

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

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SABINE PASS LIQUEFACTION, LLC)	FE DOCKET NO. 13-30-LNG
)	FE DOCKET NO. 13-42-LNG
)	FE DOCKET NO. 13-121-LNG
_____)	(Consolidated)

ORDER GRANTING WITHDRAWAL
OF FILING AND REQUEST
FOR CLARIFICATION

DOE/FE ORDER NOS. 3306-A,
3307-A, 3384-A, AND 3669-B

OCTOBER 31, 2017

I. DESCRIPTION OF REQUEST

On June 3, 2016, Sabine Pass Liquefaction, LLC (SPL or Sabine Pass) submitted a filing to the Department of Energy’s Office of Fossil Energy (DOE/FE)¹ in the above-captioned consolidated dockets (FE Docket Nos. 13-30-LNG, 13-42-LNG and 13-121-LNG) entitled, “Withdrawal of Filing and Request for Clarification” (Request).² In the Request, SPL seeks to withdraw a pending request, filed in the same dockets on September 15, 2015,³ to amend and consolidate SPL’s existing authorizations to export liquefied natural gas (LNG). Additionally, SPL requests that DOE/FE clarify that SPL’s export authorizations in the consolidated dockets “may be utilized in conjunction with any SPA [sale and purchase agreement] ... so long as the volume and term of the SPA(s) [are] consistent with the scope of the authorizations”⁴ For the reasons discussed below, DOE/FE grants SPL’s Request in both respects.

II. BACKGROUND

Between February and September 2013, SPL filed three export applications (collectively, Applications) with DOE/FE in the consolidated dockets (FE Docket Nos. 13-30-LNG, 13-42-LNG, and 13-121-LNG), respectively. The Applications requested long-term authorization under section 3 of the Natural Gas Act (NGA) to export domestically produced LNG by vessel to both: (i) nations with which the United States has entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (FTA countries); and (ii) any other country with which trade is not prohibited

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 Redeleation Order No. 00-006.02F issued on November 17, 2014.

² Sabine Pass Liquefaction, LLC, Withdrawal of Filing and Request for Clarification, FE Docket Nos. 13-30-LNG, 13-42-LNG, and 13-121-LNG (June 3, 2016).

³ Sabine Pass Liquefaction, LLC, Request for Consolidated LNG Export Authorization, FE Docket Nos. 13-30-LNG, 13-42-LNG, and 13-121-LNG (Sept. 23, 2015).

⁴ SPL Request at 2.

by U.S. law or policy (non-FTA countries). The requested exports would originate from the existing Sabine Pass LNG import, storage, and vaporization terminal located in Cameron Parish, Louisiana (Sabine Pass LNG Terminal)—and specifically from Trains 5 and 6 to be constructed at the Terminal, which constitute SPL’s “Liquefaction Expansion Project.”⁵

The Applications collectively requested authority to export LNG in a total volume equivalent to 503.3 billion cubic feet per year (Bcf/yr) of natural gas. SPL asked DOE/FE to allocate some of the total annual export volume among particular LNG SPAs, as described in more detail below.

First, in 2013 and 2014, DOE/FE granted the FTA portions of the Applications for Trains 5-6 in three separate export authorizations (DOE/FE Order Nos. 3306, 3307, and 3384), pursuant to NGA section 3(c), 15 U.S.C. § 717b(c).⁶ At SPL’s request, the exports of LNG under two of these FTA orders (DOE/FE Order No. 3306 and 3307) are tied to SPAs with Total Gas & Power North America, Inc. and Centrica plc (Centrica), respectively.⁷

Next, on June 26, 2015, DOE/FE granted the non-FTA portions of the Applications in a single export authorization in the consolidated dockets—Order No. 3669—issued pursuant to

⁵ SPL holds separate authorizations to export using Trains 1 through 4 at the Terminal. For a more complete description of the LNG export authorizations held by SPL, see *Sabine Pass Liquefaction, LLC*, Final Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Sabine Pass LNG Terminal Located in Cameron Parish, Louisiana, to Non-Free Trade Agreement Nations, DOE/FE Order No. 3669, FE Docket Nos. 13-30-LNG, 13-42-LNG, 13-121-LNG (consolidated), § IV.B (June 26, 2015).

⁶ *Sabine Pass Liquefaction, LLC*, Order Granting Authorization to Export Liquefied Natural Gas by Vessel Pursuant to the Long-Term Contract with Total Gas & Power North America, Inc. from the Sabine Pass LNG Terminal to Free Trade Agreement Nations, DOE/FE Order No. 3306, FE Docket No. 13-30-LNG (Jul. 11, 2013) (Total FTA Order); *Sabine Pass Liquefaction, LLC*, Order Granting Authorization to Export Liquefied Natural Gas by Vessel Pursuant to the Long-Term Contract with Centrica plc from the Sabine Pass LNG Terminal to Free Trade Agreement Nations, DOE/FE Order No. 3307, FE Docket No. 13-42-LNG (Jul. 12, 2013) (Centrica FTA Order); *Sabine Pass Liquefaction, LLC*, Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Sabine Pass LNG Terminal to Free Trade Agreement Nations, DOE/FE Order No. 3384, FE Docket No. 13-121-LNG (Jan. 22, 2014), Errata Notice (Feb. 24, 2015) (collectively, the FTA Orders).

⁷ See *id.*

NGA section 3(a), 15 U.S.C. § 717b(a).⁸ DOE/FE authorized SPL to export LNG to non-FTA countries in a combined total volume of 503.3 Bcf/yr of natural gas for a term of 20 years. At SPL's request, SPL was authorized to export the LNG in the following allocation pursuant to one or more long-term contracts:

- (i) Up to 101 Bcf/yr of natural gas, pursuant to its SPA with Total Gas & Power North America, Inc.;
- (ii) Up to 88.3 Bcf/yr of natural gas, pursuant to its SPA with Centrica plc; and
- (iii) Up to 314 Bcf/yr of natural gas from Trains 5 and 6, which SPL is authorized to export on its own behalf and as agent for other entities who hold title to the natural gas.

The volumes of LNG authorized for export in SPL's three FTA orders for Trains 5-6 (DOE/FE Order Nos. 3306, 3307, or 3384) are not additive to the volume authorized in the non-FTA order, Order No. 3669. Additionally, at SPL's request, DOE/FE authorized SPL to export the volumes of LNG under the two SPAs from *any* of the Terminal's LNG Trains 1-6, subject to applicable DOE/FE authorizations and the terms of those SPAs.⁹

SPL refers to the three FTA authorizations (DOE/FE Order Nos. 3306, 3307, and 3384) together with the single non-FTA authorization (DOE/FE Order No. 3669) in the consolidated dockets (FE Docket Nos. 13-30-LNG, 13-42-LNG, and 13-121-LNG) as the "Stage 3 Orders."¹⁰

Subsequently, on September 23, 2015, Sabine Pass filed a "Request for Consolidated LNG Export Authorization" (*supra* note 3), in which it asked DOE to amend and consolidate the Stage 3 Orders into a single authorization, such that SPL could export the total authorized volume of LNG (503.3 Bcf/yr) without reference to the exports occurring under the terms of a particular SPA referenced in any of the Stage 3 Orders.

⁸ *Sabine Pass*, DOE/FE Order No. 3669, *supra* note 5. On May 26, 2016, in DOE/FE Order No. 3669-A, DOE/FE denied Sierra Club's request for rehearing of Order No. 3669.

⁹ See DOE/FE Order 3669, at 220-221 at § XIII (Terms and Conditions, Paras. H and I).

¹⁰ SPL Request at 1 n.2.

On June 3, 2016, before DOE had acted on SPL's September 15, 2015 request, SPL submitted the current Request, entitled "Withdrawal of Filing and Request for Clarification" (*supra* note 2). As noted above, SPL now seeks to withdraw its September 23, 2015 Request for Consolidated LNG Export Authorization. Additionally, SPL requests that DOE/FE clarify that the Stage 3 Orders may be used in conjunction with any SPA filed in the above-captioned consolidated dockets, so long as the volume and term of the SPA(s) are consistent with the scope of the authorizations granted by the Stage 3 Orders.¹¹

III. DISCUSSION AND CONCLUSIONS

A. Withdrawal of September 23, 2015 Request

As discussed above, SPL has asked to withdraw its Request for Consolidated LNG Export Authorization, dated September 23, 2015. SPL has complied with the service requirements contained in DOE/FE regulations, and no party has objected to SPL's withdrawal request. Accordingly, we grant SPL's request to withdraw its September 23, 2015 filing.

B. Clarification of DOE/FE Order No. 3669

SPL has requested that DOE/FE clarify that "the export authorizations granted in the Stage 3 Orders [DOE/FE Order Nos. 3306, 3307, 3384, and 3669] are not contingent on exports occurring solely in accordance with the terms of the particular SPAs referenced in the Stage 3 Orders."¹² Thus, if this request is granted, exports of LNG under the Stage 3 Orders would not be customer specific, such that any of the export authorizations could be utilized in conjunction with the existing SPA for Total Gas & Power North America, Inc. and/or Centrica, as well as any other SPAs filed with DOE/FE in the future—as long as the volume and term of any SPAs remain consistent with the scope of the Stage 3 Orders.

¹¹ See SPL Request at 2.

¹² *Id.*

SPL's request is comparable to its earlier request, approved in Order No. 3669 and referenced above (*see supra* at 3), for the flexibility to use any of the Terminal's Trains 1-6 when necessary to meet its delivery obligations under the Total Gas & Power North America, Inc. and Centrica SPAs. We permitted that flexibility in Order No. 3669 notwithstanding the fact that both the first Application (relating to the Total Gas & Power North America, Inc. SPA) and the second Application (relating to the Centrica SPA) were premised on exporting LNG from Train 5 alone.¹³ We saw no useful purpose in unnecessarily restricting SPL from conducting its business operations as it saw fit, when SPL was still bound by the volume limits and other terms and conditions of the authorizations issued to it.¹⁴ This approach is consistent, moreover, with DOE's established Policy Guidelines of minimizing governmental interference in the market except as necessary to carry out its statutory mandate under the Natural Gas Act.¹⁵

We find that the clarification sought in these proceedings likewise is lawful and practicable. The clarification will provide SPL with greater flexibility, without violating the export volume limitations and other terms and conditions of its authorizations. Additionally, it will provide SPL with flexibility in the event that the Total Gas & Power North America, Inc. or Centrica SPAs are replaced or supplemented by other contractual agreements. Finally, we note that no party has objected to SPL's request. For these reasons, we grant the requested clarification.

¹³ *See supra* note 9 (citing *Sabine Pass*, DOE/FE Order No. 3669 at 220-21).

¹⁴ *See id.*

¹⁵ New Policy Guidelines and Delegations Order Relating to Regulation of Imported Natural Gas, 49 Fed. Reg. 6684 (Feb. 22, 1984).

ORDER

Pursuant to Section 3 of the Natural Gas Act, it is ordered that:

A. Sabine Pass Liquefaction, LLC's (SPL) request to withdraw its Request for Consolidated LNG Export Authorization, dated September 23, 2015, is granted.

B. SPL's Request for Clarification, dated June 3, 2016, is granted. The export authorizations in SPL's Stage 3 Orders (DOE/FE Order Nos. 3306, 3307, 3384, and 3669) may be utilized in conjunction with any SPA filed (or to be filed) in the consolidated dockets (FE Docket Nos. 13-30-LNG, 13-42-LNG and 13-121-LNG), as long as the volume and term of the SPA(s) are consistent with the scope of the authorizations granted by the Stage 3 Orders.

C. The clarification issued in this Order does not alter the other terms and conditions of any of the Stage 3 Orders, including DOE/FE Order No. 3669-A (*see supra* note 8).

Issued in Washington, D.C., on October 31, 2017.



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