

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

CHEVRON U.S.A. INC.

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FE DOCKET NO. 10-114-LNG

ORDER GRANTING BLANKET AUTHORIZATION
TO EXPORT LIQUEFIED NATURAL GAS

DOE/FE ORDER NO. 2888

DECEMBER 8, 2010

SUMMARY

Following an examination of all record evidence in this proceeding in conformity with the requirements of section 3 of the Natural Gas Act, 15 USC 717b, as amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486) (NGA); part 590 of DOE's regulations, 10 CFR part 590 (2008); and applicable delegations and redelegations of authority,¹ the Office of Fossil Energy (FE) of the Department of Energy (DOE) is herein granting the September 9, 2010, application of Chevron U.S.A. Inc. (Chevron).

The authorization permits Chevron to export liquefied natural gas (LNG) that previously had been imported from foreign sources, in an amount up to the equivalent of 72 billion cubic feet (Bcf) of natural gas on a cumulative basis, over a two-year period commencing on the date the Order is issued by DOE. Chevron is authorized to export this LNG to any country with the capacity to import LNG via ocean-going carrier and with which trade is not prohibited by U.S. law or policy. This authorization permits such exports on a short-term or spot market basis from the Sabine Pass LNG Terminal in Cameron Parish, Louisiana. The authorization provided by this Order will not permit the export of domestically produced LNG. Furthermore, this authorization permits Chevron to export natural gas to which it holds title, but does not permit Chevron to export natural gas on behalf of others who themselves hold title, for reasons provided herein.

¹ See, DOE Delegation Order No. 00-002.001 (Nov. 10, 2009) and DOE Redelagation Order No. 00-002.04D (Nov. 6, 2007).

PROCEDURAL HISTORY

Chevron filed the “Application for Blanket Authorization to Export Liquefied Natural Gas on a Short-Term Basis” (Application) with FE on September 9, 2010. The Application was submitted pursuant to section 3 of the NGA² and part 590 of DOE’s regulations.

On October 12, 2010, DOE/FE published a Notice of Application (Notice) in the Federal Register. 75 FR 62510. The Notice stated that comments, protests, motions and notices to intervene, and requests for additional procedures would be due no later than November 12, 2010.

FE received no filings in response to this Notice.

BACKGROUND

Chevron, a Pennsylvania corporation, has its principal place of business in San Ramon, California. Chevron Global Gas is a division of Chevron that engages in the global business of marketing and trading LNG. Chevron has contracted for 1.0 Bcf/day of terminal capacity from Sabine Pass LNG, L.P. for an initial term of twenty years that commenced in November 2004 with the option to extend the term for a period of another twenty years. On July 14, 2010, DOE/FE Order No. 2813 granted Chevron blanket authorization to import up to the equivalent of 800 Bcf of natural gas from various international sources for a two year period beginning on August 1, 2010. Under the terms of the blanket authorization, LNG may be imported at any LNG receiving facility in the United States and its territories.

Current Application

In the instant application, Chevron is seeking blanket authorization commencing on the date the Order is issued by DOE to export previously imported LNG from foreign sources to

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. 00-002.04D issued on November 6, 2007.

which Chevron holds title, and on behalf of other parties that hold title to such LNG from the Sabine Pass LNG Terminal, to any county with the capacity to import LNG via ocean-going carrier and with which trade is not prohibited by U.S. law, over a two-year period, in an amount up to the equivalent of 72 Bcf of natural gas.

DECISION

A. Standard of Review

Pursuant to the transfer of authorities under sections 301(b) and 402 of the DOE Organization Act, 42 USC 7151(b) and 42 USC 7172, DOE/FE is responsible for evaluating the instant application under section 3 of the NGA. Section 3(a) provides:

[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] authorizing it to do so. The [Secretary] shall 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 USC 717b(a).

In evaluating an export application under section 3, DOE/FE applies the principles described in DOE Delegation Order No. 0204-111, which focuses primarily on domestic need for the gas to be exported, as described in the Secretary's natural gas policy guidelines,³ and any other matters determined to be appropriate to a determination of the public interest. 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.

B. Domestic Need

The instant application involves a request for authorization to export LNG that was not produced in the United States. Accordingly, exporting the gas necessarily could not reduce the

³ See 49 FR 6684, February 22, 1984.

availability of domestically produced gas. On the other hand, exporting previously imported LNG will still affect the domestic market because, for a two-year period, the exports will reduce the volume of natural gas potentially available for domestic consumption.

DOE/FE has issued recent blanket authorizations to export previously imported LNG⁴ and in each case relied on a market analysis drawn from publicly available information which indicates that United States consumers presently have access to substantial quantities of natural gas sufficient to meet domestic demand from multiple other sources at competitive prices without drawing on the LNG which Chevron seeks to export. There has been no change in the market analysis since the most recent of such authorizations has been granted.⁵ In addition, I note that no interested person intervened in this proceeding or otherwise challenged Chevron's assertions of sufficient supplies to meet domestic demand if the application is granted.

C. Other Public Interest Considerations

Domestic need is the only explicit public interest consideration identified by DOE in Delegation Order No. 0204-111. However, consistent with DOE's Guidelines and applicable precedent, *e.g.*, Order No. 1473, the Department considers the potential effects of proposed exports on other aspects of the public interest. The other considerations in this case include the environment.

The Environment

NEPA requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. In the application, Chevron states that no new facilities or modification to any existing facilities at the Sabine Pass LNG Terminal would be required in order for Chevron

⁴ *Dow Chemical Company*, DOE/FE Order No. 2859 (October 5, 2010); *Cheniere Marketing, LLC* DOE/FE Order No. 2795 (June 1, 2010); *Freeport LNG Development, L.P.* DOE/FE Order No. 2644-B (May 11, 2010); *ConocoPhillips Company*, DOE/FE Order No. 2731 (November 30, 2009).

⁵ *Dow Chemical Company*, DOE/FE Order No. 2859 (October 5, 2010), at 4 through 6 provides a discussion of relevant records discussing domestic need for previously imported LNG that are applicable to this application.

to export LNG from that facility. Under these circumstances, DOE's NEPA procedures provide for a categorical exclusion for which neither an environmental assessment (EA) nor an environmental impact statement (EIS) is required.⁶ Accordingly, DOE issued a Categorical Exclusion Determination, dated December 8, 2010, which found that Chevron's proposed action is categorically excluded from further NEPA review.

D. Export on Behalf of Other Entities

The Chevron application requests export authorization to extend not only to LNG supplies imported from foreign sources to which Chevron holds title, but also on behalf of other parties that hold title to such LNG. DOE/FE reviewed its policy with respect to exports of LNG on behalf of other entities in the Dow Chemical Company DOE/FE Order No. 2859⁷ and adopted a non-binding policy at that time in which the title for all LNG authorized to be exported shall be held by the authorization holder at the point of export. LNG exports occur when the LNG is delivered to the flange of the LNG export vessel.

By adopting a non-binding policy limiting exports to the authorization holder, DOE will ensure that the exporter is aware of all requirements in the Order, DOE will have a record of all authorized exporters, and DOE will have direct contact information and point of contact with the exporter who has title. Regardless of who assumes title after the LNG has been exported from the United States, Chevron, as authorization holder, shall ensure that all exports authorized by this Order are permitted and lawful under United States 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. Although DOE denies Chevron from using its

⁶ "Approval of new authorization or amendment of existing authorization to import/export natural gas under section 3 of the Natural Gas Act that does not involve new construction and only requires operational changes, such as an increase in natural gas throughput, change in transportation, or change in storage operations." 10 CFR Part 1021.410 Appendix B to Subpart D of Part 1021, Categorical Exclusions in B5.7

⁷ *Dow Chemical Company*, DOE/FE Order No. 2859 (October 5, 2010) at 7.

export authority to export LNG on behalf of entities that hold title, those entities who hold title or expect to hold title to previously imported LNG that is stored in domestic LNG terminals that have capability to export this LNG may submit an application to DOE for their own authorization to export such LNG.

Because the policy does not create an impediment to any entity seeking export authorization from applying for it, DOE does not believe that the requirement that the exporter hold title is a substantive restriction on the free movement of international trade and commerce. Such a requirement therefore is not inconsistent with DOE's Policy Guidelines that favor allowing market forces rather than regulatory actions to guide the export of natural gas from the United States.

E. Conclusion

After due consideration based on all facts and evidence of record, I find that a grant of the export application is not inconsistent with the public interest. In particular, the record shows⁸ there is sufficient supply of natural gas to satisfy domestic demand from multiple other sources at competitive prices without drawing on the previously imported LNG which Chevron seeks to export through the authorization timeframe; and this application falls under DOE categorical exclusion such that no new EA or EIS will be required. Therefore, I will grant the application.

ORDER

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

A. Chevron is authorized to export LNG that previously had been imported from foreign sources in an amount up to the equivalent of 72 Bcf of natural gas pursuant to transactions that

⁸ *Dow Chemical Company*, DOE/FE Order No. 2859 (October 5, 2010), at 4 through 6.

have terms of no longer than two years. This authorization shall be effective for a two-year term beginning on December 8, 2010, and extending through December 7, 2012.

B. This LNG may be exported from the Sabine Pass LNG Terminal located in Cameron Parish, Louisiana, 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. **Monthly Reports:** With respect to the export of LNG authorized by this Order, Chevron shall file with the Office of Natural Gas Regulatory Activities, within 30 days following the last day of each calendar month, a report indicating whether exports of LNG have been made. Monthly reports must be filed whether or not initial deliveries have begun. If no exports have been made, 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 of the U.S. export terminal; (2) the name of the LNG tanker; (3) the date of departure from the U.S. export terminal; (4) the country of destination; (5) the name of the supplier/seller; (6) the volume in Mcf; (7) the delivered price per MMBtu; (8) the duration of the supply agreement (indicate spot sales); and (9) the name(s) of the purchaser(s).

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

D. The first monthly report required by this Order is due not later than January 30, 2011, and should cover the reporting period from December 8, 2010, through December 31, 2010.

E. All monthly report filings shall be made to U.S. Department of Energy (FE-34), Office of Fossil Energy, Office of Natural Gas Regulatory Activities, P.O. Box 44375, Washington, D.C. 20026-4375, Attention: Ms. Yvonne Caudillo. Alternatively, reports may be

e-mailed to Ms. Caudillo at Yvonne.caudillo@hq.doe.gov or ngreports@hq.doe.gov, or may be faxed to Ms. Caudillo at (202) 586-6050.

Issued in Washington, D.C., on December 8, 2010.

A handwritten signature in dark ink, appearing to read "John A. Anderson", written over a horizontal line.

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