UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

ADVANCED ENERGY SOLUTIONS, LLC	)	FE DOCKET NO. 13-104-LNG

ORDER GRANTING LONG-TERM MULTI-CONTRACT AUTHORIZATION TO EXPORT LIQUEFIED NATURAL GAS IN ISO CONTAINERS LOADED AT THE FLORIDIAN FACILITY IN MARTIN COUNTY, FLORIDA, AND EXPORTED VIA OCEAN-GOING VESSEL TO FREE TRADE AGREEMENT NATIONS IN CENTRAL AMERICA AND THE CARIBBEAN

DOE/FE ORDER NO. 3360

NOVEMBER 14, 2013

I. DESCRIPTION OF REQUEST

On August 23, 2013, Advanced Energy Solutions, LLC (AES) 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) produced from domestic sources in an amount up to the equivalent of 8 billion cubic feet (Bcf) per year (Bcf/yr) of natural gas (the equivalent of 8,000,000 million British thermal units (MMBtu) of natural gas) for a 25-year period commencing on the earlier of the date of first export or four years from the date the authorization is issued (November 14, 2017). AES seeks authorization to export LNG in LNG-rated International Organization for Standardization (ISO) approved cargo containers transported on ocean-going LNG vessels to any country located within Central America and/or the Caribbean, which has, or in the future develops the capacity to import LNG via approved ISO containers transported on ocean-going carriers, and with which the United States currently has, or in the future will have a Free Trade Agreement (FTA).[2]

II. BACKGROUND

AES is a limited liability company organized under the laws of the State of Wyoming with its principal place of business in Chicago, Illinois. AES is owned by AES Holdings Group LLC, a Wyoming LLC that is primarily owned by Antonio G. De Sensi, a certified public accountant.

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[1] The authority to regulate the imports and exports of natural gas, including liquefied natural gas, under section 3 of the NGA (15 U.S.C. §717b) has been delegated to the Assistant Secretary for FE in Redelegation Order No. 00-002.04F issued on July 11, 2013.

[2] Within this region, the United States currently has free trade agreements requiring national treatment for trade in natural gas with Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, and Panama. The FTA with Costa Rica does not require national treatment for trade in natural gas.

AES states that it serves as the U.S. supply source for a select group of small co-generation power plants that supply industrial and commercial customers in Honduras. AES states that its planned operations will serve to supply LNG to the co-generation facilities as a new source of fuel. According to AES, the LNG will be used in place of higher cost products, such as heavy fuel oil, that are currently used as the primary fuel source for the power plants. AES states that its business model will grow organically within this group of power plants, as well as in FTA countries in Central America and the Caribbean.

AES states that a contract currently is under development for AES to purchase LNG from BP Energy Company (BP) at the planned Floridian Natural Gas Storage Company, LLC (Floridian) facilities in Martin County, Florida. According to AES, the Floridian facility is not yet constructed, but it has been approved by the Federal Energy Regulatory Commission (FERC) and is planned to be operational by the end of 2015.[3] AES states that BP will own firm capacity for the liquefaction, storage, and truck loading of LNG at the Floridian facility and will sell LNG at the outlet of the Floridian facility to firms such as AES.

AES states that the Floridian facility is authorized by FERC to construct full containment storage tank capacity up to an amount of 8 Bcf, as well as a liquidation system with liquefaction capacity of 25 million cubic feet per day (MMcf/d) from each of four side-by-side liquefaction trains for a total of 100 MMcf/d of natural gas liquefaction. AES further states that Floridian's train one send out capacity of truck loading as approved by FERC is 40 MMcf/d, the equivalent of up to 40 truck loads per day. AES further states that Floridian has received approval for a vaporization system with capacity of 800 MMcf/d of natural gas and a natural gas liquids storage

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[3] The Federal Energy Regulatory Commission (FERC) issued a Certificate of Public Convenience and Necessity to Floridian Natural Gas Storage Company, LLC on August 29, 2008, under FERC Docket No. CP08-13-000 for the construction, operation, and maintenance of a new LNG storage facility near Indiantown in Martin County, Florida. The CPCN was amended on August 31, 2012, under Docket No. CP12-100-1000.

system that can store up to 240,000 gallons of heavy hydrocarbons that can be extracted from the pipeline delivered gas.

AES states that through its long-term LNG supply agreement that is in process with BP, natural gas will be made available from pipelines operated by Florida Gas Transmission Company and Gulfstream Natural Gas System prior to liquefaction at the Floridian facility. The source of natural gas supply proposed for export by AES is the United States natural gas market, which includes natural gas produced from shale deposits. AES further states that the Floridian facility will receive natural gas from FGT Zone 3 via the Gulfstream and Florida Gas pipelines. AES contends that the capacity available to service Floridian demand is in excess of 3.5 Bcf per day. AES contends that the financial stability of BP and Floridian ensures the viability of gas supply to the proposed facility, thus minimizing any interruptions in the supply chain that will provide AES's natural gas.

AES states that it will transport the LNG from the Floridian facility within the United States over highways and/or via rail, and will transport LNG to buyers in Central America and the Caribbean using approved ISO containers transported on ocean-going vessels. AES states that it will export the LNG to its customers from the Port of Palm Beach. AES specifies that the containers to be used for transportation within the United States will comply with all Association of American Railroads and U.S. Department of Transportation regulations. Additionally, AES states that third party transporters with which AES will contract to handle such transportation will comply with all hazardous material and cryogenic handling regulations and requirements, including employee training, in addition to obtaining any federal, state, and local permits for the transportation of LNG.

AES states that it will file all executed long-term agreements that allow AES to purchase LNG for loading in approved ISO containers for export via ocean-going vessels. AES further states that it will file all executed long-term LNG agreements in which AES supplies LNG to entities located in countries identified as FTA countries in Central America and/or the Caribbean. AES notes that all such contracts will be filed within 30 days following their execution.

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.[4]

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

(3) The countries with which the United States has an FTA requiring national treatment for trade in natural gas currently are: Australia, Bahrain, Canada, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Republic of Korea, and Singapore.

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[4] DOE further finds that the requirement for public notice of applications and other hearing-type procedures in 10 C.F.R. 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.

(4) Section 590.202(b) of DOE's regulations require applicants to supply transaction specific factual information "to the extent practicable."[5] Additionally, DOE regulations at 10 C.F.R. § 590.202(e) allow confidential treatment of the information supplied in support of or in opposition to an application if the submitting party requests such treatment, shows why the information should be exempted from public disclosure, and DOE determines it will be afforded confidential treatment in accordance with 10 C.F.R. § 1004.11.[6]

(5) DOE/FE will require AES to file any long-term contracts AES enters into providing for the long-term export of LNG from the Floridian facility. DOE/FE finds that the submission of these contracts within 30 days of their execution using the procedures described below will be consistent with the "to the extent practicable" requirement of section 590.202(b).

(6) In addition, DOE/FE finds that section 590.202(c) of DOE/FE's regulations[7] requires that AES file all long-term contracts associated with the long-term supply of natural gas to the Floridian facility within 30 days of their execution.

(7) DOE/FE recognizes that some information in AES's long-term commercial agreements associated with the export of LNG, and/or long-term contracts associated with the long-term supply of natural gas to the Floridian facility may be commercially sensitive. DOE/FE therefore will provide AES the option to file either unredacted contracts, or in the alternative: (A) AES may file long-term contracts under seal, but it also will file either: i) a copy of each long-term contract with commercially sensitive information redacted, or ii) a summary of all major provisions of the contract(s) including, but not limited to, the parties to each contract, contract term, quantity, any take or pay or equivalent provisions/conditions, destinations, re-sale

[5] 10 C.F.R. § 590.202(b).
[6] *Id.* § 590.202(e).
[7] *Id.* § 590.202(c).

provisions, and other relevant provisions; and (B) the filing must demonstrate why the redacted information should be exempted from public disclosure.

ORDER

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

A. AES is authorized to export domestically produced LNG up to the equivalent of 8 Bcf/yr of natural gas for a 25-year term, beginning on the earlier of the date of first export or 4 years from the date the authorization is issued (November 14, 2017), pursuant to long-term contracts (greater than two years) that do not exceed the term of this authorization. This LNG may be exported in approved ISO containers loaded at the planned Floridian LNG production facility to be located in Martin County, Florida.

B. This LNG may be exported from the Port of Palm Beach, Florida.

C. This LNG may be exported to Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, and Panama, and to any country in Central America or the Caribbean with which the United States subsequently enters into a FTA requiring the national treatment for trade in natural gas, provided that the destination country has the capacity to import LNG. FTA countries are currently identified by DOE/FE at: http://www.fossil.energy.gov/programs/gasregulation/index.html.

D. AES shall ensure that all transactions authorized by this Order are permitted and lawful under U.S. laws and policies, including the rules, regulations, orders, policies, and other determinations of the Office of Foreign Assets Control of the United States Department of the Treasury. Failure to comply with this requirement could result in rescission of this authorization and/or other civil or criminal remedies.

E. AES shall file with the Office of Oil and Gas Global Security and Supply all executed long-term contracts associated with the long-term export of LNG pursuant to this Order. AES shall file a non-redacted copy of each contract, for public posting. Alternatively, AES shall file both a non-redacted copy of the contract filed under seal and either: i) a redacted version of the contract, or ii) major provisions of the contract, for public posting, within 30 days of their execution. Applying the same procedures, AES also shall file with the Office of Oil and Gas Global Security and Supply all executed long-term contracts associated with the long-term supply of natural gas to the Floridian facility pursuant to this Order. AES shall file a non-redacted copy of the contract for public posting. Alternatively, AES shall file both a non-redacted copy of the contract under seal, and either: i) a redacted version of the contract, or ii) major provisions of the contract, for public posting within 30 days of their execution. In these filings, AES shall show why the redacted or non-disclosed information should be exempted from public disclosure.

F. AES shall include the following provision in any agreement or other 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 identified in Ordering Paragraph C of DOE/FE Order No. 3360, issued November 14, 2013, in FE Docket No. 13-104-LNG, 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 AES 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 AES is made aware of all such actual destination countries."

J. Within two weeks after the first export of domestically produced LNG occurs pursuant to this Order, AES shall provide written notification of the date that the first export of LNG authorized in Ordering Paragraph A above occurred.

L. Prior to any change in control of the authorization holder, AES must obtain the approval of the Assistant Secretary for Fossil Energy. For purposes of this Ordering Paragraph, a "change of control" shall include any change, directly or indirectly, of the power to direct the management or policies of AES, whether such power is exercised through one or more intermediary companies or pursuant to an agreement, written or oral, and whether such power is established through ownership or voting of securities, or common directors, officers, or stockholders, or voting trusts, holding trusts, or debt holdings, or contract, or any other direct or indirect means.

M. Monthly Reports: With respect to the LNG exports authorized by this Order, AES shall file with the Office of Oil and Gas Global Security and Supply, 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(s) of the authorized exporter registered with DOE/FE; (2) the name of the U.S. export port terminal; (3) the name of the ocean going vessel; (4) the date of departure from the U.S. export port or terminal; (5) the country (or countries) of destination into which the exported LNG was actually delivered; (6) the name of the supplier/seller; (7) the delivered volume in Mcf; (8) the price at point of export in U.S. dollars per million British thermal units

(MMBtu); (9) the name and location (city, state) of the facility where the ISO container is loaded with LNG; (10) the mode(s) of transport used to move the loaded ISO container from the loading facility to the export port or terminal; (11) the duration of the supply agreement (indicate spot sales); and (12) the name(s) of the purchaser(s).

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

N. All monthly report filings shall be made to U.S. Department of Energy (FE-34), Office of Fossil Energy, Office of Oil and Gas Global Security and Supply, P.O. Box 44375, Washington, D.C. 20026-4375, Attention: Natural Gas Reports. Alternatively, reports may be e-mailed to ngreports@hq.doe.gov, or may be faxed to Natural Gas Reports at (202) 586-6050.

Issued in Washington, D.C., on November 14, 2013.

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