

**UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY**

In the Matter of:)
)
SEAONE GULFPORT, LLC) Docket No. 16-22-CGL
)

**PETITION OF SEAONE GULFPORT, LLC
FOR AGENCY ACTION IN CONFORMANCE WITH STATUTORY
REQUIREMENTS**

Section 3(a) of the NGA requires that the Department of Energy (“DOE”) Office of Fossil Energy (“DOE/FE) "shall issue" an order authorizing natural gas exports unless “after opportunity for hearing, it finds that the proposed exportation or importation will not be consistent with the public interest.” Notwithstanding DOE/FE’s statutory obligation, SeaOne Gulfport, LLC (“SeaOne”) has waited more than a year for DOE/FE to fulfill its statutory obligations regarding SeaOne’s application to expand its currently authorized exports to include non-Free Trade Agreement countries. SeaOne’s request does not increase its already authorized export volumes and places no new or different burden on the public interest, nor was any identified. Indeed, the only relevant comments received by DOE/FE establish that the public interest supports SeaOne’s request. DOE/FE’s failure to undertake its statutory obligation is wholly improper and SeaOne petitions DOE/FE to immediately act in conformance with its statutory obligation and grant SeaOne’s application.

I. BACKGROUND

On June 3, 2014, SeaOne applied to DOE/FE for long-term multi-contract authority to export natural gas contained in Compressed Gas Liquid (“CGL”) from its facility in Gulfport, Mississippi (“Initial Application”)(DOE/FE Docket No. 14-83-CGL). Prior to its submission SeaOne had several meetings with DOE/FE and staff of the Federal Energy Regulatory Commission regarding SeaOne’s positions that CGL was not “natural gas” within the meaning of

the Natural Gas Act and therefore not subject to the requirement to receive export authorization for the export of CGL. After failing to receive any assurance from DOE/FE regarding its position on the jurisdictional nature of CGL, out of an abundance of caution SeaOne filed the referenced Initial Application which asserted that CGL was not jurisdictional but also requested authorization for exports to countries with a Free Trade Agreement to the extent such authorization is mandated. On December 2, 2014, without specifically addressing the jurisdictional nature of CGL, DOE/FE issued DOE Order 3555 granting SeaOne authorization to export natural gas contained in CGL to Free Trade Agreement (“FTA”) countries.

Following receipt of DOE/FE authorization, SeaOne began development of the SeaOne facility in Gulfport Mississippi. As noted in its recently filed semiannual report, SeaOne has undertaken numerous development activities, including finalization of lease authorization at the Port of Gulfport, completion of front end engineering and design (FEED) for the entire project, negotiation of contracts with product pipeline owner/operators for delivery of hydrocarbons to the Gulfport facility, and negotiation of long and medium-term fuel services agreements (contracts) with customers in the Caribbean Basin, the Gulf of Mexico, and Columbia.

On September 18, 2015, SeaOne filed with DOE/FE an application to extend to non-free trade agreement (“NFTA”) countries the already authorized export natural gas contained in CGL. The application was docketed as 16-22-CGL (the “NFTA Application”). The application did not seek any additional volumetric exports above those already authorized: it only sought to allow export of those authorized volumes to both FTA and NFTA countries.

On June 17, 2016, the public comment period for 16-22-CGL closed. SeaOne’s application has received significant support, both domestically and internationally, and no comments were filed objecting to SeaOne’s application, the construction or design of the Gulfport Facility or the export of CGL in general. No third party intervened in the proceeding and no one, including DOE/FE, questioned SeaOne’s assertion that approval of 16-22-CGL will have no environmental impact.

On August 5, 2016, SeaOne submitted a motion for expedited approval, noting that the record in this proceeding is complete, and there are no material issues outstanding. SeaOne requested that DOE/FE grant the requested authorization no later than September 5, 2016. DOE/FE failed to rule on that motion.

II. DOE/FE IS STATUTORILY OBLIGATED TO GRANT THE APPLICATION

Section 3 of the Natural Gas Act requires that the DOE/FE to “shall issue such order upon application, unless, after opportunity for hearing, it finds that the proposed exportation or importation will not be consistent with the public interest.” Further, DOE/FE has held that “Section 3 creates a statutory presumption in favor of approval of an export application, and the Department must grant the requested export extension unless it determines the presumption is overcome by evidence in the record of the proceeding that the proposed export will not be consistent with the public interest.” *Phillips Alaska Natural Gas Corp.* DOE/FE Order No. 1473 (1999) at 13, *citing, Panhandle Producers and Royalty Owners Association v. ERA*, 822 F. 2d 1105, 1111 (D.C. Cir. 1987). The presumption has not been “overcome by evidence in the record” in this instance as there is no evidence in the record that the NFTA Application is not consistent with the public interest.

In establishing the presumption, DOE/FE made it clear that “[o]pponents of an application bear the burden of overcoming this presumption.” *Id.* No party to this proceeding, including DOE/FE staff, has raised any concern that SeaOne’s NFTA Application is “not . . . consistent with the public interest.” Indeed, as noted above, a number of filed comments suggest just the opposite, that the allowance of contracts for CGL to non-FTA countries is in the public interest (*see, e.g.*, SIDS DOCK comments in response to Federal Register Notice; letters from Senators Cochran and Wicker, Congressman Palazzo, Governor Bryant).

Under DOE/FE rules, the NFTA Application must be treated as unopposed. No party properly intervened in opposition to the NFTA Application proceeding. While DOE/FE has

indicated that negative comments were received from one individual, not only did that individual fail to intervene and fail to file comments as required by DOE/FE regulations, but also the comments do not address the export of CGL at all. Instead, the comments that DOE/FE filed in the NFTA Application docket actually relate to the export of Liquefied Natural Gas, a different product entirely. SeaOne has repeatedly and unequivocally established that CGL is not LNG, and assertion that DOE/FE has never challenged.

Finally, in DOE/FE Order No. 1473, DOE/FE found that “[t]his Order designates domestic need for the natural gas proposed to be exported as the only explicit criterion that must be considered in determining the public interest.” *Id.* at 14. As it relates to the NFTA Application, to the extent relevant at all, the domestic need for the natural gas proposed to be exported is a non-factor as the volume at issue has already been approved for export.

SeaOne believes that it has satisfied all the criteria for the issuance of the NFTA authorization and that any further delay in issuance of the requested authorization is statutorily prohibited. At this point, approval of the NFTA Application is nondiscretionary and DOE/FE staff cannot properly recommend any other action. Accordingly, SeaOne respectfully requests that DOE issue the requested authorization immediately in conformity with its obligations.

Respectfully submitted this 7th day of October, 2016,



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