

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

SB POWER SOLUTIONS INC.

FE DOCKET NO. 12-50-LNG

ORDER GRANTING LONG-TERM MULTI-CONTRACT
AUTHORIZATION TO EXPORT LIQUEFIED
NATURAL GAS TO FREE TRADE AGREEMENT NATIONS
IN CENTRAL AMERICA, SOUTH AMERICA, AND
THE CARIBBEAN BY VESSEL IN ISO CONTAINERS

DOE/FE ORDER NO. 3105

JUNE 15, 2012

I. DESCRIPTION OF REQUEST

On May 7, 2012, SB Power Solutions Inc. (SPS), filed an application (Application) with the Office of Fossil Energy (FE) of the Department of Energy (DOE) under section 3 of the Natural Gas Act (NGA)¹ for long-term, multi-contract authorization to export liquefied natural gas (LNG) up to a total of 550,000 metric tons per year over a 25-year period commencing the earlier of the date of first export, or five years from the date that the authorization is issued (June 15, 2017). The export volume is equivalent to approximately 26.78 billion cubic feet (Bcf) of natural gas per year (approximately 0.07 Bcf/day).² SPS seeks to export both domestically produced and previously imported LNG to any country located within Central America, South America, or the Caribbean, which has, or in the future develops, the capacity to import LNG in approved ISO IMO7/TVAC-ASME LNG containers (ISO containers) transported on ocean-going vessels, and with which the United States currently has, or in the future will have, a Free Trade Agreement (FTA) requiring the national treatment for trade in natural gas.³

II. BACKGROUND

SPS is a Delaware corporation with its principal place of business in Merriam, Kansas. Stock in SPS is held wholly by Seaboard Corporation, a corporation incorporated in the State of Delaware.

¹ 15 U.S.C. § 717b. The authority is delegated to the Assistant Secretary for FE pursuant to Redelegation Order No. 00-002.04D (November 6, 2007).

² SBC requests authorization to export up to 550,000 metric tons per year of LNG, which, it states, is equivalent to approximately 26.78 billion cubic feet per year of natural gas. Consistent with DOE regulations (10 CFR part 590), applications are to provide volumes in Bcf, and subsequently, DOE/FE will authorize LNG exports equivalent to 26.78 Bcf/year of natural gas.

³ Within this region, the United States currently has FTAs requiring national treatment for trade in natural gas with Chile, Columbia, Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, and Peru. Pursuant to Annex 3.2 of the Dominican Republic-Central America Free Trade Agreement (CAFTA-DR), Article 3.2 of the CAFTA-DR, which provides for national treatment, shall not apply to certain controls by Costa Rica on the exports of hydrocarbons.

SPS states that it will take delivery of the LNG at the site of third party liquefaction facilities from the Atlantic Coast to the Gulf Coast, including Texas and Florida, and will transport the LNG from the liquefaction facilities within the United States over both highways and via rail, and will transport LNG to buyers in South America, Central America and the Caribbean, using approved ISO containers transported on ocean-going carriers. SPS states that containers and carriers used for transportation within the United States will comply with all Association of American Railroads and U.S. Department of Transportation regulations, and the third parties with which SPS will be contracting to handle such transportation will comply with all hazardous material and cryogenic handling regulations and requirements, including employee training, in addition to obtaining any state permits required for transportation of LNG.

SPS states that it will purchase LNG on both a spot basis and under long-term purchase agreements from suppliers, including utilities that have excess natural gas and LNG. SPS asserts it is currently involved in negotiations with several such suppliers, and will file all executed long-term contracts with DOE/FE under seal, following their execution. SPS states that it expects to begin exporting LNG purchases on a spot basis or under such long-term agreements by the first quarter of 2014.

SPS notes that it submits its Application pursuant to the standard established by the Energy Policy Act of 1992, under which applications for export to FTA countries are deemed to be in the public interest, and must be granted without modification or delay.⁴ In support of its Application, SPS cites the *Annual Energy Outlook 2011*, prepared by the U.S. Energy Information Administration, which more than doubles the 2010 estimate of technically

⁴ 15 U.S.C. § 717b(c) (2010).

recoverable shale gas reserves, and doubles projected shale gas production to 12.0 Tcf by 2035.⁵ SPS also asserts that its plan to purchase excess natural gas supply from domestic suppliers will support President Obama's National Export Initiative, signed in 2010.⁶

SPS states that, in the majority of cases, no new facilities (or modifications to any existing facilities) would be required in order for SPS to export LNG. SPS asserts that in the limited cases in which the owners of liquefaction facilities that sell and deliver LNG to SPS opt to make minor modifications to their facilities, those owners will obtain the necessary state, local or federal permits before any such modifications or deliveries occur.

III. FINDINGS

(1) Section 3(c) of the NGA was amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486) to require that applications to authorize: (a) the import and export of natural gas, including LNG, from and to a nation with which there is in effect a FTA requiring national treatment for trade in natural gas, and (b) the import of LNG from other international sources, be deemed consistent with the public interest and granted without modification or delay. The instant Application falls within section 3(c), as amended, and therefore, DOE/FE is charged with granting the Application without modification or delay.⁷

(2) In light of DOE's statutory obligation to grant the Application without modification or delay, there is no need for DOE to review the other arguments posed by SPS in support of the Application. The instant grant of authority should not be read to indicate DOE's views on those arguments.

⁵ U.S. Energy Information Administration, *Annual Energy Outlook 2011*, Executive Summary (2011), available at [http://www.eia.doe.gov/forecasts/aco/pdf/0383\(2011\).pdf](http://www.eia.doe.gov/forecasts/aco/pdf/0383(2011).pdf).

⁶ Executive Order No. 13534, 75 FR 12433 (March 11, 2010).

⁷ DOE further finds that the requirement for public notice of applications and other hearing-type procedures in 10 CFR Part 590, are applicable only to applications seeking to export natural gas, including LNG, to countries with which the United States does not have a FTA requiring national treatment for trade in natural gas.

ORDER

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

A. SPS is authorized to export domestically produced and previously imported LNG in approved ISO containers transported by ocean-going vessel from the Atlantic Coast, including Florida, and the Gulf Coast, including Texas, up to the equivalent of 26.78 Bcf of natural gas per year for a 25-year term, beginning on the earlier of the date of first export, or June 15, 2017, pursuant to one or more long-term contracts (greater than two years) with third parties with terms not to exceed the term of the authorization.

B. This LNG may be exported to any nation in South America, Central America, and the Caribbean with which the United States currently has, or subsequently enters into, a FTA requiring national treatment for trade in natural gas, provided that the destination nation has the capacity to import LNG in ISO containers by ocean going vessels. FTA countries are currently identified by DOE/FE at: <http://www.fossil.energy.gov/programs/gasregulation/index.html>.

C. SPS shall file with the Office of Natural Gas Regulatory Activities all executed long-term contract that allow SPS to purchase LNG for loading in LNG ISO containers for subsequent export on ocean going vessels. SPS shall also file with the Office of Natural Gas Regulatory Activities all executed long-term LNG contracts in which SPS supplies LNG to entities located in countries identified in ordering paragraph B. All such contracts identified in this section shall be filed under seal, within 30 days following their execution.

D. **Monthly Reports:** With respect to the LNG exports authorized by this Order, SPS 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. The first monthly report required by this Order is due not later than the 30th day of the month

following the month of first export. In subsequent months, if exports have not occurred, 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 port or terminal; (2) the name of the ocean going vessel; (3) the date of departure from the U.S. export port or terminal; (4) the country of destination; (5) the name of the supplier/seller; (6) the volume in Mcf; (7) the price at point of export per million British thermal units (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)

E. 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 15, 2012.

A handwritten signature in black ink, appearing to read "John A. Anderson", with a long horizontal flourish extending to the right.

John A. Anderson
Manager, Natural Gas Regulatory Activities
Office of Oil and Gas Global Security and Supply
Office of Fossil Energy