	National Environmental Policy Act
NGA	Natural Gas Act

I. INTRODUCTION

On September 28, 2015, 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 of the Natural Gas Act (NGA)[2] for 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 over a two-year period commencing on February 19, 2016. CPANGC seeks authorization to export the LNG by vessel from an existing natural gas liquefaction and marine terminal facility located near Kenai, Alaska (Kenai LNG Facility).[3] CPANGC seeks to export this volume of LNG on an aggregate basis to: (i) any country with which the United States currently has, or in the future will have, a free trade agreement (FTA) requiring national treatment for trade in natural gas, (FTA countries)[4]; and (ii) any other country with which trade is not prohibited by U.S. law or policy and with which trade is not prohibited by U.S. law or policy (non-FTA countries). CPANGC requests authorization to export this LNG on its own behalf or 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 nearly 50 years permitting the export of LNG from the State of Alaska. Based on a review of the record in this proceeding, DOE/FE finds that the

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[1] ConocoPhillips Alaska Natural Gas Corp., Application for Blanket Authorization to Export Liquefied Natural Gas from Alaska to Free Trade and Non-Free Trade Agreement Countries, FE Docket No. 15-149-LNG (Sept. 28, 2015) [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. 00-006.02 issued on November 17, 2014.

[3] 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.

[4] 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.

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 any country with which trade is not prohibited by U.S. law or policy, subject to the terms and conditions set forth below.

II. STANDARD OF REVIEW

Pursuant to sections 301(b) and 402 of the DOE Organization Act, 42 U.S.C. § 7151(b) and 42 U.S.C. § 7172, DOE/FE is responsible for evaluating the Application under NGA section 3, 15 U.S.C. § 717b.

A. FTA Countries

For the portion of the Application requesting authorization to export LNG to FTA countries, section 3(c) of the NGA requires that such exports "shall be deemed to be consistent with the public interest," and that such applications "shall be granted without modification or delay." 15 U.S.C. § 717b(c). Accordingly, we grant that portion of CPANGC's Application as set forth below.

B. Non-FTA Countries

For the portion of the Application requesting authorization to export LNG to non-FTA countries, section 3(a) of the NGA sets forth the applicable standard of review:

> [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 Energy[5]] authorizing it to do so. The [Secretary] shall

[5] 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.

> 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.

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.[6]

Although 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 also have 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.[7] The Guidelines state that:

> The market, not government, should determine the price and other contract terms of imported [or exported] gas …. The federal government's primary responsibility in authorizing imports [or exports] should 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

[6] *See*, *e.g.*, *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 2961, FE Docket No. 10-111-LNG, 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, FE Docket No. 96-99-LNG, Order Extending Authorization to Export Liquefied Natural Gas from Alaska, at 13 (April 2, 1999) [hereinafter *Phillips Alaska Natural Gas Corp.*], citing *Panhandle Producers & Royalty Owners Ass'n v. ERA*, 822 F.2d 1105, 1111 (D.C. Cir. 1987).

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

impediments to a freely operating market.[8]

While the Guidelines are nominally applicable to natural gas import cases, DOE/FE held in DOE/FE Order No. 1473 (an order issued to CPANGC's predecessors in 1999) that the same policies should be applied to natural gas export applications.[9]

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.[10] Although DOE Delegation Order No. 0204-111 has ceased to be in effect,[11] 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.

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.

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[8] *Id*. at 6685.

[9] *See Phillips Alaska Natural Gas Corp.*, 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).

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

[11] 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)).

C. Application of NGA Section 3(a) Public Interest Standard to Proposed Exports from Alaska

Under NGA section 3(a), where an applicant proposes to export LNG produced in Alaska, DOE/FE has determined that the traditional "domestic need" criterion of the public interest standard 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, 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.[12] 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."[13] 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."[14]

Even within Alaska, DOE/FE evaluates regional need based on the particular region where the natural gas is produced: (i) the Cook Inlet Basin of Southcentral Alaska, at issue here; and (ii) the Alaska North Slope, with natural gas derived from the area of Alaska north of the Brooks Range, including the continental shelf of the United States under the Beaufort Sea.[15]

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[12] *Phillips Alaska Natural Gas Corp.*, DOE/FE Order No. 1473, at 15 n.48.

[13] *Id*.

[14] *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 3282, FE Docket No. 10-161-LNG, 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).

[15] *See, e.g.*, *Phillips Alaska Natural Gas Corp.*, DOE/FE Order No. 1473, at 31-32 & n.84. 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 also would 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.[16] Subsequently, 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 met ….[17]

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, a publicly-traded Delaware corporation. CPANGC is authorized to do business in the State of Alaska, among other states. CPANGC is the owner and operator of the Kenai LNG Facility. CPANGC states that it has the ability to manufacture LNG from natural gas produced from fields in the Cook Inlet region of Alaska and transported by pipeline to the Kenai LNG Facility.

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[16] *ConocoPhillips Alaska Natural Gas Corp. & Marathon Oil Co.*, DOE/FE Order No. 2500, FE Docket No. 07-02-LNG, Order Granting Authorization to Export Liquefied Natural Gas from Alaska, at 45-46 (June 3, 2008).

[17] *ConocoPhillips Alaska Natural Gas Corp. & Marathon Oil Co.*, DOE/FE Order No. 2860, FE Docket No. 10-63-LNG, Order Granting Authorization to Export Liquefied Natural Gas from Alaska, at 16 (Oct. 5, 2010); *see also ConocoPhillips Alaska Natural Gas Corp.*, DOE/FE Order No. 3418, 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, at 6 (Apr. 14, 2014).

2. Procedural History

The history of CPANGC's and its predecessors' export authorizations from the Kenai LNG Facility is recounted in DOE/FE Order No. 3418,[18] as well as in the Application.[19] CPANGC states that it and/or its predecessors have exported LNG from Alaska for almost 50 years pursuant to several export authorizations granted by DOE/FE (or its predecessor agencies)—beginning with the first export authorization issued in 1967. CPANGC's existing blanket authorization to export LNG from the Kenai LNG Facility to FTA countries, set forth in DOE/FE Order No. 3392, extends through February 18, 2016 (the day before the requested authorization would take effect).[20] CPANGC's existing blanket authorization to export LNG from the Kenai LNG Facility to non-FTA countries, set forth in DOE/FE Order No. 3418, extends through April 13, 2016.[21] Those orders together authorize CPANGC to export LNG, on its own behalf or as agent for other entities, in a volume equivalent to approximately 40 Bcf of natural gas on a non-additive basis—the same total volume requested in the current Application.[22]

B. Current Application

CPANGC states that it filed the Application to secure the authorization needed to continue exporting LNG from the Kenai LNG Facility to both FTA and non-FTA countries after its most recent blanket authorizations expire in 2016. Therefore, it seeks blanket authorization to export LNG in a volume equivalent to 40 Bcf of natural gas from the Kenai LNG Facility to any country that has, or in the future develops, the capacity to import LNG and with which trade is

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[18] *See ConocoPhillips Alaska Natural Gas Corp.*, DOE/FE Order No. 3418, at 6-8.
[19] *See* App. at 4-7.
[20] *ConocoPhillips Alaska Natural Gas Corp.*, DOE/FE Order No. 3392, FE Docket No. 13-154-LNG, Order Granting Blanket Authorization to Export Liquefied Natural Gas by Vessel from the Kenai LNG Facility to Free Trade Agreement Nations (Feb. 19, 2014).
[21] *ConocoPhillips Alaska Natural Gas Corp.*, DOE/FE Order No. 3418, *supra* n.20.
[22] *See, e.g., id.*, at 20-21 (Ordering Paras. A, B).

not prohibited by U.S. law or policy, commencing on February 19, 2016. This volume is equivalent to approximately 0.055 Bcf per day (Bcf/d) of natural gas. CPANGC requests authorization to export this LNG on its own behalf or as agent for other entities who will hold title to the LNG at the time of export.

CPANGC states that, upon issuance of the requested authorization, it will relinquish its existing non-FTA blanket authorization in DOE/FE Order No. 3418 (extending through April 13, 2016), in light of DOE/FE's policy against allowing a single entity to hold duplicate authorizations running concurrently.[23] We construe this statement as a request to vacate DOE/FE Order No. 3418 upon the effective date of this Order.

CPANGC states that it expects prices of LNG to vary from time to time to reflect changes in market conditions. Therefore, CPANGC states that it is not filing natural gas purchase and sales contracts as part of this Application, which it states is consistent with DOE/FE precedent.[24]

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 under the National Environmental Policy Act of 1969 (NEPA), 42 *U.S.C.* § 4321 *et seq*., is required. According to CPANGC, the proposed export of LNG would not require any changes to the existing Kenai LNG Facility. CPANGC further notes that the LNG manufacturing and storage facilities that will be utilized for the proposed exports have been operating safely, without major disruption of supply or accident, from their startup in 1969.

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[23] App. at 3.

[24] CPANGC also requested expedited action on the Application. Issuance of this Order, although not expedited, should accord with CPANGC's requested timeline. App. at 18.

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. 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.

A. Regional Need for Proposed Exports

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 natural gas supplies to meet regional needs during the two-year export term, for the reasons discussed below.

1. 2013 Letter from the State of Alaska's Department of Natural Resources for CPANGC to Resume LNG Export Operations

In support of its Application, CPANGC submits 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 8, 2013, requests that CPANGC file an application with DOE/FE for authorization to export LNG from the Kenai LNG Facility, which CPANGC subsequently did. 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 given that local utility demand is contracted through the first quarter of 2018. 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.[25] 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.

CPANGC maintains that the 2013 DNR Letter remains pertinent today. As noted above, local utility demand remains contracted through the first quarter of 2018, within which period the term of the proposed authorization will be contained. CPANGC further states that the resurgence in investment and market for natural gas created in part by the Kenai LNG Facility has resulted in continued exploration and forecasted production by several new market entrants.

[25] 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.

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).[26] According to CPANGC, this Study built upon a similar DNR study conducted in 2009 that was discussed by DOE/FE in Order No. 2860.

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. In relevant part, CPANGC highlights the following two conclusions of the Study:

- There are approximately 1,500 Bcf of natural gas reserves in existing fields in Cook Inlet; and
- Given sufficient continued investments, the Cook Inlet basin is capable of supplying regional natural gas needs through 2018-20, and possibly longer.

With regard 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, the 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).

Additionally, CPANGC notes that, in December 2012, the Potential Gas Committee of the Colorado School of Mines, using more conservative natural gas resource estimating methods,

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[26] App. at 12 n.27, 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].

indicated a total likely gas resource of more than 4,400 Bcf. CPANGC states that, in the Potential Gas Committee's most recent assessment, issued in April 2015 and covering reserve estimates as of December 31, 2014, "[the] total most likely onshore gas resource assessment for the Cook Inlet-Susitna Basins remains unchanged at over 4,400 Bcf."[27]

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 at least the first quarter of 2018). In support of this argument, CPANGC states that:

- 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 natural gas purchase agreement with Municipal Light & Power through 2019; and
- Matanuska Electric Association has a natural gas supply contract with Hilcorp Alaska, LLC that will meet Matanuska's fuel requirements for a new power plant through the first quarter of 2018.[28]

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."[29]

[27] App. at 13 n.13 (citing Potential Gas Committee, Colorado School of Mines, *Potential Supply of Natural Gas in the United States*, at 65-67 (Apr. 2015)). CPANGC appended a copy of the relevant pages from this report as Appendix D to the Application.
[28] *See id*. at 13-14.
[29] *Id*. at 14.

4. Natural Gas Storage in the Cook Inlet

CPANGC notes that, in 2012, Cook Inlet Natural Gas Storage Alaska, LCC began operation of a new underground natural gas storage facility, with an initial 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 provides incremental deliverability in peak periods of demand during the winter. CPANGC asserts that the availability of natural gas storage reduces the risk that 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 at least the first quarter of 2018). 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 ….'"[30] 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

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

[30] *Id*. at 15 (quoting *CPANGC & Marathon Oil Co.*, DOE/FE Order No. 2500, at 52-53).

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, 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.”[31] CPANGC asserts that the proposed exports will help to avoid the recurrence of this problem by maintaining the base level of natural gas demand historically provided by the Kenai LNG Facility during warmer months.

B. Other Public Interest Factors

CPANGC identifies several economic benefits as 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 85 people (some with ConocoPhillips and some working for contractors), generating an estimated $13.1 million in personal income. CPANGC estimates that the Facility has a significant impact on 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 and taxes for the State of Alaska,

[31] *Id*. at 16 (and table).

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 addition to the DNR letter discussed above, CPANGC has submitted letters in support of the requested export authorization from AIX Energy, LLC, Aurora Gas, LLC, Furie Operating Alaska, LLC, and WestPac Midstream, LLC. Copies of these letters have been filed in Appendix E to the Application. According to CPANGC, these letters provide corroborating evidence that the requested blanket authorization is consistent with the public interest and is important to the supply security of the Cook Inlet region.

V. COMMENTS IN RESPONSE TO THE NOTICE OF APPLICATION

A. Overview

On November 9, 2015, DOE/FE published a Notice of ConocoPhillips's Application in the Federal Register.[32] The Notice of Application called on interested persons to submit protests, motions to intervene, notices of intervention, and comments by December 9, 2015. 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. DOE/FE did not receive any comments or other filings opposing the Application.

B. Comment 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. Speaker Chenault

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[32] ConocoPhillips Alaska Natural Gas Corp., FE Docket No. 15-149-LNG, Application for Blanket Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Countries on a Short-Term Basis, 80 Fed. Reg. 69,202 (Nov. 9, 2015).

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.

According to Speaker Chenault, exports from the Facility will provide market opportunities for explorers and natural 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.

VI. DISCUSSION AND CONCLUSIONS

A. CPANGC's Application

For the portion of the Application that seeks to export LNG to FTA countries, we grant CPANGC's request in the full volume requested—equivalent to 40 Bcf of natural gas—over the requested two-year period. 15 U.S.C. § 717b(c).

For the portion of the Application that seeks to export LNG to non-FTA countries, we have reviewed the uncontested record evidence 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). In reaching this determination, we rely on the submissions cited in or accompanying the Application, including the Alaska DNR's letter dated September 5, 2013, the 2011 DNR Study, and the Potential Gas Committee 2015 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 and

Speaker Chenault's comment that the proposed exports will provide regional benefits to the local and state economy.

As requested by CPANGC, we are authorizing the requested export volume of 40 Bcf on an aggregate basis to both FTA and non-FTA countries. *See infra* § VII.B.

B. Issuance of Categorical Exclusion for Exports to Non-FTA Countries

The Department's regulations at 10 CFR Part 1021, Subpart D, Appendix B5, list categorical exclusions that apply to DOE actions under NEPA. Item B5.7 provides a categorical exclusion where approvals or disapprovals of authorizations to import or export natural gas under NGA section 3 involve minor operational changes, but not new construction. On the basis of the uncontested record evidence, no new construction or modification to the Kenai LNG Facility will be necessary due to DOE/FE's action on the non-FTA portion of the Application. Therefore, we find that CPANGC's proposed exports to non-FTA countries fall within the scope of the B5.7 categorical exclusion. DOE/FE issued the Categorical Exclusion on February 4, 2016.[33]

C. Request to Vacate DOE/FE Order No. 3418

Concurrently with the issuance of the requested authorization, CPANGC has asked DOE/FE to vacate its existing non-FTA blanket authorization set forth in DOE/FE Order No. 3418, as that authorization no longer will be required. Finding good cause to do so, DOE grants the request to vacate DOE/FE Order No. 3418 effective on the date that this Order takes effect.

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.

[33] U.S. Dept. of Energy Categorical Exclusion Determination, ConocoPhillips Alaska Natural Gas Corp., FE Docket No. 15-149-LNG (Feb. 4, 2016).

The reasons for each term or condition are explained below. CPANGC must abide by each term and condition or may face rescission of its authorization or other appropriate sanction.

A. Agency Rights

As described above, CPANGC requests authorization to export LNG on its own behalf and as agent for other entities who hold title to the LNG at the time of export. DOE/FE previously addressed the issue of Agency Rights in DOE/FE Order No. 2913,[34] which granted Freeport LNG Expansion, L.P., *et al.* (collectively, 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 *The Dow Chemical Company*,[35] which established that the title for all LNG authorized for export must be held by the authorization holder at the point of export. We find that the same policy considerations that supported DOE/FE's acceptance of the alternative registration proposal in DOE/FE Order No. 2913 apply here as well.

DOE/FE reiterated its policy on Agency Rights procedures in *Gulf Coast LNG Export, LLC*.[36] 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

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[34] *Freeport LNG Expansion, L.P., et al.,* DOE/FE Order No 2913, FE Docket No. 10-160-LNG, Order Granting Long-Term Authorization to Export Liquefied Natural Gas from the Freeport LNG Terminal to Free Trade Nations (Feb. 10, 2011).

[35] *The Dow Chemical Company*, DOE/FE Order No. 2859, FE Docket No. 10-57-LNG, Order Granting Blanket Authorization to Export Liquefied Natural Gas, at 7-8 (Oct. 5, 2010), discussed in *Freeport LNG*, DOE/FE Order No. 2913, at 7-8.

[36] *Gulf Coast LNG Export, LLC*, DOE/FE Order No. 3163, FE Docket No. 12-05-LNG, Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas By Vessel from the Proposed Brownsville Terminal to Free Trade Agreement Nations (Oct. 16, 2012).

on its own behalf.[37]

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 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.

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

This Order authorizes the export of LNG from the Kenai LNG Facility to both FTA and non-FTA countries in the full amount requested by CPANGC, up to the equivalent of 40 Bcf of natural gas. As noted above, CPANGC has requested this export volume on an aggregate basis, and therefore 40 Bcf is the total cumulative volume for exports under this authorization.

C. Environmental Review

The portion of the Application requesting authorization to export LNG to non-FTA countries qualifies for a categorical exclusion, which DOE/FE issued on February 4, 2016. No additional environmental review or environmental conditions are necessary.

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.

[37] *See id*. at 7-8.

IX. ORDER

Pursuant to section 3 of the NGA, it is ordered that:

A. ConocoPhillips Alaska Natural Gas Corporation (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 and 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 February 19, 2016, and extending through February 18, 2018.

B. The LNG authorized for export in this Order may be exported by vessel to any country with the capacity to import ocean-going LNG carriers and with which trade is not prohibited by U.S. law or policy.

C. CPANGC shall ensure that all transactions authorized by this Order are permitted and lawful under U.S. 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. Failure to comply with this requirement could result in rescission of this authorization and/or other civil or criminal remedies.

D. 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 B of DOE/FE Order No. 3784, issued February 8, 2016, in FE Docket No. 15-149-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 (or countries) into which the exported LNG

> or natural gas was actually delivered and/or received for end use, and to include in any resale contract for such LNG the necessary conditions to ensure that ConocoPhillips Alaska Natural Gas Corporation is made aware of all such countries.

E. CPANGC is permitted to use its authorization to export LNG as agent for other entities, after registering the other entities 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'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.

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

G. 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.

H. Monthly Reports: With respect to the LNG exports authorized by this Order, CPANGC shall file with the Office of Regulation and International Engagement, 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; (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) into which the LNG or natural gas is actually delivered and/or received for end use; (6) the name of the supplier/seller; (7) the volume in thousand cubic feet (Mcf); (8) the price at point of export per million British thermal units (MMBtu); (9) the duration of the supply agreement (indicate spot sales); and (10) the name(s) of the purchaser(s).

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

I. All monthly report filings shall be made to U.S. Department of Energy (FE-34), Office of Fossil Energy, Office of Regulation and International Engagement, 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 (202) 586-6050.

J. CPANGC's authorization to export LNG by vessel from the Kenai LNG Facility to non-FTA countries, granted in DOE/FE Order No. 3418 on April 14, 2014, is hereby vacated effective February 19, 2016.

Issued in Washington, D.C., on February 8, 2016.

John A. Anderson
Director, Office of Regulation and International Engagement
Office of Oil and Natural Gas