COMMENTS OF EXXON MOBIL CORPORATION REGARDING A PROPOSED CHANGE TO THE ENERGY DEPARTMENT'S LNG EXPORT DECISION-MAKING PROCEDURES

Exxon Mobil Corporation (ExxonMobil) offers the following comments in response to the "Notice of Proposed Procedures for LNG Export Decisions" issued by the Office of Fossil Energy, Department of Energy (DOE) on May 29, 2014.

Executive Summary

As an industry leader with more than 40 years of experience in the LNG business, ExxonMobil has witnessed firsthand those policies that both stimulate – as well as impede – natural gas markets. In the case of the United States, natural gas exports are governed by the Natural Gas Act, which provides a rebuttable presumption that LNG exports are in the public interest. The DOE-commissioned study completed by NERA Economic Consulting in 2012, and many subsequent independent studies, find a clear basis for DOE to approve LNG export applications to countries with which the U.S. does not have a free trade agreement.

In order for the U.S. to capture the economic benefits of LNG exports and because there is strong competition among international LNG suppliers, it is critical that DOE follow the well-established principles of free trade and administer a process that is timely and allows the market to determine which LNG export projects can ultimately succeed.

Under DOE's current process, LNG export applications are reviewed on a case-by-case basis in the order in which they were received, which has generated unreasonable delays and uncertainties and has made it difficult to make the major investment decisions necessary to progress these projects. According to the newly proposed procedures, DOE will assess a pending LNG export application only after the applicant completes the Federal Energy Regulatory Commission (FERC) National Environmental Policy Act (NEPA) process, which is estimated to take about 12-18 months.

ExxonMobil believes DOE's proposed procedures would not effectively accelerate the approval process for LNG export applications and would, in fact, require projects to invest significant amounts of time and resources to complete the NEPA review without any certainty they will receive DOE authorization. Even after completing the NEPA review, there is no definitive decision timeline provided for DOE to act, which translates into continued unreasonable delays that could put U.S. projects at a disadvantage and jeopardize their ability to compete in the global marketplace.

To accelerate the process, ExxonMobil recommends that DOE issue a final opinion and order for its public interest determination within 30 days of an applicant's respective formal filing with FERC to construct and operate the facilities to export natural gas. Assuming DOE's final opinion determined that the application was in the public interest, then the non-FTA export license would be activated 30 days after FERC's final environmental impact statement (EIS), unless DOE were to issue an order requiring a further environmental review. Adopting such a measure would benefit government agencies, project developers, and the public by providing an efficient and transparent process that would enable developers the opportunity to compete to provide the U.S. jobs and economic growth associated with LNG exports.

LNG Exports are in the Public Interest

The U.S. has a tremendous opportunity to capitalize on its abundant gas reserves by exporting LNG.

The macroeconomic study commissioned by DOE in 2012 arrived at two powerful conclusions in support of U.S. LNG exports: (a) all export scenarios yielded positive net benefits for the U.S. economy; and (b) the larger the LNG exports, the larger the net benefits to the country. Under some scenarios, GDP increases in 2020 could range from $10 billion to $47 billion.[1]

A study by ICF International likewise concluded that significant U.S. job gains, manufacturing growth, and robust economic activity would be associated with future exports of LNG.[2] The study concluded LNG exports could generate between 73,000 and 450,000 jobs and contribute billions in economic gains for both energy producing and manufacturing states. One LNG export project alone can bring significant benefits. For example, Golden Pass Products, in which ExxonMobil has an interest, could lead to a $10 billion investment and create approximately 45,000 direct and indirect jobs in the U.S.[3]

DOE is governed by the Natural Gas Act, which mandates that applications to export natural gas to non-FTA countries be granted unless it can be demonstrated that LNG exports would be "inconsistent with the public interest."[4] The presumption of LNG exports being in the public interest is supported by DOE's extensive record on the issue. DOE should expeditiously evaluate and act upon the pending LNG export applications, and allow the market to help direct future investments and capital expenditures.

Benefits of Free Trade and Market Principles

Market-driven exports benefit the U.S. economy through expanded trade. Producers, manufacturers and consumers that are involved in global exports recognize the many benefits of trade. In fact, the international trading system falters when countries implement artificial trade barriers to benefit specific domestic business interests at the expense of the broader national economies.

Free trade encourages more investment and leads to mutual benefits for both importers and exporters. The opportunities available through natural gas exports will attract significant capital and new investors and, in turn, lead to additional energy development and production, which has already been a major driver of U.S. job growth and economic returns.

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[1] "Macroeconomic Impacts of LNG Exports from the United States," NERA Economic Consulting, Prepared for U.S. Department of Energy, Office of Fossil Energy, 2012

[2] "U.S. LNG Exports: State-Level Impacts on Energy Markets and the Economy," ICF International, November 13, 2013

[3] FE Docket 12-156 – LNG: Golden Pass Products LLC NFTA Application, Exhibit D: The Socioeconomic Impact of Authorizing Exports of Liquefied Natural Gas (LNG) from the Golden Pass Products Facility in Jefferson County, Texas on Business Activity in Jefferson County, the Primary Impact Area, and the United States, The Perryman Group

[4] 15 U.S.C. § 717b(a)

LNG exports do not require government subsidies, but they do require that DOE allow companies to compete in a timely manner and on a level playing field for global customers. Of course, only a fraction of the currently proposed U.S. LNG exports projects will likely be built. The market will help determine which project sponsors have the technical, financial and marketing capabilities to succeed in the competitive international LNG marketplace.

DOE's Current Process

DOE's notice of proposed procedures for LNG export decisions acknowledges the limitations of the current process, in which projects have been slowly evaluated on a case-by-case basis in the order in which the applications were received. This process does not take into account the unique attributes of each LNG project. For instance, some projects are expansions of existing LNG import facilities, while others require new construction from the ground-up, including new pipeline infrastructure.

Development of an LNG export facility is complex and challenging. It requires financing, technical expertise, the completion of rigorous environmental reviews and customers willing to sign long-term supply contracts. As such, a systematic development process is required to synchronize these key project elements, hopefully culminating in a comprehensive final investment decision (FID) by the sponsors.

The sequence for an LNG export facility begins with a concept selection, which includes receiving the necessary license or regulatory approvals to export the natural gas. Receiving this license early in the process is important because it provides the regulatory certainty needed for the project concept to then proceed.

The next steps involve the front-end engineering design (FEED) work, which focuses on the technical requirements, as well as rough investment costs, for the project. Concurrently, the marketing window opens to discuss sales agreements with potential LNG buyers. These are normally long-term commitments, so potential customers need confidence in the progress of the project and assurances for the supply of the natural gas.

After FEED, expenditures continue to escalate as the project begins to mobilize for construction, locks in contracts for materials and contractors, begins and completes the NEPA environmental reviews, and arranges for shipping of the LNG. At the same time, negotiations with customers continue and sales agreements are signed, which are necessary to underpin financing for the project. Only once all of these milestones are completed is a final investment decision for the project ready to be made.

DOE's current process is out of sync with a successful LNG project development process. Instead of providing regulatory clarity and prompt decisions at the outset, DOE has introduced a harmful lag in the process. This creates exposures for delays in lining up contractors, mobilizing for construction, and securing financing. It also harms the ability to effectively market the project's natural gas. LNG buyers need assurances that government policies support exports and that projects will be constructed on time. As DOE continues to delay its review of non-FTA applications, there is a real possibility of losing these customer marketing opportunities.

DOE's Proposed Procedures

We commend DOE for acknowledging that changes need to be made to its LNG export decision making procedures. And while DOE's newly proposed procedures recognize the fact that a project advancing through the rigorous FERC process is more likely to proceed, DOE still has not recognized the need for a timely decision on pending applications to export LNG to non-FTA countries.

By stipulating that DOE would begin the public interest determination for each LNG export project application only after completion of the NEPA review, the proposed procedures do not effectively accelerate the review process for applications to export LNG to non-FTA countries.

- The proposed procedures require projects to invest significant amounts of time, money and human resources to complete a final NEPA review without certainty that the project will receive DOE authorization. They also place a burden on government agencies to dedicate significant resources to conduct environmental reviews for projects that may ultimately never be approved by DOE.
- The proposed procedures do not provide a definitive timeline for a DOE decision after the completion of the NEPA review. A definitive decision timeline is an essential element of a robust and efficient regulatory framework. The U.S. House's recent passage of H.R. 6, the Domestic Prosperity and Global Freedom Act, is a step in the right direction since it requires a decision-making deadline.
- The proposed DOE procedures could disadvantage U.S. projects by delaying regulatory approvals, thus jeopardizing the ability of U.S. projects to compete in the global marketplace.

DOE Proposed Procedures Require Significant Investment Without Regulatory Certainty

DOE's proposed procedures would set a poor precedent for future policy decisions on projects requiring large capital investments. A requirement for each project to invest significant time and capital with no certainty for a timely decision on the rights to export LNG would be a troubling foundation for future investments.

The FERC environmental review is a multi-stage process, which includes pre-filing and final NEPA review. The current track record for export applications reveals that the FERC pre-filing process is taking between 12 to 18 months for applicants, working with FERC's environmental engineering staff and consultants, to complete the necessary reports and public consultations. The subsequent final NEPA review process is generally taking another 12 to 18 months to complete. This environmental review is rigorous, time-intensive and requires a high level of commitment and funding by each applicant. According to industry estimates, the NEPA process can cost over $100 million, and tens or even hundreds of millions more in concurrent costs as the project continues to advance toward FID.

Additionally, environmental review for these projects require substantial agency time, money and human resources, and it would be wasteful to dedicate such resources to projects that may not even receive final DOE authorization. To make such a commitment, DOE should provide some certainty on a timely decision for LNG export applications.

DOE Proposed Procedures Do Not Provide a Definitive Decision Timeline

Under the current review process, a more commercially qualified project can be delayed when it is preceded in the queue by less viable projects, which may lack financial or technical resources.

While DOE's proposed procedures recognize that projects advancing through the FERC process are likely more commercially qualified, and thus, more likely to proceed, they do not address potential lags in decision-making.

In the proposed procedures, DOE has pushed back its review of an application potentially by as much as several years for projects just beginning their FERC process or as much as 18 months for projects beginning the NEPA review. As projects move through the FERC process and complete their NEPA reviews, another queue could develop as projects line up and wait for DOE to make its public interest determination upon NEPA completion. The potential for such a queue creates another level of regulatory uncertainty in DOE's application review process.

Members of Congress have recognized the need for an accelerated review process, as demonstrated by the recent passage of H.R. 6. The bill is designed to expedite LNG exports, and includes a 30-day deadline for DOE to issue its decision on export applications following the applicants' completion of the NEPA review. Similar legislation has been introduced in the Senate as well. ExxonMobil believes a definitive earlier timeline for DOE's public interest determination is needed.

Time is of the Essence When Competing in the Global Market

The global LNG business is growing. According to Wood Mackenzie, there are at least 60 LNG export projects that are either under construction or proposed in regions such as U.S., Australia, Africa, Canada and Russia.[5] And this LNG must also compete with other options such as pipeline gas.

As the U.S. government continues to delay making its public interest determination under the Natural Gas Act, the U.S. is at risk of losing out on significant economic gains, including jobs and government revenues.

DOE should adhere to competitive market principles in making the public interest determination for U.S. LNG exports. The global, competitive market will balance the amount of LNG exports that can be supported from the U.S., benefiting consumer interests without artificial market interference by DOE.

ExxonMobil's Recommendation

ExxonMobil believes assessment that DOE's proposed procedures do not help to accelerate the review process for applications to export LNG to non-FTA countries.

In order to accelerate the process, ExxonMobil recommends that DOE issue a final opinion and order for its public interest determination within 30 days of an applicant's respective formal filing with FERC to construct and operate the facilities to export natural gas. Assuming DOE's final opinion determined that the application was in the public interest, then the non-FTA export license would be activated 30 days after FERC's final EIS, unless DOE were to issue an order requiring a further environmental review. This approach would accelerate reviews and require DOE to assess projects most likely to commercially proceed, because formal filing with FERC

[5] Wood Mackenzie Consulting, July 15, 2014

requires substantial resource commitment and project development detail. We recommend that DOE adopt this recommendation for the following reasons:

- It provides projects with the regulatory certainty that they will receive a timely decision on the ability to export LNG.
- It gives commercially viable projects the opportunity to compete on a level playing field with other U.S. projects rather than lose competitiveness by being delayed.
- It aligns better with the window of project sponsors' marketing opportunities, so that projects can negotiate more effectively with potential LNG customers in non-FTA countries.
- It enables the U.S. to be more competitive in the international LNG marketplace, where several projects are being constructed or proposed.
- It demonstrates to DOE which projects are the most viable and likely to proceed, especially since the FERC process, including the formal filing, requires substantial commitment in terms of costs and resources.
- It respects FERC and cooperating agencies' roles and requirements for environmental and other reviews.
- Finally, it allows the United States to capitalize on the full range of economic benefits from LNG exports.

Conclusion

DOE should expeditiously evaluate and act upon LNG export applications, and allow the competitive market to direct investment and capital expenditures. We encourage DOE to adhere to its tradition of embracing free trade and competitive market principles by avoiding artificially imposed constraints and delays on U.S. exports of LNG. A DOE public interest determination within 30 days of an applicant's formal FERC filing would allow for projects to be competitive in the international LNG marketplace, and for the U.S. to fully realize economic benefits that exports would bring for decades to come.

Thank you for considering ExxonMobil's comments on this important issue.