

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

CHENIERE MARKETING, LLC

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FE DOCKET NO. 12-36-LNG

ORDER GRANTING BLANKET AUTHORIZATION
TO EXPORT PREVIOUSLY IMPORTED
LIQUEFIED NATURAL GAS BY VESSEL

DOE/FE ORDER NO. 3102

JUNE 7, 2012

I. 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 March 30, 2012, application of Cheniere Marketing, LLC (CMI).

The authorization permits CMI to export liquefied natural gas (LNG) that previously had been imported from foreign sources, in an amount up to the equivalent of 500 billion cubic feet (Bcf) of natural gas on a cumulative basis, over a two-year period commencing on June 7, 2012.² CMI 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. CMI is also authorized to export this LNG to which it holds title on its own behalf and as agent for others who hold title, after registering the other entity with DOE/FE. This authorization permits such exports on a short-term or spot market basis from the existing facilities owned by CMI's affiliate, Sabine Pass LNG, L.P., in Cameron Parish, Louisiana. The authorization provided by this Order will not permit the export of domestically produced LNG.

¹ See, DOE Delegation Order No. 00-002.00L (Apr. 29, 2011), and DOE Redelegation Order No. 00-002.04E (Apr. 29, 2011).

² CMI's blanket authorization to export LNG granted in DOE/FE Order No. 2795 on June 1, 2010, extends through May 31, 2012.

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 is seeking blanket authorization commencing on June 1, 2012, to export LNG previously imported into the United States from foreign sources from the Sabine Pass LNG Terminal. CMI states that it seeks authorization 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, over a two-year period, in an amount up to the equivalent of 500 Bcf of natural gas. CMI proposes to export LNG that is derived from CMI's LNG importing activities and resides in LNG storage tanks at the Sabine Pass facility. 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.

IV. 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

II. PROCEDURAL HISTORY

CMI filed the “Application for Blanket Authorization to Export Previously Imported Liquefied Natural Gas on a Short-Term Basis” (Application) with FE on March 30, 2012. The Application was submitted pursuant to section 3 of the NGA and part 590 of DOE’s regulations. On May 1, 2012, DOE/FE published a Notice of application (Notice) in the Federal Register. 77 FR 25711. The Notice stated that comments, protests, motions and notices to intervene, and requests for additional procedures would be due no later than May 31, 2012.

FE received no filings in response to this Notice.

III. 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 is also 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, 2010.³ 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, 2011.⁴ Under the terms of the blanket

³ *Cheniere Marketing, LLC*, DOE/FE Order No. 2795 (June 1, 2010) extends through May 31, 2012.

⁴ *Cheniere Marketing, LLC*, DOE/FE Order No. 2891 (December 17, 2010) extends through January 28, 2013.

[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,⁵ 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 natural gas necessarily could not reduce the availability of domestically produced natural 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 LNG⁶ and in each case cited the evidence of record 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 CMI seeks to export. DOE takes administrative notice that a review of the most recent data and analysis

⁵ See 49 FR 6684, February 22, 1984.

⁶ *Dominion Cove Point LNG, LP*, DOE/FE Order No. 3055 (January 9, 2012); *Conoco Phillips Company*, DOE/FE Order No. 3038 (November 22, 2011); *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 2885 (December 3, 2010); *The Dow Chemical Company*, DOE/FE Order No. 2859 (October 5, 2010).

prepared by the Energy Information Administration (EIA) within DOE shows that over the last several years, domestic natural gas production has increased significantly, primarily due to the development of improved drilling technologies, including the ability to produce natural gas trapped in shale gas geologic formations. The most recent data and analysis prepared by the Energy Information Administration (EIA) within DOE shows domestic gross natural gas production from shale increased to 3.4 trillion cubic feet (Tcf) in 2009, compared to 2.3 Tcf in 2008.⁷ Further, in the Annual Energy Outlook 2012 Early Release Report (January 23, 2012), EIA projected that, by 2015, annual dry shale gas production will increase to 8.1 Tcf and, by 2035, to 13.6 Tcf. Therefore the evidence of record indicates that United States consumers continue to 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 CMI seeks to export. In addition, DOE/FE notes that no interested person intervened in this proceeding or otherwise challenged CMI's assertions of sufficient supplies to meet domestic demand if the application is granted.

C. Agency Rights

As described above, CMI requests authorization to export LNG on its own behalf or as agent for others. DOE/FE addressed the issue of agency rights in *Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC*, Order No. 2913 (Order 2913), issued February 10, 2011. In Order 2913, DOE/FE approved a proposal by Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC (collectively, FLEX) to register each LNG title holder for whom FLEX sought to export LNG as agent. This proposal was an acceptable alternative to the non-binding policy adopted by

⁷ EIA, *Natural Gas Gross Withdrawals and Production*, Release Date: April 30, 2012
http://www.eia.gov/dnav/ng/ng_prod_sum_dcu_NUS_a.htm

DOE/FE in *Dow Chemical*,⁸ which established that the title for all LNG authorized for export must be held by the authorization holder at the point of export. The same policy considerations that supported DOE/FE's acceptance of the alternative proposal in Order 2913 apply here as well. The authorization granted herein shall be conditioned to require that where CMI proposes to export as agent for others, CMI must register those companies in accordance with the procedures and requirements described herein.

D. 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, CMI states that no new facilities or modifications to any existing facilities at the Sabine Pass LNG Terminal would be required in order for CMI 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.⁹ Accordingly, DOE issued a Categorical Exclusion

⁸ *The Dow Chemical Company*, DOE/FE Opinion and Order No. 2859 (FE Docket No. 10-57-LNG), October 5, 2010, at p. 7 and 8.

⁹ "Approvals or disapprovals of new authorizations or amendments of existing authorizations to import or export natural gas under section 3 of the Natural Gas Act that involve minor operational changes (such as changes in natural gas throughput, transportation, and storage operations) but not new construction." 10 CFR Part 1021.410 Appendix B to Subpart D of Part 1021, Categorical Exclusions in B5.7.

Determination, dated June 1, 2012, which found that the CMI proposed action is categorically excluded from further NEPA review.

E. Effective Date of Order

The requested authorization will be effective on June 7, 2012.

Pursuant to section 590.201 of DOE's regulations (10 CFR part 590.201), applications submitted to DOE/FE seeking authorization to import or export natural gas, which includes *LNG*, "shall be filed at least ninety (90) days in advance of the proposed import or export or other requested action, unless a later date is permitted for good cause shown." CMI's Application did not meet the 90 day timing in advance of requested action. DOE/FE finds establishing an effective date of June 7, 2012, is necessary for DOE/FE to meet its statutory responsibility of evaluating the instant application under section 3 of the NGA.

F. Conclusion

After due consideration based on all facts and evidence of record, DOE/FE finds that a grant of the export application is not inconsistent with the public interest. In particular, the record shows 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 CMI 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, DOE/FE will grant the application.

ORDER

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

A. CMI is authorized to export LNG that previously had been imported from foreign sources in an amount up to the equivalent of 500 Bcf of natural gas pursuant to transactions that have terms of no longer than two years. This authorization shall be effective for a two-year term beginning on June 7, 2012, and extending through June 6, 2014.

B. This LNG may be exported from the Sabine Pass LNG Terminal to any country 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. CMI is permitted to use its authorization in order to export LNG on its own behalf or on behalf of or as agent for others, after registering the other party with DOE/FE.

D. CMI, or others for whom CMI acts as agent, shall include the following provision in any contract for the sale or transfer of LNG exported pursuant to this Order:

"Customer or purchaser acknowledges and agrees that it will resell or transfer LNG purchased hereunder for delivery only to countries with the capacity to import ocean-going LNG carriers and with which trade is not prohibited by U.S. law or policy, and/or to purchasers that have agreed in writing to limit their direct or indirect resale or transfer of such LNG to such countries. Customer or purchaser further commits to cause a report to be provided to CMI that identifies the country of destination, upon delivery, into which the exported LNG was actually delivered, and to include in any resale contract for such LNG the necessary conditions to ensure that CMI is made aware of all such actual destination countries."

E. As a condition of this authorization, CMI shall ensure that all persons required by this Order to register with DOE/FE have done so. Any failure by CMI to ensure that all such persons or entities are registered with DOE/FE shall be grounds for rescinding in whole or in part the authorization.

F. Registration materials shall include an acknowledgement and agreement by the registrant to supply CMI with all information and copies of contracts necessary in order to permit CMI to register that person or entity with DOE/FE, including: (1) the registrant's agreement to comply with this Order and all applicable requirements of DOE's regulations at 10 CFR Part 590, including but not limited to destination restrictions; (2) the exact legal name of the registrant, state/location of incorporation/registration, primary place of doing business, and the registrant's ownership structure, including the ultimate parent entity if the registrant is a subsidiary or affiliate of another entity; (3) the name, title, mailing address, e-mail address, and telephone number of a corporate officer or employee of the registrant to whom inquiries may be directed; and (4) an acknowledgement and agreement by the registrant to include the Ordering Paragraph D provision in any contract for the sale or transfer of LNG exported pursuant to this Order.

G. Each registration submitted pursuant to this Order shall have current information on file with DOE/FE. Any changes in company name, contact information, or other relevant modifications, shall be filed with DOE/FE within 30 days of such change(s).

H. **Monthly Reports:** With respect to the export of LNG authorized by this Order, CMI 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

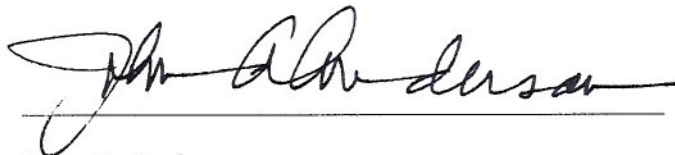
Mcf; (7) the delivered price per MMBtu; (8) the duration of the supply agreement (indicate spot sales); and (9) the name(s) of the purchaser(s).

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

I. The first monthly report required by this Order is due not later than July 30, 2012, and should cover the reporting period from June 7, 2012, through June 30, 2012.

J. 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 June 7, 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