

[6450-01-P]

DEPARTMENT OF ENERGY

[FE Docket No. 11-109-LNG]

ConocoPhillips Company; Application for Blanket Authorization to Export Previously Imported Liquefied Natural Gas on a Short-Term Basis

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 August 22, 2011, by ConocoPhillips Company (ConocoPhillips), requesting blanket authorization to export liquefied natural gas (LNG) that previously had been imported into the United States from foreign sources in an amount up to the equivalent of 500 Billion cubic feet (Bcf) of natural gas on a short-term or spot market basis over a two year period commencing on November 30, 2011. ConocoPhillips further requests that such authorization extend to LNG supplies imported from foreign sources to which ConocoPhillips holds title, as well as to LNG supplies imported from foreign sources that ConocoPhillips may export on behalf of other entities who themselves hold title. The LNG would be exported from the LNG terminal facilities owned by Freeport LNG Development, L.P. (Freeport LNG) on Quintana Island, Texas, 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. 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.

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

ADDRESSES:

Electronic Filing on the Federal eRulemaking Portal under FE Docket No. 11-109-LNG:
<http://www.regulations.gov>

Electronic Filing by email:
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, SW
Washington, DC 20585

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Background

ConocoPhillips is a Delaware corporation with its principal place of business in Houston, Texas. ConocoPhillips is an independent producer and seller of natural gas that imports LNG into the United States and exports foreign-sourced LNG from the United States. On November 30, 2009, DOE/FE issued Order No. 2731, which granted ConocoPhillips authorization to export LNG that previously had been imported from foreign sources in an amount up to the equivalent of 500 Bcf of natural gas on a cumulative basis over a two-year period commencing on the date of the authorization.¹

Current Application

In the instant application, ConocoPhillips seeks to renew its blanket authorization to export LNG previously imported into the United States from foreign sources from the Freeport LNG terminal facilities. ConocoPhillips states that its interest in securing this blanket authorization is driven by its desire to continue to utilize and optimize the long-term LNG terminalling capacity for which it has contracted at the Freeport LNG facilities and its need for flexibility to respond to periodic changes in domestic and world markets for natural gas and LNG. Specifically, ConocoPhillips asserts that once LNG has been imported into the United States and is in storage at the Freeport LNG import terminal, ConocoPhillips desires the flexibility either to export the

¹/ ConocoPhillips' blanket authorization to export LNG granted in DOE/FE Order No. 2731 on November 30, 2009, extends through November 29, 2011.

imported LNG to other world markets or to have LNG regassified for sale into domestic markets, with this decision based primarily on prevailing market conditions.

Public Interest Considerations

In support of its application, ConocoPhillips states that pursuant to section 3 of the NGA, FE must authorize exports to a foreign country unless there is a finding that such exports “will not be consistent with the public interest.”² ConocoPhillips states that section 3 creates a statutory presumption in favor of approval of a properly framed export application.³ ConocoPhillips states further, in evaluating an export application, FE applies the principles described in DOE Delegation Order No. 0204-111 which states that domestic need for natural gas shall be the primary focus of DOE when evaluating an export application.⁴ Finally, as detailed below, ConocoPhillips states that this blanket export authorization request satisfies the public interest standard of section 3 of the NGA, as construed by DOE.

ConocoPhillips asserts that there is no domestic need for the LNG to be exported by ConocoPhillips pursuant to the blanket authorization requested. In support, ConocoPhillips states that in recent years, DOE/FE has issued a number of blanket authorizations to export previously-imported LNG, including the one issued to ConocoPhillips in Order No. 2731, finding that such LNG is not needed to meet domestic demand for natural gas.⁵ ConocoPhillips cites numerous recent authorizations issued by DOE/FE that were all approved. ConocoPhillips states that DOE/FE concluded in a recent Freeport LNG Development L.P. authorization that, “the evidence of record indicates that United States’ consumers continue to have access to substantial quantities

^{2/} 15 U.S.C. 717b (a).

^{3/} *Phillips Alaska Natural Gas Corp. and Marathon Oil Co.*, DOE/FE Order No. 1473, 2 FE¶70,317 at p. 13, n. 42 (April 2, 1999), citing *Panhandle Producers and Royalty Owners Association v. ERA*, 822 f. 2d 1105, 1111 (DC Cir. 1987).

^{4/} *Ibid*, at p. 14.

^{5/} *ENI USA Gas Marketing LLC*, DOE/FE Order No. 2923 (March 3, 2011); *Sempra Marketing, LLC*, DOE/FE Order No. 2885 (December 3, 2010); *Cheniere Marketing, LLC*, DOE/FE Order No. 2795 (June 1, 2010).

of natural gas sufficient to meet domestic demand from multiple other sources at competitive prices without drawing on the LNG which Freeport LNG Development L.P. seeks to export.”⁶ ConocoPhillips states that this record evidence also supports the conclusion that the foreign-sourced LNG that ConocoPhillips may export from the Freeport LNG terminal facilities pursuant to the blanket authorization requested herein is not needed to meet domestic demand.

ConocoPhillips states that the monthly reports that it has filed with DOE/FE pursuant to Order No. 2731 confirm that it has used its currently effective blanket authorization to export previously-imported LNG from the United States. ConocoPhillips states that the Order No. 2731 blanket export authorization has also facilitated the importation of LNG cargos into the U.S by enabling it to import LNG cargos into the U.S without fear that such cargos will become captive to the U.S. market if, in ConocoPhillip’s view, market conditions ultimately do not support delivering regassified LNG into the U.S. market. ConocoPhillips states that it has also sold LNG to Freeport LNG to replace boil off, thereby contributing to the operational stability of the Freeport LNG terminal facilities.

Environmental Impact

ConocoPhillips states that no modifications to Freeport LNG’s Quintana Island terminal are required to enable the proposed exports of LNG. ConocoPhillips also states the environmental impacts of permitting the exportation of LNG from Freeport LNG’s Quintana Island terminal facilities were already reviewed by DOE/FE in Order No. 2644⁷ and that DOE/FE previously

⁶ *Freeport LNG Development, L.P.*, DOE/FE Order No. 2986 (July 19, 2011) at 7.

⁷ *Freeport LNG Development, L.P.*’s blanket authorization to export LNG granted in DOE/FE Order No. 2644 on May 28, 2009, extended through May 28, 2011.

found that the export of LNG by ConocoPhillips from the Freeport LNG terminal facilities will have no additional environmental impact.⁸

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. 00-002.00L (April 29, 2011) and DOE Redefinition Order No. 00-002.04E (April 29, 2011). In reviewing this LNG export application, DOE will consider domestic need for the natural 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.

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.

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,

⁸/ ConocoPhillips' blanket authorization to export LNG granted in DOE/FE Order No. 2731 on November 30, 2009, extends through November 29, 2011.

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) 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. 11-109-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; (2) e-mailing the filing to fergas@hq.doe.gov with FE Docket No. 11-109-LNG in the title line; (3) mailing an original and three paper copies of the filing to the Office Natural Gas Regulatory Activities at the address listed in ADDRESSES; or (4) 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.

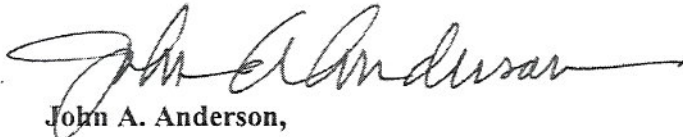
A decisional record on the Application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention 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 ConocoPhillips 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 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 September 30, 2011.



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