



Department of Energy
Washington, DC 20585

May 6, 2016

Lisa Tonery
Charles R. Scott
Norton Rose Fulbright
666 Fifth Avenue, 31st Floor
New York, NY 10103-3198

RE: Description of Recent Equity Ownership Change

Cheniere Marketing, LLC &
Corpus Christi Liquefaction, LLC, FE Docket No. 12-97-LNG
Cheniere Marketing, LLC &
Corpus Christi Liquefaction, LLC, FE Docket No. 12-99-LNG
Cheniere Marketing, LLC, FE Docket No. 14-31-LNG
Cheniere Marketing, LLC, FE Docket No. 14-186-NG
Corpus Christi Liquefaction, LLC, FE Docket No. 15-97-LNG
Sabine Pass Liquefaction, LLC, FE Docket No. 10-85-LNG
Sabine Pass Liquefaction, LLC, FE Docket No. 10-111-LNG
Sabine Pass Liquefaction, LLC, FE Docket No. 13-30-LNG
Sabine Pass Liquefaction, LLC, FE Docket No. 13-42-LNG
Sabine Pass Liquefaction, LLC, FE Docket No. 13-121-LNG
Sabine Pass Liquefaction, LLC, FE Docket No. 14-92-LNG
Sabine Pass Liquefaction, LLC, FE Docket No. 15-63-LNG
Sabine Pass Liquefaction, LLC, FE Docket No. 15-171-LNG

Dear Ms. Tonery and Mr. Scott:

This correspondence constitutes the response of the Office of Fossil Energy (FE) of the Department of Energy (DOE) to your letter dated January 15, 2016, in reference to the proceedings listed above. A copy of this letter will be posted to each of the listed proceedings and served on the parties to those proceedings.

I. DESCRIPTION OF REQUEST

On January 15, 2016, Cheniere Marketing, LLC (CMI), Corpus Christi Liquefaction, LLC (CCL), and Sabine Pass Liquefaction, LLC (SPL) jointly filed with DOE/FE a statement of updated equity ownership interests (Statement) regarding Cheniere Energy, Inc. (Cheniere), a



publicly-traded company. The Statement indicates that CMI, CCL, and SPL are wholly owned, directly or indirectly, by Cheniere. The Statement further describes changes in equity ownership of CMI, CCL, and SPL relating to interests beneficially owned by: (A) Carl Icahn-affiliated investment vehicles, together with Mr. Icahn individually, which represent in the aggregate, approximately 13.8% of Cheniere's issued and outstanding common stock; and (B) Seth Klarman-affiliated investment vehicles, together with Mr. Klarman individually, which represent approximately 15.01% of Cheniere's issued and outstanding common stock.

The Statement recognizes that the ownership interests acquired by the Icahn Companies and the Klarman Companies in Cheniere's common stock may trigger the 10% rebuttable presumption of a change in control¹ for CMI and CCL. However, the Statement asserts that the presumption is rebutted as to CMI and CCL because: (A) there has been no change in ownership of CMI or CCL, and one or both of them will remain the holder(s) of their respective authorizations; (B) there has been no change in operation or manner in which CMI and CCL are managed; and (C) the transactions described in the Statement did not grant the Icahn Companies or the Klarman Companies the power to direct the management or policies of CMI or CCL, or provide a veto right over other shareholders.

The Statement further asserts that these transactions of the Icahn Companies and the Klarman Companies do not trigger the 10% rebuttable presumption with respect to SPL because

¹ DOE/FE construes a change in control to mean a change, directly or indirectly, of the power to direct the management or policies of an entity 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. A rebuttable presumption that control exists will arise from the ownership or the power to vote, directly or indirectly, 10% or more of the voting securities of such entity. *See, e.g.,* U.S. Dep't of Energy, Procedures for Changes in Control Affecting Applications and Authorizations to Import or Export Natural Gas, 79 Fed. Reg. 65,641, 65,542 (Nov. 5, 2014) (applying 10 C.F.R. § 590.405) [hereinafter CIC Revised Procedures].

the indirect ownership stakes of the Icahn Companies and the Klarman Companies in SPL do not equate to 10% or more of the outstanding voting securities for SPL. Additionally, the Statement asserts that, even were DOE to determine that the 10% threshold had been reached, the presumption is rebutted because: (A) there has been no change in ownership of SPL and it will remain the holder of its current authorizations; (B) there has been no change in the operation or manner in which SPL is managed or the terms of its associated export operations; and (C) neither the Icahn Companies or the Klarman Companies have acquired the power to direct the management or policies of SPL or a veto right over other shareholders.

Based on the foregoing, the Statement asserts that, notwithstanding DOE/FE's procedures concerning the 10% rebuttable presumption, DOE/FE does not need to take further action pertaining to the updated equity ownership information.

II. BACKGROUND

Applicants. CMI is a limited liability company organized under the laws of Delaware, and a wholly-owned direct subsidiary of Cheniere. CCL is a limited liability company organized under the laws of Delaware, and a wholly-owned indirect subsidiary of Cheniere. SPL is a limited liability company organized under the laws of Delaware, and a wholly-owned indirect subsidiary of Cheniere Energy Partners, L.P. (CQP), a publicly-traded limited partnership that is, in turn, an indirect subsidiary of Cheniere.

Procedural History. As indicated above, CMI, CCL, and SPL jointly filed the Statement on January 15, 2016. DOE/FE published a notice of the filing in the Federal Register on April 13, 2016 (Notice),² and invited protests, motions to intervene, and written comments no later than April 28, 2016. In accordance with DOE/FE's CIC Revised Procedures for reviewing

² Cheniere Marketing, LLC & Corpus Christi Liquefaction, LLC, *et al.*, Notice of Change in Control, 81 Fed. Reg. 21,851 (April 13, 2016).

changes in control (*supra* at note 1), the Notice stated that the protests, motions to intervene, and written comments should only address the amendment of previously issued authorizations to export natural gas to nations with which the United States has not entered into a free-trade agreement requiring national treatment for trade in natural gas (non-FTA authorizations). The Statement identifies numerous DOE/FE proceedings in which CMI, CCL, and/or SPL have received non-FTA authorizations from DOE, as well as one proceeding (FE Docket No. 15-97-LNG) in which CCL's request for a long-term non-FTA export authorization remains pending. These non-FTA authorizations are listed in Appendix A to this letter.

Although the Notice indicated that responses would be received only with regard to non-FTA authorizations, the Statement submitted by CMI, CCL, and SPL included dockets in which DOE has issued long-term authorizations to export LNG to nations with which the United States has entered into a free-trade agreement requiring national treatment for trade in natural gas (FTA authorizations). These FTA authorizations are identified in Appendix B to this letter.

DOE/FE received no responses to the Federal Register notice and, consequently, the Statement is unopposed.

III. DISCUSSION AND CONCLUSIONS

A. Final Non-FTA Authorizations

The CIC Revised Procedures state that, with respect to existing non-FTA authorizations already issued by DOE, DOE will give effect to a change in control following notification of the change and will publish a notice of same in the Federal Register.³ If no interested person protests the change in control and DOE takes no action on its own motion, the change in control will be deemed granted 30 days after publication.⁴ Here, because no interested person protested

³ See CIC Revised Procedures, 79 Fed. Reg. at 65,542.

⁴ *Id.*

the changes described in the Statement, and more than 30 days have passed since publication of the Notice, the changes in control related to CMI's, CCL's, and SPL's existing non-FTA authorizations are deemed granted. For this reason, it is unnecessary for DOE/FE to opine on the questions raised by CMI, CCL, and SPL regarding whether the changes in equity ownership set forth in the Statement are subject to the CIC Revised Procedures.

B. Pending Non-FTA Authorization

The CIC Revised Procedures state that applicants may amend pending non-FTA export applications to reflect a change in control, but must serve notice of the change in control on other parties in the proceeding, as provided in 10 CF.R. § 590.107.⁵ DOE will give immediate effect to the amendment and will address any issues raised in the answers from other parties in its final order on the application. Additionally, DOE will accept and consider answers to any notice of amendment received within 15 days of service of the applicant's pleading.⁶ Here, we note that one of the proceedings identified in the Statement, FE Docket No. 15-97-LNG, involves a pending request by CCL for a non-FTA LNG export authorization. Pursuant to the CIC Revised Procedures, we will address the change in control in our final opinion and order issued in that proceeding.

C. FTA Authorizations

Pursuant to section 3(c) of the Natural Gas Act, 15 U.S.C. § 717(b)(c), FTA authorizations to export natural gas, including LNG, are presumed in the public interest and must be granted without modification or delay. As set forth in the CIC Revised Procedures, DOE

⁵ *Id.*

⁶ *Id.*

gave immediate effect to the changes in control relating to previously issued FTA authorizations upon receipt of the Statement, and will take no further action.⁷

Sincerely,

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, Office of Regulation and International
Engagement
Office of Oil and Natural Gas
Office of Fossil Energy

⁷ *Id.*

APPENDIX A

**Applications Submitted and Final Export Authorizations to Non-FTA Countries
Held by Cheniere Marketing, LLC, Corpus Christi Liquefaction, LLC, and/or
Sabine Pass Liquefaction, LLC as of January 15, 2016**

FE Docket No.	DOE/FE Order No.	Authorization Holder
10-111-LNG	2961-A	Sabine Pass Liquefaction, LLC
12-97-LNG	3638	Cheniere Marketing, LLC and Corpus Christi Liquefaction, LLC
13-30-LNG	3669	Sabine Pass Liquefaction, LLC
13-42-LNG	3669	Sabine Pass Liquefaction, LLC
13-121-LNG	3669	Sabine Pass Liquefaction, LLC
14-31-LNG	3442	Cheniere Marketing, LLC,
15-63-LNG	3792	Sabine Pass Liquefaction, LLC
15-171-LNG	3767	Sabine Pass Liquefaction, LLC
15-97-LNG	<i>Pending Action</i>	Corpus Christi Liquefaction, LLC

APPENDIX B

Export Authorizations to FTA Countries Held by Cheniere Marketing, LLC, Corpus Christi Liquefaction, LLC, and/or Sabine Pass Liquefaction, LLC as of January 15, 2016

FE Docket No.	DOE/FE Order No.	Authorization Holder
10-85-LNG	2833	Sabine Pass Liquefaction, LLC
12-99-LNG	3164-A	Cheniere Marketing, LLC and Corpus Christi Liquefaction, LLC
13-30-LNG	3306	Sabine Pass Liquefaction, LLC
13-42-LNG	3307	Sabine Pass Liquefaction, LLC
13-121-LNG	3384	Sabine Pass Liquefaction, LLC
14-31-LNG	3442	Cheniere Marketing, LLC,
14-92-LNG	3595	Sabine Pass Liquefaction, LLC
14-186-NG	3578	Cheniere Marketing, LLC,
15-97-LNG	3699	Corpus Christi Liquefaction, LLC
15-171-LNG	3767	Sabine Pass Liquefaction, LLC