

**FILE**

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

CHUGACH ELECTRIC ASSOCIATION,  
INC.,

Petitioner,

v.

U.S. DEPARTMENT OF ENERGY,  
OFFICE OF FOSSIL ENERGY,

Respondent.

Case No.: 08-\_\_\_\_\_

**PETITION FOR REVIEW  
UNDER THE NATURAL GAS ACT, 15 U.S.C. § 717**

Pursuant to the Natural Gas Act, 15 U.S.C. § 717, Chugach Electric Association, Inc. ("Chugach") hereby petitions the Court for direct review of the Department of Energy ("DOE") Opinion and Order No. 2500, "Order Granting Authorization To Export Liquefied Natural Gas From Alaska," issued on June 3, 2008, and DOE Opinion and Order No. 2500-A, "Order Denying Rehearing," issued on July 30, 2008, copies of which are attached as Appendix A to the Civil Appeals Docketing Statement ("Docketing Statement") filed herewith.

In compliance with Rule 26.1 of the Federal Rules of Appellate Procedure and Circuit Rule 15-2, respectively, Chugach has submitted its "Corporate Disclosure Statement" and its Docketing Statement contemporaneously with this


Petition for Review. In accordance with Rule 15(c) of the Federal Rules of Appellate Procedure, a list of the parties served with a copy of this Petition is attached as Appendix B to the Docketing Statement, and a copy of the Petition is enclosed to be served upon the respondent, Robert Corbin, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Docket Room 3F-056, FE-50, Forrestal Building, Room 3E-042, FE-34, 1000 Independence Ave., SW, Washington, DC 20585.

Petitioner is not aware of any other petitions for review pertaining to this same action.

Dated this 25th day of September, 2008.

Respectfully submitted,

HELLER EHRMAN LLP

By:   
James E. Torgerson, AKB #8509120  
Wei-Drin Lee, AKB #0505025  
Heller Ehrman LLP  
510 L Street, Suite 500  
Anchorage, AK 99501  
Telephone: 907-277-1900  
Fax: 907-277-1920  
[james.torgerson@hellerehrman.com](mailto:james.torgerson@hellerehrman.com)  
[weidrin.lee@hellerehrman.com](mailto:weidrin.lee@hellerehrman.com)

Attorneys for Chugach Electric Association,  
Inc.

**FILE**

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

CHUGACH ELECTRIC ASSOCIATION,  
INC.,

Petitioner,

v.

U.S. DEPARTMENT OF ENERGY,  
OFFICE OF FOSSIL ENERGY,

Respondent.

Case No.: 08-\_\_\_\_\_

**CORPORATE DISCLOSURE STATEMENT**

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure,  
Petitioner Chugach Electric Association, Inc. ("Chugach") submits the following  
disclosure statement: There is no parent corporation or any publicly held  
corporation that owns 10% or more of Chugach's stock.

Dated: September 25, 2008

Respectfully submitted,

HELLER EHRMAN LLP

By: 

James E. Torgerson, AKB #8509120

Wei-Drin Lee, AKB #0505025

Heller Ehrman LLP

510 L Street, Suite 500

Anchorage, AK 99501  
Telephone: 907-277-1900  
Fax: 907-277-1920  
[james.torgerson@hellerehrman.com](mailto:james.torgerson@hellerehrman.com)  
[weidrin.lee@hellerehrman.com](mailto:weidrin.lee@hellerehrman.com)

Attorneys for Chugach Electric  
Association, Inc.



USCA DOCKET # (IF KNOWN)

**UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT  
CIVIL APPEALS DOCKETING STATEMENT**

PLEASE ATTACH ADDITIONAL PAGES IF NECESSARY.

<b>TITLE IN FULL:</b>  CHUGACH ELECTRIC ASSOCIATION, INC., petitioner, v. U.S. DEPARTMENT OF ENERGY, OFFICE OF FOSSIL ENERGY, respondent.	DISTRICT: Department of Energy	JUDGE: n/a
	DISTRICT COURT NUMBER: FE Docket No. 07-02-LNG	
	DATE NOTICE OF APPEAL FILED: Petition for Review (Sept. 26, 2008)	IS THIS A CROSS APPEAL? <input type="checkbox"/> YES
	IF THIS MATTER HAS BEEN BEFORE THIS COURT PREVIOUSLY, PLEASE PROVIDE THE DOCKET NUMBER AND CITATION (IF ANY):	
	n/a	

**BRIEF DESCRIPTION OF NATURE OF ACTION AND RESULT BELOW:**

Petition for direct review of orders of the Department of Energy, Office of Fossil Energy ("OFE") relating to (1) its grant of an application for authority to export liquefied natural gas from Alaska facilities to countries overseas and (2) its denial of the application by intervenor Chugach Electric Association, Inc.'s ("Chugach") for rehearing.

**PRINCIPAL ISSUES PROPOSED TO BE RAISED ON APPEAL:**

Whether OFE's grant of the export authority application and denial of Chugach's application for rehearing were arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, and/or were not supported by substantial evidence, or should otherwise be set aside upon direct judicial review.

**PLEASE IDENTIFY ANY OTHER LEGAL PROCEEDING THAT MAY HAVE A BEARING ON THIS CASE (INCLUDE PENDING DISTRICT COURT POST-JUDGMENT MOTIONS):**

n/a

**DOES THIS APPEAL INVOLVE ANY OF THE FOLLOWING:**

Possibility of Settlement

Likelihood that intervening precedent will control outcome of appeal

Likelihood of a motion to expedite or to stay the appeal, or other procedural matters (Specify)

---

Any other information relevant to the inclusion of this case in the Mediation Program

---

Possibility parties would stipulate to binding award by Appellate Commissioner in lieu of submission to judges

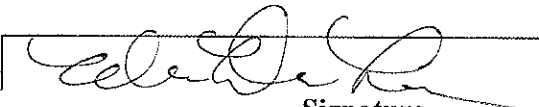
**LOWER COURT INFORMATION**

JURISDICTION		DISTRICT COURT DISPOSITION	
FEDERAL	APPELLATE	TYPE OF JUDGMENT/ORDER APPEALED	RELIEF
<input checked="" type="checkbox"/> FEDERAL QUESTION <input type="checkbox"/> DIVERSITY <input type="checkbox"/> OTHER (SPECIFY): 	<input type="checkbox"/> FINAL DECISION OF DISTRICT COURT <input type="checkbox"/> INTERLOCUTORY DECISION APPEALABLE AS OF RIGHT <input type="checkbox"/> INTERLOCUTORY ORDER CERTIFIED BY DISTRICT JUDGE (SPECIFY): <input checked="" type="checkbox"/> OTHER (SPECIFY): direct review of agency order: 15 U.S.C. 717r(b))	<input type="checkbox"/> DEFAULT JUDGMENT <input type="checkbox"/> DISMISSAL/JURISDICTION <input type="checkbox"/> DISMISSAL/MERITS <input type="checkbox"/> SUMMARY JUDGMENT <input type="checkbox"/> JUDGMENT/COURT DECISION <input type="checkbox"/> JUDGMENT/JURY VERDICT <input type="checkbox"/> DECLARATORY JUDGMENT <input type="checkbox"/> JUDGMENT AS A MATTER OF LAW <input checked="" type="checkbox"/> OTHER (SPECIFY): Final Agency Order by Department of Energy (Office of Fossil Energy)	<input type="checkbox"/> DAMAGES: SOUGHT \$ _____ AWARDED \$ _____ <input type="checkbox"/> INJUNCTIONS: <input type="checkbox"/> PRELIMINARY <input type="checkbox"/> PERMANENT <input type="checkbox"/> GRANTED <input type="checkbox"/> DENIED <input type="checkbox"/> ATTORNEY FEES: SOUGHT \$ _____ AWARDED \$ _____ <input type="checkbox"/> PENDING <input type="checkbox"/> COSTS: \$ _____

**CERTIFICATION OF COUNSEL**

**I CERTIFY THAT:**

1. COPIES OF ORDER/JUDGMENT APPEALED FROM ARE ATTACHED. (Appendix A)
2. A CURRENT SERVICE LIST OR REPRESENTATION STATEMENT WITH TELEPHONE AND FAX NUMBERS IS ATTACHED (SEE 9TH CIR. RULE 3-2). (Appendix B)
3. A COPY OF THIS CIVIL APPEALS DOCKETING STATEMENT WAS SERVED IN COMPLIANCE WITH FRAP 25.
4. I UNDERSTAND THAT FAILURE TO COMPLY WITH THESE FILING REQUIREMENTS MAY RESULT IN SANCTIONS, INCLUDING DISMISSAL OF THIS APPEAL.

  
 \_\_\_\_\_  
 Signature

9/26/08  
 \_\_\_\_\_  
 Date

**COUNSEL WHO COMPLETED THIS FORM**

NAME	Wei-Drin Lee		
FIRM	Heller Ehrman LLP		
ADDRESS	510 L Street, Suite 500		
CITY	Anchorage	STATE	Alaska
		ZIP CODE	99501
E-MAIL	weidrin.lee@hellerehrman.com		
		TELEPHONE	(907) 277-1900
FAX	(907) 277-1920		

**\*\*THIS DOCUMENT SHOULD BE FILED IN DISTRICT COURT WITH THE NOTICE OF APPEAL. \*\***  
**\*\*IF FILED LATE, IT SHOULD BE FILED DIRECTLY WITH THE U.S. COURT OF APPEALS.\*\***

## **CLARIFICATION**

On September 29, 2008, Chugach Electric Association filed a Petition for Review with the U.S. Court of Appeals for the Ninth Circuit, thereby initiating judicial review of a recent decision by the U.S. Department of Energy. That USDOE decision authorized continued exports of Cook Inlet natural gas to Japan in the form of liquefied natural gas (LNG) without imposing certain conditions that Chugach had requested.

It has been erroneously reported by some news media that Chugach seeks to halt LNG exports from Cook Inlet. That is not the case. In the USDOE proceeding, Chugach asked that authority to continue current LNG exports be conditioned by USDOE to require that the Cook Inlet gas producers also make binding commitments to meet the natural gas supply needs of gas-dependent Cook Inlet utilities such as Chugach and ENSTAR. In approving continued LNG exports, the USDOE denied Chugach's request to impose this condition. Chugach seeks judicial review of USDOE's denial of that request, not a judicial ban on LNG exports. Chugach will ask the Court to rule that USDOE erred in failing to impose the condition Chugach requested.

The timing of Chugach's filing with the Court was dictated by federal law, which required Chugach's petition to be filed within sixty (60) days of USDOE's final order in the LNG export proceeding. That final order was issued on July 30, 2008. The Petition for Review initiates a process before the Court of Appeals that will include briefing of the issues and the opportunity for oral argument. The Petition itself does not contain any argument by Chugach.

Chugach did not issue a press release regarding the filing of its Petition. This clarification is being issued solely to correct any mistaken impressions of Chugach's filing that may have arisen.

The Court's review of USDOE's decision will be based on the record compiled by USDOE. The record of the USDOE proceeding is entirely in writing, because the proceeding was conducted by written submissions. The written submissions and arguments of all parties, including Chugach, are publicly available on the website of the USDOE Office of Fossil Energy: [http://www.fossil.energy.gov/programs/gasregulation/authorizations/lng\\_export\\_application\\_0702LNG.html](http://www.fossil.energy.gov/programs/gasregulation/authorizations/lng_export_application_0702LNG.html)

It has also been reported in the news media that ENSTAR will not be joining Chugach in Chugach's request that the Court reverse the USDOE's denial of Chugach's requested condition on LNG exports. In fact, ENSTAR has asked the Court in writing to allow ENSTAR to intervene in the appeal for the purpose of opposing Chugach's Petition.