

[6450-01-P]

**DEPARTMENT OF ENERGY**

[FE Docket No. 10-111-LNG]

**Sabine Pass Liquefaction, LLC; Application for Long-Term Authorization to Export Liquefied Natural Gas**

**AGENCY:** Office of Fossil Energy, DOE.

**ACTION:** Notice of application.

**SUMMARY:** The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application (Application), filed on September 7, 2010, by Sabine Pass Liquefaction, LLC (Sabine Pass), requesting long-term, multi-contract authorization to export up to 16 million metric tons per annum (mtpa) of domestic natural gas as liquefied natural gas (LNG) for a 20-year period, commencing the earlier of the date of first export or five years from the date of issuance of the requested authorization. Sabine Pass seeks authorization to export LNG from the Sabine Pass LNG Terminal<sup>1</sup> to any country with which the United States does not have a free trade agreement (FTA) requiring the national treatment for trade in natural gas and LNG that has, or in the future develops, the capacity to import LNG and with which trade is not prohibited by U.S. law or policy. The application was filed under section 3 of the Natural Gas Act (NGA), as amended by section 201 of the Energy Policy Act of 1992. Protests, motions to intervene, notices of intervention, and written comments are invited.

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<sup>1</sup> The Sabine Pass LNG Terminal is an existing LNG import facility located in Cameron Parish, Louisiana that is owned by Sabine Pass's affiliate, Sabine Pass LNG, L.P. (Sabine Pass LNG).

**DATES:** Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed at the address listed below in

**ADDRESSES** no later than 4:30 p.m., eastern time, **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].**

**ADDRESSES:**

U.S. Department of Energy (FE-34)  
Office of Oil and Gas Global Security and Supply  
Office of Fossil Energy  
Forrestal Building, Room 3E-042  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585

**FOR FURTHER INFORMATION CONTACT:**

Larine Moore or Lisa Tracy  
U.S. Department of Energy (FE-34)  
Office of Oil and Gas Global Security and Supply  
Office of Fossil Energy  
Forrestal Building, Room 3E-042  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585  
(202) 586-9478; (202) 586-9387

Edward Myers  
U.S. Department of Energy  
Office of the Assistant General Counsel for  
Electricity and Fossil Energy  
Forrestal Building, Room 6B-256  
1000 Independence Ave. S.W.  
Washington, D.C. 20585  
(202) 586-3397

**SUPPLEMENTARY INFORMATION:**

**Background**

Sabine Pass, an indirect subsidiary of Cheniere Energy, Inc. (Cheniere Energy), has its principal place of business in Houston, Texas. Cheniere Energy is a Delaware corporation with its primary place of business in Houston, Texas. Cheniere Energy is a developer of LNG terminals

and natural gas pipelines on the Gulf Coast, including the Sabine Pass LNG Terminal. Sabine Pass is authorized to do business in the States of Texas and Louisiana. This Application is the second part of a two-phased authorization sought by Sabine Pass in conjunction with the development of the Sabine Pass Liquefaction Project (Liquefaction Project). The Liquefaction Project (Liquefaction Project) is being developed to liquefy domestic supplies of natural gas delivered to the Sabine Pass LNG Terminal for export to foreign markets. The Liquefaction Project would turn the Sabine Pass LNG Terminal into a bi-directional LNG facility, capable of liquefying and exporting natural gas along with importing and re-gasifying foreign-sourced LNG, simultaneously.

#### *Existing Long-Term, Multi-Contract Authorization*

On September 7, 2010, in DOE/FE Order No. 2833, FE granted Sabine Pass authorization to export up to 16 million mtpa of domestically produced LNG (approximately 803 Bcf per year) from the Sabine Pass LNG Terminal for a 30-year term, beginning on the earlier date of first export, or September 7, 2020, pursuant to one or more long-term export contracts (greater than two years) with third parties with terms up to 30 years executed by September 7, 2020. The LNG may be exported to Australia, Bahrain, Singapore, Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, Chile, Morocco, Canada, Mexico, Oman, Peru, Singapore, and Jordan, and to any nation which DOE subsequently identifies publicly as having entered into a FTA providing for national treatment for trade in natural gas (FTA Countries), provided that the destination nation has the capacity to import LNG.

#### *Current Application*

In the instant application, Sabine Pass seeks long-term, multi-contract authorization to export up to 16 million mtpa of LNG for a 20-year period, commencing the earlier of the date of first export or five years from the date of issuance of the requested authorization. Sabine Pass

seeks authorization to export LNG from the Sabine Pass LNG Terminal to any country with which the United States does not have a FTA requiring the national treatment of trade in natural gas and LNG that has, or in the future develops, the capacity to import LNG and with which trade is not prohibited by U.S. law or policy.

Sabine Pass seeks long-term, multi-contract approval to export LNG to applicable countries not otherwise authorized pursuant to DOE/FE Order No. 2833. Sabine Pass categorizes those countries, for purpose of this Application, as countries that hold membership in the World Trade Organization (WTO Countries) and those countries that do not hold membership in the WTO (non-WTO Countries). Sabine Pass requests that FE review its request for authorization to export LNG to WTO Countries under the standard of review set forth in section 3(c) of the NGA, 15 U.S.C. § 717b(c). Sabine Pass acknowledges that its request for authorization to export LNG to non-WTO Countries must be reviewed pursuant to the public interest standard articulated in Section 3(a) of the NGA.<sup>2</sup>

Sabine Pass requests authorization to export LNG acting on its own behalf or as agent for others. Citing the nature and complexity of current market practices Sabine Pass seeks a waiver of certain elements of Section 590.202(b) of the DOE regulations<sup>3</sup> that require the Application to include information concerning the source and security of the natural gas supply to be exported and other transaction-specific information.

Sabine Pass requests that, pursuant to Section 590.402 of the DOE regulations,<sup>4</sup> the Assistant Secretary issue a conditional Order authorizing the export of domestically produced LNG conditioned on the completion of the environmental review of the Liquefaction Project by the Federal Energy Regulatory Commission (FERC).

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<sup>2</sup> 15 U.S.C. 717b(a).

<sup>3</sup> 10 CFR 590.202(b).

<sup>4</sup> 10 CFR 590.402.

## **Public Interest Considerations**

Sabine Pass states that insofar as the application seeks authorization to export to non-WTO Countries, FE's public interest determination should be guided by DOE's Delegation Order No. 0204-111 which designates "domestic need for the natural gas proposed to be exported as the only explicit criterion that must be considered in determining the public interest." Sabine Pass further states that insofar as the application seeks authorization to export to WTO Countries, DOE should deem the application to be in the public interest and grant the application without modification or delay.

Sabine Pass states that the Liquefaction Project was proposed in response to the improved outlook for domestic natural gas production, in particular to shale gas-bearing formations in the United States. Sabine Pass maintains that improvements in drilling and extraction technologies coupled with the widespread use of best practices in unconventional drilling and resource development have lessened some of the uncertainties associated with future domestic natural gas production.

Sabine Pass states that in support of its Application, it commissioned several reports to assess domestic need for the natural gas to be exported from the Liquefaction Project. Sabine Pass states that these reports, as well as other publicly available information, indicate the United States has significant natural gas resources available at modest prices to meet projected domestic demand and 16 mtpa of exports over the 20-year period as requested in its Application.

Finally, Sabine Pass states that the export of domestically produced LNG will provide the following benefits, which are consistent with the public interest:

First, Sabine Pass contends that the project will stimulate the local, regional, and national economies through job creation, increased economic activity and tax revenues.

Second, Sabine Pass maintains that the Sabine Pass LNG Liquefaction Project will play an influential role in contributing to the growth of natural gas production in the United States and a reduced reliance on foreign sources of oil.

Third, Sabine Pass contends that the export of LNG will further the President's National Export Initiative by improving the balance of payments with the rest of the world, thereby reducing the overall U.S. trade deficit.

Fourth, Sabine Pass maintains that the export of LNG will raise domestic natural gas productive capacity and promote stability in domestic natural gas pricing.

Fifth, Sabine Pass contends that the export of domestically produced LNG will promote liberalization of the global gas market by fostering increased liquidity and trade at prices established by market forces.

Sixth, Sabine Pass maintains that the export of LNG will advance national security and the security of U.S. allies through diversification of global natural gas supplies.

Seventh, Sabine Pass contends that the export of LNG will advance initiatives underway by the current Administration to promote investment in energy infrastructure and to increase trade with neighboring Caribbean and Central/South America nations.

A more complete discussion of these issues can be found in the Application.

#### *Environmental Impact*

Sabine Pass states that the Liquefaction Project will have minimal environmental impacts given that all facilities will be located within the previously authorized footprint of the existing Sabine Pass LNG Terminal. Sabine Pass states that the FERC conducted an environmental review of the Sabine Pass LNG Terminal site in connection with authorization of the siting, construction and operation of the Terminal in Docket No. CP04-47-000 and Docket No. CP05-396-000. Sabine

Pass states that any additional environmental impacts associated with the construction and operation of the Liquefaction Project will be reviewed by the FERC under the National Energy Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, and by all applicable state and federal permitting agencies (e.g., United States Army Corps of Engineers and Louisiana Department of Natural Resources, among others) as part of the permitting process for the Liquefaction Project.

#### *Related Authorizations*

Sabine Pass and Sabine Pass LNG currently are undergoing the FERC's NEPA pre-filing review for the Liquefaction Project in Docket No. PF10-24-000. Sabine Pass and Sabine Pass LNG anticipate filing a formal application with FERC no later than February 2011 and will request that FERC issue authorization of the siting, construction and operation of the Liquefaction Project by December 2011.

#### **DOE/FE Evaluation**

This export application will be reviewed pursuant to section 3 of the NGA, as amended, and the authority contained in DOE Delegation Order No. 00-002.00I (Nov. 10, 2009) and DOE Redelelegation Order No. 00-002.04D (Nov. 6, 2007). In reviewing this LNG export application, DOE will consider any issues required by law or policy. To the extent determined to be necessary or appropriate, these issues will include domestic need for the gas, the impact on U.S. gross domestic product, consumers, industry, U.S. balance of trade, jobs creation, and other issues, as well as whether the arrangement is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties that may oppose this application should comment in their responses on these issues, as well as any other issues deemed relevant to the application.

NEPA requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Due to the complexity and novelty of the issues raised by the Applicants, interested persons will be provided 60 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, notices of intervention, or motions for additional procedures.

### **Public Comment Procedures**

You may submit comments in electronic form on the Federal eRulemaking Portal at <http://www.regulations.gov>. Alternatively, written comments can be submitted using the procedures discussed below. If using electronic filing, follow the on-line instructions and submit such comments under FE Docket No. 10-111-LNG. DOE/FE suggests that electronic filers carefully review information provided in their submissions, and include only information that is intended to be publicly disclosed. You may **not** electronically file a protest, motion to intervene, or notice of intervention, but may submit such pleadings using the following process.

In response to this notice, any person may file a protest, motion to intervene or notice of intervention or written comments, as provided in DOE's regulations at 10 CFR part 590.

Any person wishing to become a party to the proceeding and to have their written comments considered as a basis for any decision on the application must file a motion to intervene or notice of intervention, as applicable. The filing of comments or a protest with respect to the application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties may be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements specified by



the regulations in 10 CFR part 590. Except where comments are filed electronically, as described above, comments, protests, motions to intervene, notices of intervention, and requests for additional procedures shall be filed with the Office of Oil and Gas Global Security and Supply at the address listed above.

A decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The application filed by Sabine Pass is available for inspection and copying in the Office of Oil and Gas Global Security and Supply docket room, 3E-042, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal

holidays. The application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE web address:

<http://www.fe.doe.gov/programs/gasregulation/index.html>. In addition, any electronic comments

filed will also be available at: <http://www.regulations.gov>.

Issued in Washington, D.C., on October 5, 2010.

A handwritten signature in black ink, appearing to read "John A. Anderson". The signature is fluid and cursive, with a long horizontal stroke at the end.

**John A. Anderson,**  
Manager, Natural Gas Regulatory Activities  
Office of Oil and Gas Global Security and Supply  
Office of Fossil Energy