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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

Kate Giard, Chairman  
Dave Harbour  
Mark K. Johnson  
Anthony A. Price  
James S. Strandberg

In the Matter of the Formal Complaint Filed by )  
Agrium U.S. Inc. Against MARATHON OIL )  
COMPANY and UNION OIL COMPANY OF )  
CALIFORNIA as Owners of the Cook Inlet Gas )  
Gathering System )

P-04-20  
ORDER NO. 8

In the Matter of the Formal Complaint Filed by )  
Agrium U.S. Inc. Against MARATHON OIL )  
COMPANY and UNION OIL COMPANY OF )  
CALIFORNIA as Owners of the Cook Inlet Gas )  
Gathering System )

U-05-20  
ORDER NO. 6

**ORDER CONSOLIDATING QUESTIONS 3 AND 4 FOR BRIEFING,  
REQUIRING SETTLEMENT STATUS FILINGS, AFFIRMING  
ELECTRONIC RULING, AND AMENDING DOCKET TITLES**

BY THE COMMISSION:

Summary

We consolidate initial and reply briefs for Questions 3 and 4. We require Marathon Oil Company (Marathon) and Union Oil Company of California (Unocal Alaska) to report progress made on ownership issues and mediation.

Background

We required sequential briefing of six questions raised by Agrium's complaint. We decided Question 1 determining that both Marathon and Unocal Alaska,

1 as owners of CIGGS,<sup>1</sup> are public utilities.<sup>2</sup> Question 2 has been briefed. Questions 3  
2 through 6 are yet to be briefed.

3 In response to a request to change the procedural schedule,<sup>3</sup> we  
4 scheduled a prehearing conference to discuss the procedural schedule and settlement  
5 options.<sup>4</sup> At the May 4, 2005, prehearing conference, the parties agreed to file  
6 consolidated briefing on Questions 3 and 4 on the dates now set for Question 4. The  
7 parties agreed to consolidate those questions to allow time to pursue settlement.

8 The parties further agreed that Unocal Alaska and Marathon should be  
9 given an opportunity to resolve current ownership disputes before broader settlement  
10 discussions are commenced by all parties later this month.<sup>5</sup> We offered the services of  
11 a settlement judge paid by us; however, the parties agreed to select and pay for a  
12 mediator themselves. The parties agreed to report to us on the progress of resolving  
13 the ownership disputes and the selection of a mediator.<sup>6</sup>

14 Discussion

15 This is an appropriate time for the parties to engage in intensive  
16 settlement negotiations. We have determined, subject to our decision on Question 2,  
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19 <sup>1</sup>Cook Inlet Gas Gathering System.

20 <sup>2</sup>Order P-04-20(5)/U-05-20(3), *Order Deciding Question 1 and Granting*  
*Temporary Exemption*, dated April 22, 2005.

21 <sup>3</sup>*Joint Petition for Partial Reconsideration of Order Defining Adjudicatory Process*  
*and Establishing Procedural Schedule*, filed March 29, 2005.

22 <sup>4</sup>Order P-04-20(6)/U-05-20(4), *Order Denying Joint Petition for Partial*  
*Reconsideration and Scheduling Prehearing Conference*, dated April 27, 2005.

23 <sup>5</sup>They agreed to try to begin settlement discussions by May 26, 2005.

24 <sup>6</sup>They agreed the report should be filed May 20, 2005. However, we allow the  
25 parties to file this report on May 22, 2005.

1 that the owners of CIGGS are subject to regulation under AS 42.05 unless exempted  
2 under AS 42.05.711(d) from some or all the provisions of AS 42.05.

3 We have not yet decided whether CIGGS should be subject to regulation  
4 under AS 42.06. The regulatory regime under AS 42.06 may be more than the parties  
5 believe is necessary for the circumstances surrounding CIGGS, and AS 42.06 does not  
6 contain statutory exemption language similar to that in AS 42.05.

7 At this stage in the proceeding, the parties have the flexibility to consider  
8 what level of regulation is appropriate for CIGGS and to tailor the resolution of their  
9 disputes accordingly. As examples only, CIGGS could transition gradually from  
10 unregulated to fully regulated; it could be exempted from regulation until specified  
11 events occur; it could be exempted from the requirement to file a tariff and operate  
12 under special contract only; or it could be exempted from regulation for a transitional  
13 period of time and then be only partially regulated. If we move on to the remaining  
14 questions, this flexibility may be lost.

15 We combine Questions 3 and 4 to allow time for parties to engage in  
16 settlement discussions. We will continue on the procedural schedule if settlement is not  
17 achieved.

18 We encourage the parties to act, and we will monitor this settlement  
19 process closely. We require Marathon and Unocal Alaska to file a one-page status  
20 report on settlement discussions held the previous week beginning May 23, 2005. If we  
21 do not see sufficient progress, we will call the parties to a prehearing conference and  
22 consider participating more actively by setting a formal settlement schedule.

23 Affirm Electronic Ruling

24 When we required sequential briefing of six questions raised by Agrium's  
25 complaint, we required Marathon and Unocal Alaska to file a list of gas customers with  
26 associated gas volumes and destinations for all gas shipped through the CIGGS during

1 2004 and to state whether this list of customers and their associated volumes and  
2 destinations were representative of normal ongoing operations of the pipeline over the  
3 course of the last three years and in the current year.<sup>7</sup> Marathon requested extensions  
4 of the filing dates for briefing on Question 1 and for the gas customer lists and  
5 associated information.<sup>8</sup> We granted Marathon's motion, in part, by allowing additional  
6 time before the lists of gas customers and associated information were due. We denied  
7 the request for additional modifications because further extensions would impact the  
8 entire procedural schedule. The parties were electronically notified on March 10, 2005.  
9 We affirm the March 10, 2005, electronic ruling.

10 Amend Docket Titles

11 We amend the title of Dockets P-04-20 and U-05-20 to read "In the Matter  
12 of the Formal Complaint Filed by Agrium U.S. INC. Against MARATHON OIL  
13 COMPANY and UNION OIL COMPANY OF CALIFORNIA as Owners of the Cook Inlet  
14 Gas Gathering System."

15 **ORDER**

16 THE COMMISSION FURTHER ORDERS:

- 17 1. Ordering Paragraphs 7.F and 7.G of Order P-04-20(3)/U-05-20(1),  
18 dated March 7, 2005, are vacated.  
19 2. Ordering Paragraph 7.I is amended to read:  
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23 <sup>7</sup>Order P-04-20(3)/U-05-20(1), *Order Granting Intervention, Defining Adjudicatory*  
24 *Process, Opening New Docket, Establishing Procedural Schedule and Denying Motion*  
*for Clarification*, dated March 7, 2005.

25 <sup>8</sup>*Marathon's Unopposed Motion to Modify Procedural Schedule*, filed March 10,  
26 2005.

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I.	4 p.m.	July 20, 2005	Briefs addressing Question 3, Is the Cook Inlet Gas Gathering System subject to the jurisdiction of the Commission under the Pipeline Act as a "natural gas pipeline" as defined in AS 42.06.630(10), and Question 4, Is CIGGS subject to regulation under the Pipeline Act as a "pipeline carrier" as defined in AS 42.06.630 because its facilities are part of "a total system of pipe . . . used by a pipeline carrier for transportation of" within the meaning of AS 42.06.630, are due.
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3. By 4 p.m. May 23, 2005, Union Oil Company of California and Marathon Oil Company shall jointly file a status report. The status report shall state whether ownership issues have been resolved and, if not, what progress has been made in resolving those issues. The status report shall also state, on behalf of Union Oil Company of California and Marathon Oil Company and all other parties, whether the parties have agreed on a mediator and, if they have agreed, the name of the mediator and the expected date mediation will begin.

4. By 4 p.m. on May 31, June 6, June 13, June 20, June 27, July 5, July 11 and July 18, 2005, Marathon Oil Company and Union Oil Company of California shall file a weekly one-page status report on settlement negotiations. If the parties concur, they may file a joint status report. If the parties are unable to concur, each party shall file a separate status report.

5. The electronic ruling issued on March 10, 2005 that granted, in part, the unopposed motion, filed by Marathon Oil Company on March 10, 2005, to modify the procedural schedule is affirmed.

6. The title of Docket P-04-20 is amended to read: "In the Matter of the Formal Complaint Filed by Agrium U.S. INC. Against MARATHON OIL COMPANY and UNION OIL COMPANY OF CALIFORNIA as Owners of the Cook Inlet Gas Gathering System."

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7. The title of Docket U-05-20 is amended to read: "In the Matter of the Formal Complaint Filed by Agrium U.S. INC. Against MARATHON OIL COMPANY and UNION OIL COMPANY OF CALIFORNIA as Owners of the Cook Inlet Gas Gathering System."

DATED AND EFFECTIVE at Anchorage, Alaska, this 18th day of May, 2005.

BY DIRECTION OF THE COMMISSION  
(Commissioners Dave Harbour and  
James S. Strandberg, not participating.)

( S E A L )