

May 25, 2012

Mr. John Anderson  
Office of Fossil Energy  
U.S. Department of Energy  
Docket Room 3F-056, FE-50  
Forrestall Building  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585



**Re: Excelerate Liquefaction Solutions I, LLC  
Application for Long-Term Authorization to Export Liquefied Natural Gas  
to Free Trade Agreement Countries  
Docket No. 12-61-LNG**

Dear Mr. Anderson:

Excelerate Liquefaction Solutions I, LLC ("ELS") hereby submits for filing with the U.S. Department of Energy, Office of Fossil Energy, one original and 15 copies of its application for long-term authorization to export liquefied natural gas ("LNG"). In this application, ELS is seeking multi-contract authorization to engage in exports of up to 10 million metric tons per year (equivalent to approximately 1.38 billion cubic feet of natural gas per day and 503.7 million mmBtu per year) of LNG produced from domestic sources. The requested authorization would permit ELS to export LNG to any country with which the U.S. has, or in the future may have, a Free Trade Agreement requiring national treatment for trade in natural gas and LNG.

A check in the amount of \$50.00 is enclosed in payment of the applicable filing fee.

Please contact me if you have any questions regarding this application.

Respectfully submitted,

*Gail Watkins*

Gail Watkins  
Fulbright & Jaworski L.L.P.  
1301 McKinney, Suite 5100  
Houston, Texas 77010-3095  
Counsel for Excelerate Liquefaction Solutions I, LLC

Enclosure



This Application is the first part of ELS's planned two-part export authorization request. ELS will subsequently file a separate application with the DOE for long-term authorization to export LNG to those countries with which the U.S. does not have an FTA and with which trade is not prohibited by U.S. law or policy. The subsequent application to export domestic LNG to non-FTA countries will require an analysis of the public interest, and ELS will provide additional evidence regarding the public interest as part of that application.

This Application requests authority to export LNG only to countries with which the U.S. has or in the future may have, an FTA. Accordingly, it is subject to review under the standard established in Section 201 of the Energy Policy Act of 1992,<sup>5</sup> which amended Section 3(c) of the NGA. As amended, Section 3(c) of the NGA provides that applications, such as this one, that seek authorization to export LNG to FTA countries, are entitled to the statutory presumption that such exports are "deemed to be consistent with the public interest."<sup>6</sup> Section 3(c) further requires that applications of this type "shall be granted without modification or delay."<sup>7</sup>

In support of the Application, ELS respectfully states the following:

**I.**

**COMMUNICATION AND CORRESPONDENCE**

Any notices, pleadings or other communications concerning this Application should be addressed to:

Gail Watkins  
Partner  
Fulbright & Jaworski, L.L.P.  
Fulbright Tower  
1301 McKinney, Suite 5100  
Houston, Texas 77010  
(713) 651-5127  
gwatkins@fulbright.com

The contact for any reports required in connection with the requested authorization is as follows:

Martin A. Hruska  
Excelerate Liquefaction Solutions I, LLC  
1450 Lake Robbins Drive, Suite 200  
The Woodlands, Texas 77380

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<sup>5</sup> 15 U.S.C. § 717b.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

## II.

### **DESCRIPTION OF THE APPLICANT**

The exact legal name of the applicant is Excelerate Liquefaction Solutions I, LLC, a limited liability company organized under the laws of Delaware, and a wholly-owned subsidiary of Excelerate Liquefaction Solutions, LLC. The principal place of business of ELS is 1450 Lake Robbins Drive, Suite 200, The Woodlands, Texas 77380.

## III.

### **DESCRIPTION OF THE ELS TERMINAL**

In this Application, ELS seeks a long-term authorization to export domestically produced LNG from the ELS Terminal to be constructed under authorization of Section 3 of the NGA. ELS is finalizing the design of natural gas processing and liquefaction facilities to receive and liquefy domestic natural gas at the ELS Terminal (the “Project”). The Project facilities consist of two floating liquefaction, storage and offloading (“FLSO”) units, each capable of producing up to 5 MTPA of LNG for a total capacity of 10 MTPA of LNG. The units will have an LNG storage capacity of 250,000 m<sup>3</sup>. Each FLSO unit will be capable of limited natural gas treatment, liquefaction, and capability to export LNG to off-taking LNG carriers utilizing ship-to-ship process.

## IV.

### **DESCRIPTION OF EXPORT PROPOSAL**

The Project facilities would permit natural gas to be received by pipeline at the ELS Terminal, liquefied, and loaded from the FLSO unit’s storage tanks onto LNG carriers berthed alongside.

The long-term authorization requested in this Application is necessary to permit ELS to incur the substantial costs of developing the Project and to secure customer contracts. Terms for the use of the liquefaction and other facilities will be set forth in agreements with customers of the Project. These agreements are expected to be for terms of up to 20 years in length and will run concurrently with ELS’s export authorization. ELS has not yet entered into such agreements given that a long-term export authorization is required to finalize arrangements with prospective customers.

## V.

### **EXPORT SOURCES**

ELS seeks authorization to export natural gas available from the U.S. natural gas supply and transmission network. As a result of the ELS Terminal's potential to access nine major interstate/intrastate natural gas pipelines, and indirect access to the entire national gas pipeline grid, the Project's customers will have a wide variety of stable and economical supply options from which to choose. The sources of natural gas for the Project will include the vast supplies available from the Texas producing regions, including recent discoveries of shale gas resources.

In addition to traditional production, emerging unconventional supply areas, such as the Barnett, Haynesville, and Bossier shale gas formations, represent very attractive sources of supply. Technological improvements in natural gas exploration, drilling and production have resulted in significant reductions in the costs of developing shale resources, making shale gas production economically viable. Production from shale gas resources has contributed to a 24% increase in total U.S. dry natural gas production during the past five years.<sup>8</sup> Shale gas production has increased by a factor of almost six from a nominal amount just five years ago (1 Tcf in 2004) to 30% of total U.S. production in 2011 (6.6 Tcf of a total of 23 Tcf).<sup>9</sup> Given the size of traditional natural gas resources in close proximity to the ELS Terminal, as well as rapid growth in emerging unconventional gas resources in the region, the Project's customers will have a diverse and reliable choice of alternative gas supplies.

## VI.

### **AUTHORIZATION REQUESTED**

ELS requests long-term authorization to export up to 10 MTPA of domestically produced LNG from the ELS Terminal. This authorization is requested for a 20-year term commencing on the earlier of the date of first export or seven years from the date on which authorization is granted by the DOE. ELS seeks authorization to export LNG to any country with which the U.S. has, or in the future may have, an FTA.

ELS requests authorization to export LNG on its own behalf (by holding title to the LNG at the time of export) or by acting as agent for others. To ensure that all exports are permitted

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<sup>8</sup> The 24% increase is derived from U.S. Energy Information Administration ("EIA") dry gas production information for 2006 and 2011, available on the EIA website: *See Natural Gas Gross Withdrawals and Production, EIA*, <http://www.eia.gov/dnav/ng/hist/n9070us2A.htm> (2012).

<sup>9</sup> U.S. Energy Information Administration's Annual Energy Outlook 2012 (Early Release) data, available on the EIA website: <http://www.eia.gov/forecasts/aeo/er/excel/overview.fig02.data.xls>

and lawful under U.S. laws and policies, ELS will comply with all DOE requirements for an exporter or agent. In Order No. 2986,<sup>10</sup> the DOE approved a proposal to register each LNG title holder for whom the applicant sought to export LNG as agent. The applicant also proposed that this registration include a written statement by the title holder acknowledging and agreeing to comply with all applicable requirements included in its export authorization and to include those requirements in any subsequent purchase or sale agreement entered into by that title holder. The applicant further stated that it would file under seal with the DOE any relevant long-term commercial agreements that it reached with the LNG title holders on whose behalf the exports were performed.

The DOE found that this proposal was an acceptable alternative to the non-binding policy adopted in Order No. 2859<sup>11</sup> that title to all LNG authorized for export must be held by the authorization holder at the point of export. In approving the alternative approach, the DOE noted that it would ensure that the title holder was aware of all DOE requirements and would provide the DOE with a record of all authorized exports and direct contact information and a point of contact with the title holder.

Therefore, when acting as agent, ELS will register with the DOE each LNG title holder for whom ELS seeks to export as agent, and will provide the DOE with a written statement by the title holder acknowledging and agreeing to (i) comply with all requirements in ELS's long-term export authorization, and (ii) include those requirements in any subsequent purchase or sale agreement entered into by the title holder. ELS will also file under seal with the DOE any relevant long-term commercial agreements it enters into with the LNG title holders on whose behalf the exports are performed.

In recent orders granting long-term authorizations to export LNG to FTA countries, the DOE has found that the applicants were not required to submit, with their applications, transaction-specific information, as specified in Section 590.202(b) of the DOE's regulations.<sup>12</sup>

The DOE found that, given the stage of development for these projects, it was appropriate for the applicants to submit such information "when practicable" (i.e., when the contracts reflecting such information are executed). ELS requests that the DOE make the same finding in this case.

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<sup>10</sup> *Freeport LNG Development, L.P.*, DOE/FE Order No. 2986 (2011).

<sup>11</sup> *Dow Chemical Company*, DOE/FE Order No. 2859 (2010).

<sup>12</sup> *See, e.g., Sabine Pass Liquefaction, LLC.*, DOE/FE Order No. 2833 (2010). The transaction specific information described in the regulations includes long-term supply agreements and long-term export agreements.

## VII.

### STANDARD OF REVIEW

Section 3(c) of the NGA requires that applications for authorization to export natural gas, including LNG, to nations with which there is in effect a FTA requiring national treatment for trade in natural gas be deemed consistent with the public interest and granted without delay or modification. There is no need for the DOE to engage in any analysis of factors affecting the public interest.<sup>13</sup> This Application, which clearly falls within the scope of Section 3(c), should be processed and approved in accordance with this standard.

## VIII.

### REVIEW OF ENVIRONMENTAL IMPACTS

Following issuance of the long-term export authorization requested in this Application, ELS will initiate the pre-filing review process at FERC for the proposed Project facilities. This will be the initial step in a comprehensive and detailed environmental review of the Project by FERC. It is anticipated that, consistent with the requirements of the National Environmental Policy Act, FERC will act as the lead agency for environmental review, with the DOE acting as a cooperating agency. ELS therefore respectfully requests that the DOE issue an order approving this Application, with such approval subject to completion by FERC of a satisfactory environmental review of the Project. Such orders are routinely issued by the DOE's Office of Fossil Energy, which may review an application to determine whether a proposed authorization is in the public interest concurrent with FERC's review of environmental impacts.<sup>14</sup>

## IX.

### APPENDICES

The following appendices are included with this Application:

Appendix A	Verification
Appendix B	Opinion of Counsel

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<sup>13</sup> *Id.*

<sup>14</sup> *See, e.g., Freeport LNG Expansion, L.P., DOE/FE Order No. 2913 (2011).*

X.

CONCLUSION

For the reasons set forth above, ELS respectfully requests that the DOE issue an order granting ELS authorization to export for a period of 20 years, up to 1.38 Bcf/d (equivalent to 10 MTPA and 503.7 million mmBtu per year) of domestically-produced LNG to any country with which the U.S. has, or in the future may have, a FTA requiring national treatment for trade in natural gas.

Dated: May 25, 2012

Respectfully submitted,

*Gail Watkins*

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## APPENDIX A VERIFICATION



**APPENDIX B OPINION OF COUNSEL**

**FREDERIC DORWART**

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Free-Trade Agreement Countries**

Dear Mr. Anderson:

This opinion of counsel is provided in accordance with the requirements of Section 590.202(c) of the U.S. Department of Energy's regulations, 10 C.F.R. § 590.202(c) (2011). I have examined the organizational and governance documents of Excelerate Liquefaction Solutions I, LLC ("ELS"), and other documents and authorities as necessary. It is my opinion that the proposed long-term export of liquefied natural gas by ELS, as described in the above-referenced application, is within the limited liability company powers of ELS.

Respectfully submitted,

FREDERIC DORWART, LAWYERS



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