

[6450-01-P]

DEPARTMENT OF ENERGY

[FE Docket No. 11-51-LNG]

Freeport LNG Development, L.P.; Application for Blanket 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 filed on April 21, 2011, by Freeport LNG Development, L.P. (Freeport LNG), requesting blanket authorization to export liquefied natural gas (LNG) that previously had been imported into the United States from foreign sources on a short-term or spot market basis.

The LNG would be exported from the existing Freeport LNG terminal facilities on Quintana Island, Texas, in an amount up to the equivalent of 24 billion cubic feet (Bcf) of natural gas to any country that has the capacity to import LNG via ocean-going carrier, and with which trade is not prohibited by U.S. law or policy. Freeport LNG seeks to export the LNG over a two year period commencing on the date of the authorization on its own behalf or as agent for others. The application is filed under section 3 of the Natural Gas Act (NGA). Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the **Public**

Comment Procedures section of this notice , no later than 4:30 p.m., eastern time, [INSERT
**DATE 30 DAYS AFTER DATE OF PUBLICATION OF THIS NOTICE IN THE FEDERAL
REGISTER].**

ADDRESSES:

Electronic Filing:

e-mail: fergas@hq.doe.gov

Regular Mail

U.S. Department of Energy (FE-34)
Office of Natural Gas Regulatory Activities
Office of Fossil Energy
P.O. Box 44375
Washington, DC 20026-4375

Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.)

U.S. Department of Energy (FE-34)
Office of Natural Gas Regulatory Activities
Office of Fossil Energy
Forrestal Building, Room 3E-042
1000 Independence Avenue, S.W.
Washington, DC 20585

FOR FURTHER INFORMATION CONTACT:

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Edward Myers
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SUPPLEMENTARY INFORMATION:

Background

Freeport LNG is a Delaware limited partnership with one general partner, Freeport LNG-GP, Inc., a Delaware corporation, which is owned 50% by an individual, Michael S. Smith, and 50% by ConocoPhillips Company. Freeport LNG's limited partners are: (1) Freeport LNG Investments, LLLP, a Delaware limited liability limited partnership, which owns a 20% limited partnership interest in Freeport LNG; (2) ZHA FLNG Purchaser LLC, a Delaware limited liability company and wholly owned subsidiary of Zachary American Infrastructure, LLC, which owns a 55% limited partnership interest in Freeport LNG; (3) Texas LNG Holdings, LLC, a Delaware limited liability company and wholly-owned subsidiary of The Dow Chemical Company, which owns a 15% limited partnership interest in Freeport LNG; and (4) Turbo LNG, LLC, a Delaware limited liability company and wholly-owned subsidiary of Osaka Gas Co., Ltd., which owns a 10% limited partnership interest in Freeport LNG.

On June 18, 2004, the Federal Energy Regulatory Commission (FERC) authorized Freeport LNG to site, construct and operate the Freeport LNG terminal on Quintana Island, southeast of the City of Freeport in Brazoria County, Texas. The facilities, completed in June 2008, include an LNG ship marine terminal and unloading dock, LNG transfer lines and storage tanks, high-pressure vaporizers, and a 9.6-mile long send-out pipeline extending to the Stratton Ridge meter station.¹ On July 1, 2008, FERC issued a letter Order granting Freeport LNG's request to commence service at its Quintana Island import terminal.

¹ See *Freeport LNG Development, L.P.*, 107 FERC ¶ 61,278, (2004), *order granting rehearing and clarification*, 108 FERC ¶ 61,253 (2004), *order amending Section 3 authorization*, 112 FERC ¶ 61,194 (2005), *order issuing authorization*, 116 FERC ¶ 61,290 (2006).

On January 15, 2008, DOE/FE granted Freeport LNG blanket authorization to import up to 30 Bcf of LNG from various international sources for a two-year term beginning March 1, 2008.²

On December 15, 2009, DOE/FE granted Freeport LNG blanket authorization to import LNG for a second two-year term beginning March 1, 2010.³

On May 6, 2009, FERC authorized certain equipment modifications at the Freeport LNG terminal as required to enable the loading and export of foreign-source LNG.⁴

On May 28, 2009, in DOE/FE Order No. 2644 (Order 2644), DOE/FE granted Freeport LNG blanket authorization to export, on its own behalf or as agent for others, up to a total of the equivalent of 24 Bcf of foreign-source LNG from the Freeport LNG terminal over a two-year period to customers in the United Kingdom, Belgium, Spain, France, Italy, Japan, South Korea, India, China and/or Taiwan.⁵ This blanket authorization was later amended to permit exports to Canada, Mexico and any other country with the capacity to import LNG via ocean-going carrier and with which trade is not prohibited by U.S. law or policy.⁶

Current Application

In the instant application, Freeport LNG is seeking blanket authorization to export LNG that previously had been imported from foreign sources, to which it holds title, as well as previously imported LNG that it may export as agent on behalf of other entities who themselves hold title, on a short-term or spot market basis from the existing Freeport LNG terminal on Quintana Island, Texas. Freeport LNG states that the current application is filed in anticipation of the expiration of the blanket export authorization granted in Order No. 2644. Freeport LNG is requesting to export

² *Freeport LNG Development, L.P.*, DOE/FE Order No. 2457, issued January 15, 2008.

³ *Freeport LNG Development, L.P.*, DOE/FE Order No. 2737, issued December 15, 2009.

⁴ *Freeport LNG Development, L.P.*, 127 FERC ¶ 61,105 (2009).

⁵ *Freeport LNG Development, L.P.*, DOE/FE Order No. 2644, issued May 28, 2009.

⁶ *Freeport LNG Development, L.P.*, DOE/FE Order Nos. 2644-A and 2644-B, issued September 22, 2009 and May 11, 2010, respectively.

an amount up to the equivalent of 24 Bcf of natural gas to any country which has the capacity to import LNG via ocean-going carrier, and with which trade is not prohibited by U.S. law or policy. Freeport LNG seeks to export the LNG over a two year period commencing on the date of the authorization

Public Interest Considerations

In support of its application, Freeport LNG asserts the proposed authorization is in the public interest. Under section 3 of the Natural Gas Act, as amended, an LNG export from the United States to a foreign country must be authorized unless “the proposed exportation will not be consistent with the public interest.” Section 3 thus creates a statutory presumption in favor of approval of this application, and parties opposing the authorization bear the burden of overcoming this presumption.

Freeport LNG states that there is no domestic reliance on the LNG that it seeks to export. Freeport LNG states that DOE/FE, in Order 2644, authorized the export of previously imported foreign-sourced LNG. DOE/FE determined that there was no domestic reliance on the volumes of imported LNG that Freeport sought to export. Freeport LNG states that DOE/FE has recently issued LNG blanket export authorizations to other applicants, in each case finding that existing domestic supplies are sufficient to serve U.S. markets without reliance on imported LNG supplies. Freeport LNG states that DOE/FE made the same finding in Order No. 2859, which granted the Dow Chemical Company blanket authorization to export up to an amount equivalent to 390 Bcf of previously imported LNG from the Freeport LNG terminal. In that Order, DOE/FE found that “the LNG which Dow seeks to export in this case is not needed in order to meet domestic market demand for natural gas on a competitively priced basis and that the exports of LNG authorized by

this amendment will have no significant impact on the market's ability to meet the demand for natural gas domestically.”⁷

Additionally, Freeport LNG states that traditional domestic natural gas production has been supplemented by unconventional sources, such as shale gas formations, which new technologies have made economically recoverable. Freeport LNG asserts that as a result of this increased domestic supply, domestic gas prices have remained low compared to other global markets, such as in Europe and Asia, discouraging imports to the U.S. Freeport LNG states that the imported LNG that Freeport LNG seeks to export will be surplus to the demands of U.S. markets during the period of requested authorization, and is needed primarily to enable Freeport LNG to economically maintain and operate its Freeport LNG terminal on Quintana Island. In the event that market conditions would support delivery of Freeport LNG's imported supplies to U.S. markets, the requested authorization would also serve to increase LNG supplies available for delivery to U.S. markets if those markets support it.

Freeport LNG also states in its application that local natural gas supplies will not be reduced. The applicant states that it intends to export only foreign sourced LNG, and does not intend to export domestically produced natural gas. Further, the applicant states that U.S. natural gas supplies would actually increase if the requested authorization were granted, since the boil-off gas from any LNG cargoes delivered to the Freeport LNG terminal would be sold into U.S. markets. Freeport LNG asserts that granting the requested authorization would encourage it to obtain and store spot-market LNG cargoes, making it available to supply local markets when conditions support it, thereby serving to moderate U.S. natural gas price volatility. Freeport LNG asserts that in light of these conditions, its request to export previously imported foreign-sourced LNG is consistent with the public interest.

⁷ *The Dow Chemical Company*, DOE/FE Order No. 2859, issued October 5, 2010.

Environmental Impact

Freeport LNG states that no change to the Freeport LNG terminal on Quintana Island would be required for the proposed export of foreign-source LNG. Thus, according to Freeport, approval of this application would not constitute a federal action significantly affecting the human environment within the meaning of the National Environmental Policy Act (NEPA), 42 U.S.C. Sec. 4321 *et seq.* 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.

DOE/FE Evaluation

This export application will be reviewed pursuant to section 3 of the Natural Gas Act, as amended, and the authority contained in DOE Delegation Order No. 00-002.00L (Apr. 29, 2011) and DOE Redelegation Order No. 00-002.04E (Apr. 29, 2011). In reviewing this LNG export application, DOE will consider domestic need for the gas, as well as any other issues determined to be appropriate, including 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.

Public Comment Procedures

In response to this notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Any person wishing to become a party to the proceeding 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 will be

considered in determining the appropriate action to be taken on the application. All protests, comments, motions to intervene or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) e-mailing the filing to fergas@hq.doe.gov, with FE Docket No. 11-51-LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office Natural Gas Regulatory Activities at the address listed in ADDRESSES; (3) hand delivering an original and three paper copies of the filing to the Office of Natural Gas Regulatory Activities at the address listed in ADDRESSES; or (4) submitting comments in electronic form on the Federal eRulemaking Portal at <http://www.regulations.gov>, by following the on-line instructions and submitting such comments under FE Docket No. 11-51LNG. DOE/FE suggests that electronic filers carefully review information provided in their submissions and include only information that is intended to be publicly disclosed.

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 Freeport LNG is available for inspection and copying in the Office of Natural Gas Regulatory Activities docket room, Room 3E-042, 1000 Independence Avenue, S.W., Washington, DC 20585. 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 comments, protests, motions to intervene or notice of interventions, 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 in electronic form on the Federal eRulemaking Portal will also be available at:

<http://www.regulations.gov>.

Issued in Washington, DC, on June 2, 2011.

A handwritten signature in black 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*