

[6450-01-P]

DEPARTMENT OF ENERGY

[FE Docket No. 16-33-LNG]

American LNG Marketing, LLC; Application for Blanket Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations on a Short-Term Basis

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 March 8, 2016, by American LNG Marketing, LLC (American LNG), requesting blanket authorization to export liquefied natural gas (LNG) in an amount up to the equivalent of 6.04 billion cubic feet (Bcf) of natural gas on a cumulative basis over a two-year period commencing May 1, 2016. The LNG would be exported from a natural gas liquefaction facility located near Medley, Florida (Hialeah Facility) to any country with the capacity to import LNG in approved ISO IMO7/TVAC-ASME LNG (ISO) containers on container ships or roll-on/roll-off ocean-going carriers and with which trade is not prohibited by U.S. law or policy.

To date, American LNG has been granted, multi-contract authorizations for 20 year terms under DOE/FE Order Nos. 3601 and 3690 to export LNG in a volume equivalent to 3.02 Bcf per year of natural gas from the Hialeah Facility to any country with which the United States has a free trade agreement (FTA) requiring national treatment for trade in natural gas (FTA countries), and to any country with which the United States does not have a FTA requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy

(non-FTA countries).¹ The volumes authorized for export in Order Nos. 3601 and 3690 are not additive.

American LNG states that, in anticipation of the start of liquefaction operations at the Hialeah Facility, it requests this blanket authorization to engage in short-term exports of LNG produced if and when appropriate market opportunities arise. According to American LNG, the requested volume is not additive to the volume authorized in DOE/FE Order 3601 and 3690. American LNG seeks to export this LNG on its own behalf and as agent for other parties who will hold title to the LNG at the time of export. The Application was filed under section 3 of the Natural Gas Act (NGA). Additional details can be found in American LNG's Application, posted on the DOE/FE website at: <http://energy.gov/sites/prod/files/2016/04/f30/16-33-LNG.pdf>

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 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES:

Electronic Filing by email:

fergas@hq.doe.gov

Regular Mail

U.S. Department of Energy (FE-34)
Office of Regulation and International Engagement
Office of Fossil Energy
P.O. Box 44375
Washington, DC 20026-4375

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

¹ See App. at 3.

U.S. Department of Energy (FE-34)
Office of Regulation and International Engagement
Office of Fossil Energy
Forrestal Building, Room 3E-042
1000 Independence Avenue, SW.,
Washington, DC 20585

FOR FURTHER INFORMATION CONTACT:

Larine Moore or Ben Nussdorf
U.S. Department of Energy (FE-34)
Office of Regulation and International Engagement
Office of Fossil Energy
Forrestal Building, Room 3E-042
1000 Independence Avenue, SW.,
Washington, DC 20585
(202) 586-9478; (202) 586-7893

Edward Myers
U.S. Department of Energy (GC-76)
Office of the Assistant General Counsel for
Electricity and Fossil Energy
Forrestal Building
1000 Independence Avenue, SW.,
Washington, DC 20585
(202) 586-9793

SUPPLEMENTARY INFORMATION:

DOE/FE Evaluation

The Application will be reviewed pursuant to section 3 of the NGA, as amended, and the authority contained in DOE Delegation Order No. 00-002.00N (July 11, 2013) and DOE Redelelegation Order No. 00-006.02 (Nov. 17, 2014). In reviewing this Application, DOE will consider domestic need for the natural gas, as well as any other issues determined to be appropriate, including whether the arrangement is consistent with DOE's policy of promoting competition in the marketplace by allowing parties to freely negotiate their own commercial trade arrangements. As part of this analysis, DOE will consider the following two studies examining the cumulative impacts of exporting domestically produced LNG:

- *Effect of Increased Levels of Liquefied Natural Gas on U.S. Energy Markets*, conducted by the U.S. Energy Information Administration upon DOE's request (2014 EIA LNG Export Study);² and
- *The Macroeconomic Impact of Increasing U.S. LNG Exports*, conducted jointly by the Center for Energy Studies at Rice University's Baker Institute for Public Policy and Oxford Economics, on behalf of DOE (2015 LNG Export Study).³

Parties that may oppose this Application should comment in their responses on these issues and studies.

The National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.*, also requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. American LNG states that no changes to the Liquefaction Project facilities would be required for the short-term exports requested in the Application. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

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. Interested parties will be provided 30 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, or notices of intervention.

Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention. 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

² The 2014 EIA LNG Export Study, published on Oct. 29, 2014, is available at: <https://www.eia.gov/analysis/requests/fe/>.

³ The 2015 LNG Export Study, dated Oct. 29, 2015, is available at: http://energy.gov/sites/prod/files/2015/12/f27/20151113_macro_impact_of_lng_exports_0.pdf.

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 CFR 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. 16-33-LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office of Regulation and International Engagement at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Regulation and International Engagement at the address listed in **ADDRESSES**. All filings must include a reference to FE Docket No. 16-33-LNG. 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. 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 CFR 590.316.

The Application is available for inspection and copying in the Office of Regulation and International Engagement docket room, Room 3E-042, 1000 Independence Avenue, SW., 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 May 13, 2016.

A handwritten signature in black ink, appearing to read "John A. Anderson". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

John A. Anderson
Director, Office of Regulation and International Engagement
Office of Oil and Natural Gas

RECEIVED

By DOE/FE at 12:56 pm, Mar 08, 2016

March 7, 2016

VIA HAND DELIVERY

Mr. John A. Anderson
Office of Fossil Energy
U.S. Department of Energy
Docket Room 3F-056, FE-50
Forrestal Building
1000 Independence Avenue, S.W.
Washington, DC 20585

RE: *American LNG Marketing LLC*, Docket No. 16- 33 - LNG
Application for Blanket Authorization to Export Liquefied Natural Gas

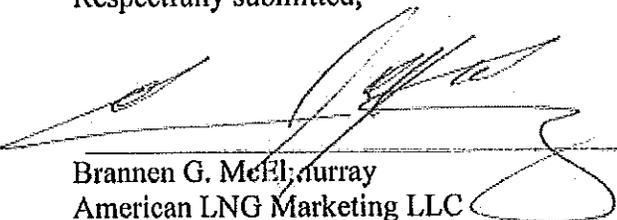
Dear Mr. Anderson:

American LNG Marketing LLC ("American LNG") seeks authorization for itself or as agent for others under Section 3 of the Natural Gas Act to export up to 6.04 billion cubic feet of natural gas per year as liquefied natural gas ("LNG") from domestic resources over a two-year period beginning on May 1, 2016. American LNG is seeking authority to export LNG (1) to any country with which the United States has, or in the future may enter into, a free trade agreement requiring national treatment for trade in natural gas and (2) to any country with which the United States does not have a free trade agreement requiring national treatment for trade in natural gas, which currently has or in the future develops the capacity to import LNG and with which trade is not prohibited by United States law or policy.

American LNG's application is subject to a categorical exclusion from an environmental review. As such, American LNG requests that the Office of Fossil Energy promptly issue the requested authorizations pursuant to the revised procedures for processing export applications.

Enclosed is a check in the amount of \$50.00 in payment of the applicable filing fee pursuant to 10 C.F.R. § 590.207. Please contact the undersigned at (212) 515-4644 if you have any questions regarding this filing.

Respectfully submitted,



Brannen G. McElmurray
American LNG Marketing LLC
1345 Avenue of the Americas
New York, New York 10105

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

In The Matter Of:

American LNG Marketing LLC

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Docket No. 16-__-LNG

**APPLICATION OF AMERICAN LNG MARKETING LLC
FOR BLANKET AUTHORIZATION TO EXPORT LIQUEFIED NATURAL GAS**

Pursuant to Section 3 of the Natural Gas Act (“NGA”),¹ and Part 590 of the Department of Energy’s (“DOE”) regulations,² American LNG Marketing LLC (“American LNG”) hereby requests that DOE, Office of Fossil Energy (“DOE/FE”) issue an order granting blanket authorization for American LNG to engage in short-term exports of liquefied natural gas (“LNG”), from a natural gas liquefaction facility located near Medley, Florida (“Hialeah Facility”). American LNG is herein seeking authorization to export volumes in an amount up to 6.04 billion cubic feet (“Bcf”) cumulatively over a two-year period commencing on May 1, 2016 to any country with the capacity to import LNG via ocean-going carrier and with which trade is not prohibited by U.S. law or policy.

In support of its application, American LNG states as follows:

**I.
DESCRIPTION OF THE APPLICANT**

The exact legal name of the applicant is American LNG Marketing LLC, which is a limited liability company formed under the laws of Delaware with its principal place of business at 1345 Avenue of the Americas, New York, New York, 10105. American LNG is in the business of marketing liquefied natural gas in and outside the United States. American LNG is controlled by Fortress Equity Partners (A) LP (“FEP”), which is a limited partnership formed

¹ 15 U.S.C. § 717b (2012).
² 10 C.F.R. Part 590 (2015).

Pursuant to Section 590.103(b) of DOE's regulations,³ American LNG hereby certifies that the persons listed above and the undersigned are the duly authorized representatives of American LNG.

III. BACKGROUND

To date, DOE/FE has issued two final orders under NGA Section 3 authorizing American LNG to export LNG from the Hialeah Facility.⁴ In this regard, American LNG is currently authorized to export up to the equivalent of 3.02 Bcf per year of natural gas, for a twenty-year term, to Free Trade Agreement Nations and Non-Free Trade Agreement Nations. The Hialeah Facility was placed in limited service in January 2016, and the first export of LNG occurred on February 5, 2016.

IV. AUTHORIZATION REQUESTED

In anticipation of the start of commercial operations at the Hialeah Facility, American LNG is requesting blanket authorization to engage in short-term exports of LNG if and when appropriate market opportunities arise. American LNG requests such blanket authorization to export volumes in an amount up to 6.04 Bcf cumulatively over a two-year period commencing May 1, 2016 to any country with the capacity to import LNG via ocean-going carrier and with which trade is not prohibited by U.S. law or policy. The export volumes for which authorization is being sought are the same volumes authorized in the Export Orders. The volumes are not additive.

³ *Id.* § 590.103(b).

⁴ *American LNG Marketing LLC*, DOE/FE Order No. 3601, FE Docket No. 14-209-LNG (Mar. 18, 2015); *American LNG Marketing LLC*, DOE/FE Order No. 3690, FE Docket No. 14-209-LNG (Aug. 7, 2015) (collectively, the "Export Orders").

V.
PUBLIC INTEREST

A. Standard of Review

Under Section 3 of the NGA, DOE/FE must authorize exports to a foreign country unless there is a finding that such exports "will not be consistent with the public interest."⁶ Section 3 thus creates a statutory presumption in favor of approving this application, which opponents bear the burden of overcoming.⁷ Further, the public interest determination is guided by DOE Delegation Order No. 0204-111 (which provides that domestic need for natural gas is the principal factor to be considered when evaluating an export application) and by the Secretary's natural gas policy guidelines.⁸ As explained below, the blanket authorization to export on a short-term blanket basis meets the public interest standard and is consistent with Section 3 of the NGA and DOE/FE policy.

DOE/FE undertook an extensive public interest analysis of these same export volumes in granting American LNG's request for long-term multi contract export authorization from the Hialeah Facility.⁹ Granting the short-term blanket export authorization as requested herein would merely provide American LNG with enhanced flexibility to respond to market conditions.

B. There is No Domestic Need for the LNG to be Exported by American LNG

In granting recent applications for short-term blanket export authorization, DOE/FE has taken administrative notice of publicly-available natural gas supply and demand forecasts by the U.S. Energy Information Administration ("EIA") to conclude:

⁶ 15 U.S.C. 717b.

⁷ In *Panhandle Producers & Royalty Owners Ass'n v. ERA*, 822 F.2d 1105, 1111 (D.C. Cir. 1987), the court found that Section 3 of the NGA "requires an affirmative showing of inconsistency with the public interest to deny an application" and that a "presumption favoring . . . authorization . . . is completely consistent with, if not mandated by, the statutory directive." See also *Indep. Petroleum Ass'n v. ERA*, 870 F.2d 168, 172 (5th Cir. 1989); *Panhandle Producers and Royalty Owners Ass'n v. ERA*, 847 F.2d 1168, 1176 (5th Cir. 1988).

⁸ See *New Policy Guidelines and Delegation Orders From Secretary of Energy to Economic Regulatory Administration and Federal Energy Regulatory Commission Relating to the Regulation of Imported Natural Gas*, 49 Fed. Reg. 6,684 (Feb. 22, 1984).

⁹ See *Export Orders*, *supra*, note 4.

VII.
APPENDICES

The following appendices are attached hereto and incorporated by reference herein:

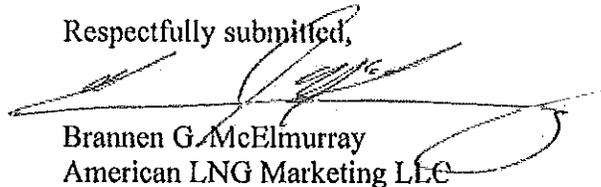
Appendix A: Verification
Appendix B: Opinion of Counsel

VIII.
CONCLUSION

WHEREFORE, for the reasons set forth above, American LNG respectfully requests that DOE/FE grant its request for blanket authorization, as discussed herein, to enable it to export LNG on a short-term basis in an amount up to 6.04 Bcf cumulatively over a two-year period commencing on May 1, 2016 from the Hialeah Facility to any country with the ability to import LNG via ocean-going carrier and with which trade is not prohibited by U.S. law or policy. American LNG respectfully requests that DOE/FE grant such authorization as expeditiously as possible but in any event no later than April 30, 2016.

As demonstrated herein, the authorization requested is not inconsistent with the public interest and, accordingly, should be granted pursuant to Section 3 of the NGA.

Respectfully submitted,



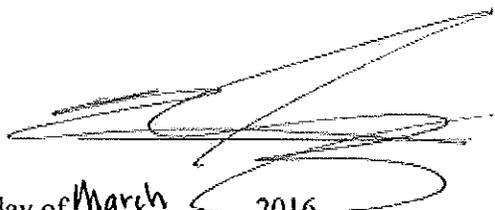
Brannen G. McElmurray
American LNG Marketing LLC
1345 Avenue of the Americas
New York, New York 10105
Dated: March 7, 2016

VERIFICATION

County of New York
State of New York

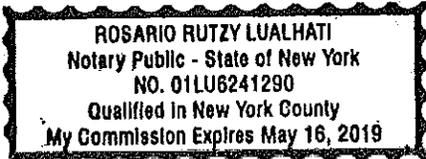
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BEFORE ME, the undersigned authority, Brannen G. McElmurray, on this day personally appeared, who, having been by me first duly sworn, on oath says that he is duly authorized to make this Verification on behalf of American LNG Marketing LLC; that he has read the foregoing instrument and that the facts therein stated are true and correct to the best of his knowledge, information and belief.



SWORN TO AND SUBSCRIBED before me on the 7th day of March, 2016.

Rosario Rutzy Lualhati
Notary Public



March 7, 2016

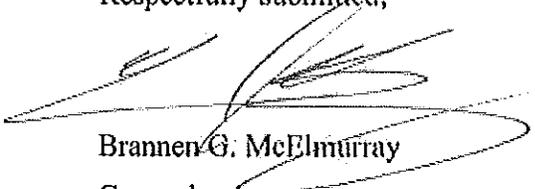
Office for Oil and Gas Global Security and Supply
U.S. Department of Energy, Office of Fossil Energy
FE-34
1000 Independence Avenue, S.W.
Washington, D.C. 20585

**Re: In the Matter of American LNG Marketing LLC
FE Docket No. 16___-LNG
Application for Blanket Authorization to Export Liquefied Natural Gas**

Dear Sir or Madam:

This opinion of counsel is submitted pursuant to Section 590.202(c) of the regulations of the U.S. Department of Energy, 10 C.F.R. § 590.202(c) (2014). The undersigned is counsel to American LNG Marketing LLC. I have reviewed the corporate documents of American LNG Marketing LLC and it is my opinion that the proposed export of natural gas as described in the application filed by American LNG Marketing LLC to which this Opinion of Counsel is attached as Appendix B, is within the limited liability company powers of American LNG Marketing LLC.

Respectfully submitted,



Brannen G. McElmurray

Counsel