

[6450-01-P]

DEPARTMENT OF ENERGY

[FE Docket No. 12-36-LNG]

Cheniere Marketing, LLC; 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 March 30, 2012, by Cheniere Marketing, LLC (CMI), 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 for a two-year period commencing on June 1, 2012. CMI seeks authorization to export LNG from the Sabine Pass LNG terminal, owned by Sabine Pass LNG, L.P., in Cameron Parish, Louisiana, 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. CMI is requesting this authorization both on its own behalf and as agent for other parties who hold title to the LNG at the time of export. The Application was 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 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. 12-36-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
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FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:**Background**

CMI is a Delaware limited liability company with its principal place of business in Houston, Texas. CMI is a wholly-owned subsidiary of Cheniere Energy, Inc. (Cheniere Energy), which also is a Delaware corporation with its primary place of business in Houston, Texas. Cheniere Energy is a developer of LNG import terminals and natural gas pipelines on the U.S. Gulf Coast, including the Sabine Pass LNG terminal.

On June 1, 2010, DOE/FE issued Order No. 2795, which granted CMI blanket authorization to export on its own behalf or as agent for others 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 June 1, 2010.¹ On December 17, 2010, DOE/FE granted CMI blanket authorization to import LNG from various international sources for a two-year term beginning on January 29, 2011.² Under the terms of the blanket authorization, the LNG may be imported at any LNG receiving facility in the United States and its territories.

Current Application

In the instant Application, CMI requests blanket authorization to export LNG previously imported into the United States from foreign sources from the Sabine Pass LNG terminal. CMI states that it plans to export LNG that had previously been imported from foreign sources 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 over a two-year period, on a short-term or spot market basis, in an amount up to the equivalent of 500 Bcf of natural gas. CMI proposes to export LNG that is

¹ *Cheniere Marketing, LLC*, DOE/FE Order No. 2795 (June 1, 2010) extends through May 31, 2012.

² *Cheniere Marketing, LLC*, DOE/FE Order No. 2891 (December 17, 2010) extends through January 28, 2013.

derived from CMI's LNG importing activities and resides in LNG storage tanks at the Sabine Pass LNG terminal. CMI states that the LNG will either be re-exported or regasified for consumption in the domestic natural gas market contingent on U.S. and global market price signals. CMI states that no additional physical modifications to the Sabine Pass LNG terminal are required to accommodate the export authorization requested. CMI further states that there are no other proceedings related to this Application currently pending before DOE or any other federal agency. CMI is not seeking authorization to export domestically produced natural gas or LNG.

Public Interest Considerations

In support of its Application, CMI states that pursuant to section 3 of the NGA, DOE/FE is required to authorize exports to a foreign country unless there is a finding that such exports "will not be consistent with the public interest."³ CMI states that section 3 thus creates a statutory presumption in favor of approval of a finding that the Application is in the public interest, which opponents bear the burden of overcoming.⁴ CMI states further, in evaluating an export application, FE applies the principles described in Delegation Order No. 0204-111, which focuses primarily on domestic need for the gas to be exported, and the Secretary's natural gas policy guidelines.⁵ Finally, as detailed below, CMI states that their proposal to export LNG to those countries with the capacity to import LNG via ocean-going carrier and with which trade is not prohibited by U.S. law or policy is consistent with Section 3 of the NGA and FE's policy.

CMI states that in DOE/FE Order No. 2795 issued on June 1, 2010, which granted CMI blanket authorization to export up to 500 Bcf (cumulative) of previously imported foreign-

³ 15 U.S.C. 717b(a).

⁴ See *Panhandle Producers and Royalty Owners Association v. Era*, 822 F.2d 1105, 1111 (D.C. Cir. 1987); *Independent Petroleum Association v. ERA*, 870 F.2d 168, 172 (5th Cir. 1989); *Panhandle and Royalty Owners Association v. ERA*, 847 F.2d 1168, 1176 (5th Cir. 1988).

⁵ See 49 Fed. Reg. 6684, February 22, 1984.

sourced LNG, FE determined that there was no domestic reliance on the volumes of imported LNG that CMI would seek to export.⁶ CMI also states that, in January 2012, FE made the same finding in granting Dominion Cove Point LNG, LP (Dominion) blanket authority to export from the Cove Point LNG Terminal facilities in Calvert County, Maryland up to 150 Bcf of previously imported LNG.⁷ In addition, CMI points out that similarly, on November 22, 2011, DOE/FE granted ConocoPhillips Company (ConocoPhillips) blanket authority to export from the Freeport LNG Development, L.P. Quintana Island terminal up to 500 Bcf of previously imported LNG.⁸ CMI notes that in its order, DOE/FE stated that “the record shows there is sufficient supply of natural gas to satisfy domestic demand from multiple sources at competitive prices without drawing on the LNG which ConocoPhillips seeks to export...”⁹

CMI states that in the above-referenced Dominion and ConocoPhillips orders, as well as in other blanket authorizations issued in recent years,¹⁰ DOE/FE has taken administrative notice that a review of the data and analysis prepared by the Energy Information Administration (EIA) shows that over the last several years, domestic natural gas production has increased significantly. CMI also cites more recent data from EIA’s *Annual Energy Outlook 2012* (Early Release) Reference case, which estimates that shale gas production will reach 8.1 trillion cubic feet in 2015.¹¹ CMI asserts that DOE/FE’s past findings with regard to similar applications in addition to EIA’s most current gas production estimates support the conclusion that the foreign-sourced LNG CMI seeks to export is not needed to meet domestic demand.

⁶ *Cheniere Marketing, LLC*, DOE/FE Order No 2795 at 11.

⁷ See *Dominion Cove Point LNG, LP*, DOE/FE Order No. 3055 (January 9, 2012) at 11.

⁸ *ConocoPhillips Company*, DOE/FE Order No. 3038 (November 22, 2011).

⁹ *Id.* at 6.

¹⁰ See *Freeport LNG Development, L.P.*, DOE/FE Order No. 2986 (July 19, 2011); *ENI USA Gas Marketing LLC*, DOE/FE Order No. 2923 (March 3, 2011); *Sempra LNG Marketing, LLC*, DOE/FE Order No. 2885 (December 3, 2010); *Dow Chemical Company*, DOE/FE Order No. 2859 (October 5, 2010).

¹¹ See *Annual Energy Outlook 2012 Early Release Overview*, <http://www.eia.gov/forecasts/aeo/er/excel/overview.fig02.data.xls>.

CMI is requesting authorization, for itself and as agent for third parties, to periodically export LNG imported under DOE/FE Order No. 2891, as well as LNG of third parties, to any other country with the capacity to import LNG via ocean-going vessel and with which trade is not prohibited by U.S. law or policy, should market conditions in the United States not support domestic sale of those supplies. CMI states that granting CMI's short-term blanket authorization as requested herein would provide CMI with the necessary flexibility it requires to respond to changes in domestic and global markets for natural gas and LNG. CMI states that the additional flexibility sought herein would further encourage CMI to obtain and store spot market LNG cargoes. Natural gas derived from imported LNG will be available to supply local markets when conditions support it, and will thereby serve to moderate U.S. gas price volatility. As such, CMI states that the requested export authorization is consistent with the public interest.

Environmental Impact

CMI states that no modifications to the Sabine Pass LNG terminal would be required for CMI's proposed exportation of LNG. CMI asserts that consequently, granting this Application will not be a federal action significantly affecting the human environment within the meaning of the National Environmental Policy Act (NEPA).¹² CMI further states that an environmental impact statement or environmental assessment is not required.

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 gas, as well as any other issues determined to be appropriate, including whether the arrangement is consistent with DOE's policy of promoting

¹² 42 U.S.C. § 4321 *et seq.*

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, 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. 12-36-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. 12-36-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 CMI 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 April 25, 2012.

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