

[6450-01-P]

DEPARTMENT OF ENERGY

[FE Docket No. 13-157-CNG]

Emera CNG LLC; Application for Long-Term Authorization to Export Compressed Natural Gas Produced from Domestic Natural Gas Resources to Non-Free Trade Agreement Countries for a 20-Year Period

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 November 20, 2013, by Emera CNG, LLC (Emera) requesting long-term authorization to export compressed natural gas (CNG) produced from domestic sources in a volume equivalent to approximately 9.125 billion cubic feet per year (Bcf/yr) of natural gas, or 0.025 Bcf per day (Bcf/d). Emera seeks authorization to export the CNG by vessel¹ from a proposed CNG compression and loading facility (Facility) to be located at the Port of Palm Beach, in Riviera Beach, Florida. Emera seeks to export the CNG solely on its own behalf for a 20-year term, commencing on the earlier of the date of first export or five years from the date the authorization is issued.

In the portion of Emera's Application subject to this Notice, Emera requests authorization to export this CNG to any country with which the United States does not have a free trade agreement (FTA) requiring national treatment for trade in natural gas (non-FTA countries), and with which trade is not prohibited by U.S. law or policy. This Application was filed under section 3 of the

¹ As discussed below, Emera informed DOE/FE by letter dated May 2, 2014, that it seeks authority to export CNG by waterborne vessel only, not also by truck, as the Application stated. *See* Ltr. from Dan Muldoon, President of Emera, to John Anderson, U.S. Dep't of Energy, FE Docket No. 13-157-CNG (May 2, 2014) [hereafter Emera Ltr.].

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 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES:

Electronic Filing by email:

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Regular Mail

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Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.)

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SUPPLEMENTARY INFORMATION:

Background

Applicant. Emera is a Delaware limited liability company with its principal place of business in West Palm Beach, Florida. Emera is a wholly-owned indirect subsidiary of Emera Incorporated (Emera Inc.), a corporation formed under the laws of the province of Nova Scotia, Canada, with its principal place of business in Nova Scotia, Canada. According to Emera, Emera Inc. is a publicly traded energy and services company that, in relevant part, owns and operates or has an interest in electric utilities in four Caribbean countries: the Bahamas, Barbados, Dominica, and St. Lucia.

Procedural History. In the portion of the Application not subject to this Notice, Emera sought long-term authorization to export the same volume of CNG to any country with which the United States currently has, or in the future will have, a FTA requiring the national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (FTA countries).² DOE/FE reviewed that portion of the Application separately pursuant to NGA section 3(c), 15 U.S.C. § 717b(c), and issued an order granting the FTA export authorization on June 13, 2014, in DOE/FE Order No. 3447.³

² The United States currently has FTAs requiring national treatment for trade in natural gas with Australia, Bahrain, Canada, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Republic of Korea, and Singapore. FTAs with Israel and Costa Rica do not require national treatment for trade in natural gas.

³ *Emera CNG, LLC*, DOE/FE Order No. 3447, Order Granting Long-Term Authorization to Export Compressed Natural Gas By Vessel from a Proposed CNG Compression And Loading Facility at the Port Of Palm Beach, Florida, To Free Trade Agreement Nations (June 13, 2014).

Compression Project. Emera seeks long-term authorization to export CNG from a CNG compression and loading facility that it proposes to construct, own, and operate at the Port of Palm Beach, Florida. Emera states that the Facility will be located off of the Riviera Lateral, an intrastate pipeline owned and operated by Peninsula Pipeline Company, Inc. Emera states that the Facility will be located off of the Riviera Lateral, an intrastate pipeline owned and operated by Peninsula Pipeline Company, Inc. (a subsidiary of Chesapeake Utilities Corporation). Emera states that its affiliate, Emera Utility Services Incorporated (EUS), has entered into a reservation agreement with the Port of Palm Beach District, giving EUS exclusive negotiating rights to lease the site on which Emera intends to construct the Facility.⁴ Emera expects construction of the Facility to be completed in 2015.

According to Emera, the proposed Facility will consist of dehydration, compression, and filling equipment with nominal loading capacity of 0.025 Bcf/d of CNG, as well as staging and loading facilities for CNG trailers, associated utilities, infrastructure, and support systems. Emera states that pressure vessels with an open ISO container frame will be filled with CNG under high pressure and loaded onto a roll on/roll off ocean-going carrier. In the Application, Emera states that it is seeking authorization to export the CNG “via truck and ocean-going carrier” (App. at 1, 2), but Emera subsequently clarified that “all exports will be by waterborne vessel,” and that it “will not export CNG from the Facility by truck alone.”⁵

According to Emera, the Facility initially will be capable of loading 0.008 Bcf/d of CNG (2.92 Bcf/yr). Once completed, the Facility will be capable of expanding to load and deliver CNG in a volume equivalent to approximately 0.025 Bcf/d of natural gas (9.125 Bcf/yr), the requested export volume.

⁴ A copy of the reservation agreement and related documents is appended to the Application at Appendix C.

⁵ Emera Ltr. at 1.

Current Application

Emera seeks to export domestically produced CNG by vessel to non-FTA countries in a total volume equivalent to approximately 0.025 Bcf/d of natural gas (9.125 Bcf/yr), the same requested export volume granted in its FTA order (DOE/FE Order No. 3447). Emera requests this long-term authorization for a 20-year term, beginning on the date of the first export or five years from the date the requested authorization is granted.

Emera requests long-term authorization to engage in the proposed exports solely on its own behalf, and asserts that it will have title to the CNG at the point of export. Emera states that, although it seeks authorization to export CNG to any permitted destination, the primary purpose of the project is to fuel power generation facilities owned by an Emera affiliate, Grand Bahama Power Company (GBPC), located on the island of Grand Bahama. Emera states that its parent company, Emera Inc., owns 80.4 percent of GBPC, and that GBPC is a vertically integrated utility with a gross installed generating capacity of 102 megawatts.

Emera anticipates having a number of potential customers for the proposed exports, all of whom are expected to be located within the Caribbean. Specifically, Emera states that it expects to enter into a long-term contract to supply gas to GBPC. Under the terms of that anticipated agreement, CNG from the Facility will be transported approximately 75 nautical miles from the Port of Palm Beach to an unloading and decompression facility in Freeport, Grand Bahama. In Freeport, the natural gas pressure vessels will be unloaded from the carrier, and the gas will pass through a decompression station. The decompressed gas will be transported via pipeline to local power plant(s) owned and operated by GBPC for use in electricity generation. According to Emera, there will be an opportunity for other companies operating in Freeport in close proximity to the pipeline to utilize the exported gas.

Emera commits to observing all DOE/FE reporting requirements for exports. Citing DOE/FE precedent,⁶ Emera commits to filing a copy of any relevant long-term commercial agreements (including the anticipated contract with GBPC) within 30 days of the agreement(s) being executed, including both a non-redacted copy for filing under seal and either a redacted version of the contract or major provisions of the contract for public posting.

Emera states that the natural gas supplying the proposed exports will come from domestic natural gas markets. As noted above, the Facility will be directly connected to the Riviera Lateral—the intrastate natural gas pipeline owned and operated by Peninsula Pipeline Company, Inc. which, in turn, is regulated by the Florida Pipeline Service Commission. Emera states that Peninsula Pipeline Company, Inc. is connected to Florida Gas Transmission Corporation, an interstate pipeline regulated by the Federal Energy Regulatory Commission (FERC). Emera asserts that, through the combination of Peninsula Pipeline Company, Inc. and Florida Gas Transmission Corporation, it will have access to gas supplies available throughout the Gulf Coast region and beyond.

According to Emera, it intends for the Facility to be the only source of CNG for export. In the Application, Emera states that, during times of maintenance at the Facility or at the Port of Palm Beach, CNG may be sourced from other facilities in Florida and transported to the Port or other general use port facilities (including Port Everglades, Port of Miami, Port Canaveral, or Port of Jacksonville) for export. Subsequently, however, Emera clarified that “the Facility will be the only source and supply of CNG to be exported” pursuant to this authorization.⁷ Emera further clarified that any purchases of CNG from other facilities during maintenance periods for the

⁶ See, e.g., *Dominion Cove Point, LNP, LP*, DOE/FE Order No. 3331, Order Conditionally Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Cove Point LNG Terminal to Non-Free Trade Agreement Nations (Sept. 11, 2013).

⁷ *Id.*

Facility will be short-term (*i.e.*, pursuant to contracts of less than two years in duration), and therefore Emera intends to apply separately for blanket authorization to export CNG from those facilities, as appropriate.⁸

Request for Separate Treatment

Emera requests that DOE/FE consider the Application outside of DOE/FE's existing Order of Precedence for processing applications requesting authorization to export LNG to non-FTA countries.⁹ Emera states that its Application is distinguishable from other pending non-FTA LNG export applications for several reasons, including the smaller volume of natural gas proposed for export, which Emera states will not have any detectable impact on the domestic natural gas market.

Public Interest Considerations

Emera states that a grant of the Application will serve the public interest in several respects. First, in discussing the economic impacts of the proposed exports, Emera describes the two-part 2012 LNG Export Study commissioned by DOE/FE to study the economic impacts of natural gas exports.¹⁰ Emera states that the second part of the study conducted by NERA found that the United States would experience net economic benefits from exports of LNG, with the level of benefits increasing as the quantity of exports increases. Emera asserts that its proposed exports also will provide economic benefits to the U.S. economy. Specifically, Emera asserts that its proposed

⁸ *Id.*

⁹ "Order of Precedence – Non-FTA LNG Export Applications," <http://energy.gov/fe/downloads/order-precedence-non-fta-lng-export-applications> (last revised Mar. 24, 2014). DOE/FE notes that it recently issued a Notice of Proposed Procedures that, if finalized following public notice and comment, would affect the existing Order of Precedence and potentially obviate this request. See Dep't of Energy, Proposed Procedures for Liquefied Natural Gas Export Decisions, 79 Fed. Reg. 32,261 (June 4, 2014).

¹⁰ As Emera states and DOE/FE notes, DOE/FE engaged the U.S. Energy Information Administration (EIA) and NERA Economic Consulting (NERA) to conduct a two-part study of the economic impacts of LNG exports, together referred to as the 2012 LNG Export Study. First, DOE/FE requested that EIA assess how prescribed levels of natural gas exports above baseline cases could affect domestic energy markets. EIA published its study, *Effect of Increased Natural Gas Exports on Domestic Energy Markets*, in January 2012. DOE also contracted with NERA to incorporate the then-forthcoming EIA case study output into NERA's general equilibrium model of the U.S. economy. NERA analyzed the potential macroeconomic impacts of LNG exports under a range of global natural gas supply and demand scenarios. DOE published the NERA study, *Macroeconomic Impacts of LNG Exports from the United States*, in December 2012. See LNG Export Study, <http://energy.gov/fe/services/natural-gas-regulation/lng-export-study>.

export level is *de minimis* compared to the quantities of natural gas studied in the 2012 LNG Export Study, but that its proposed exports and the Facility itself nonetheless will have a positive economic impact, consistent with NERA's findings. According to Emera, the quantity of natural gas to be exported is approximately 0.036% of all domestic consumption based on 2012 data, and thus is so minimal as to have no practical impact on natural gas prices or supply in the United States.

Emera further states that its proposed exports will have a more significant effect on the regional level. According to Emera, the construction and operation of the Facility will benefit the economy of Palm Beach County, Florida, by enhancing the value of existing pipeline infrastructure, adding to the local property tax base, creating jobs, and increasing overall economic activity and value in the region.

Second, citing the positive international impacts associated with the proposed exports, Emera states that the Facility will foster good trade relations with the Bahamas and benefit Bahamian development, consistent with U.S. policy under the Caribbean Basin Initiative. According to Emera, exporting domestic CNG from the United States would introduce an alternative to the island that would support the conversion of existing power generating stations from heavy fuel oil to natural gas.

Third, addressing the supply impacts of the proposed exports, Emera states that the quantity of exports proposed by Emera (0.025 Bcf/d of CNG) represents only 0.4% of the quantity of natural gas previously approved for export to non-FTA countries. Emera asserts that exporting this quantity of natural gas will have no detectable impact on natural gas prices in the United States or on the security of domestic supply.

Finally, Emera asserts that, in addition to stabilizing electricity rates in the area, exports of CNG to the Bahamas would have significant positive environmental impacts through the reduction

of emissions of fuel oil and diesel-burning electric generators, including emissions of greenhouse gases.

Additional details can be found in Emera's Application, which is posted on the DOE/FE website at:

http://www.fossil.energy.gov/programs/gasregulation/authorizations/2013_applications/Emera_CN_G,_LLC_13-157-CNG.html.

Environmental Impact

Emera asserts that the proposed Facility is not subject to FERC's jurisdictional authority under NGA section 3, and therefore Emera is not required to seek FERC approval of the Facility's construction under the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.*¹¹ Additionally, Emera asserts that the export of CNG via vessel is outside of FERC's regulatory jurisdiction. For these reasons, Emera states that it does not intend to file with FERC for any authorizations in connection with activities contemplated by this Application.

Emera instead requests that DOE/FE review the potential environmental impacts of the Facility under NEPA. A description of the Facility's potential environmental impacts is set forth in Appendix D to the Application. Emera states that, based on the Facility's location, scope, and other factors, it expects the environmental impacts associated with the Facility to be minimal. Finally, Emera states that, if DOE/FE determines that a different agency should conduct the NEPA review, Emera will comply with that agency's NEPA regulations.

¹¹ DOE/FE takes administrative notice that Emera has petitioned FERC for a declaratory order stating that the proposed construction of the Facility and the planned export of CNG from the Facility via ocean-going carrier are not subject to FERC's jurisdiction under section 3 of the NGA, 15 U.S.C. § 717. *See Emera CNG, LLC*, Petition for Declaratory Order Disclaiming Jurisdiction and Request for Expedited Action, Docket No. CP14-114-000 (Mar. 19, 2014).

DOE/FE Evaluation

The Application will be reviewed pursuant to section 3(a) of the NGA, 15 U.S.C. § 717b(a), and DOE will consider any issues required by law or policy. To the extent determined to be relevant, these issues will include the domestic need for the natural gas proposed to be exported, the adequacy of domestic natural gas supply, U.S. energy security, and the cumulative impact of the requested authorization and any other LNG export application(s) previously approved on domestic natural gas supply and demand fundamentals. DOE may also consider other factors bearing on the public interest, including the impact of the proposed exports on the U.S. economy (including GDP, consumers, and industry), job creation, the U.S. balance of trade, and international considerations; and whether the authorization 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 address these issues in their comments and/or protests, as well as other issues deemed relevant to the Application.

NEPA requires DOE to give appropriate consideration to the environmental effects of its decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

Due to the complexity of the issues raised by the Applicant, interested persons will be provided 60 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, notices of intervention, or motions for additional procedures.

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 C.F.R. Part 590.

Filings may be submitted using one of the following methods: (1) e-mailing the filing to fergas@hq.doe.gov, with FE Docket No. 13-157-CNG in the title line; (2) mailing an original and three paper copies of the filing to the Office of Oil and Gas Global Security and Supply at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Oil and Gas Global Supply at the address listed in **ADDRESSES**. All filings must include a reference to FE Docket No. 13-157-CNG. PLEASE NOTE: If submitting a filing via email, please include all related documents and attachments (e.g., exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

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 C.F.R. § 590.316.

The Application is available for inspection and copying in the Division 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>.

Issued in Washington, D.C., on June 27, 2014.

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

John A. Anderson
Director, Division of Natural Gas Regulatory Activities
Office of Oil and Gas Global Security and Supply
Office of Oil and Natural Gas