

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

CHENIERE MARKETING, LLC)
_____)

FE DOCKET NO. 16-29-LNG

ORDER GRANTING BLANKET AUTHORIZATION
TO EXPORT PREVIOUSLY IMPORTED
LIQUEFIED NATURAL GAS BY VESSEL

DOE/FE ORDER NO. 3825

MAY 26, 2016

I. SUMMARY

Following an examination of the record evidence in this proceeding pursuant to the requirements of section 3 of the Natural Gas Act (NGA), 15 U.S.C. § 717b, as amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486); DOE's regulations, 10 C.F.R. Part 590; and applicable delegations and redelegations of authority,¹ the Office of Fossil Energy (FE) of the Department of Energy (DOE) is herein granting the application of Cheniere Marketing, LLC (CMI), filed on March 7, 2016 (Application).²

This authorization grants CMI's request to export liquefied natural gas (LNG) previously imported into the United States from foreign sources in a volume equivalent to approximately 500 billion cubic feet (Bcf) of natural gas on a cumulative basis. CMI is authorized to export this LNG by vessel from the Sabine Pass LNG Terminal facilities owned by Sabine Pass LNG, L.P., in Cameron Parish, Louisiana (Sabine Pass LNG Terminal), on a short-term or spot market basis for a two-year period commencing on June 7, 2016.³ CMI is authorized to export the LNG 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. CMI is further authorized to export this LNG on its own behalf and as agent for other entities who hold title at the time of export, after registering those entities with DOE/FE. This Order does not authorize CMI to export domestically produced LNG.

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. 00-006.02, issued on November 17, 2014.

² Cheniere Marketing, LLC, Application for Blanket Authorization to Export Liquefied Natural Gas on a Short-Term Basis, FE Docket No. 16-29-LNG (March 7, 2016) [hereinafter App.].

³ As discussed below, CMI's current blanket authorization to export LNG previously imported from foreign sources, granted in DOE/FE Order No. 3442 on June 6, 2014, extends through June 6, 2016. See *Cheniere Marketing, LLC*, DOE/FE Order No. 3442, FE Docket No. 14-31-LNG, Order Granting Blanket Authorization to Export Previously Imported Liquefied Natural Gas by Vessel (June 6, 2014).

II. BACKGROUND

Applicant. CMI is a Delaware limited liability company with its principal place of business in Houston, Texas. CMI is a wholly-owned subsidiary of Cheniere Energy, Inc. (Cheniere Energy). Cheniere Energy is a Delaware corporation with its primary place of business in Houston, Texas. Cheniere Energy is a developer of LNG import and export terminals and natural gas pipelines on the Gulf Coast, including the Sabine Pass LNG Terminal.

Procedural History. As noted above, DOE/FE previously issued Order No. 3442, in which it authorized CMI to export LNG previously imported from foreign sources in a volume equivalent to approximately 500 Bcf of natural gas on a cumulative basis over a two year period commencing on June 7, 2014, and extending through June 6, 2016.⁴ CMI was authorized to export this LNG by vessel from the Sabine Pass LNG Terminal 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.

Additionally, on January 8, 2015, DOE/FE issued Order No. 3578. Order No. 3578 granted CMI's request for several import and export authorizations, including authorization to import LNG from various international sources, up to a combined total volume equivalent to approximately 1,600 Bcf of natural gas for a two-year term commencing on January 29, 2015, and extending through January 28, 2017.⁵ Under the terms of the LNG import authorization, CMI may import the LNG by vessel to any LNG terminal in the United States and its territories.

On March 28, 2016, DOE/FE published a Notice of Application in this proceeding in the

⁴ See *supra* at 2 n.3.

⁵ *Cheniere Marketing, LLC*, DOE/FE Order No. 3685, FE Docket No. 15-102-LNG, Order Granting Blanket Authorization to Import Liquefied Natural Gas from Various International Sources by Vessel and to Export LNG to Canada and Mexico by Vessel (July 23, 2015).

Federal Register.⁶ The Notice of Application stated that comments, protests, motions and notices to intervene, and requests for additional procedures would be due no later than April 27, 2016.

DOE/FE received no filings in response to the Notice.

III. CURRENT APPLICATION

CMI requests authorization to export, on its own behalf and as agent for other entities, LNG previously imported into the United States from foreign sources in a volume equivalent to approximately 500 Bcf of natural gas on a cumulative basis beginning on June 7, 2016. CMI notes that it is not seeking authorization to export domestically-produced natural gas or LNG. CMI states that it plans to export the LNG from the Sabine Pass LNG Terminal to any country with the capacity to import the LNG via ocean-going carrier and with which trade is not prohibited by U.S. law or policy.

As discussed below, CMI proposes to export LNG that is surplus to the demands of U.S. markets during the period of the requested authorization. CMI asserts that no modifications to any existing facilities will be required to export the LNG from the Sabine Pass LNG Terminal. CMI further asserts that there are no other proceedings related to this Application currently pending before DOE.

Citing DOE/FE's findings in its prior blanket authorization (DOE/FE Order No. 3442) as well as findings in similar proceedings, CMI asserts that the proposed export of previously imported foreign-sourced LNG is consistent with section 3 of the NGA and with DOE/FE policy.

IV. DECISION

A. Standard of Review

⁶ Cheniere Marketing, LLC, Application for Blanket Authorization to Export Previously Imported Liquefied Natural Gas on a Short-Term Basis, 81 Fed. Reg. 17,161 (Mar 28, 2016).

Pursuant to the transfer of authorities under sections 301(b) and 402 of the DOE Organization Act, 42 U.S.C. § 7151(b) and 42 U.S.C. § 7172, DOE/FE is responsible for evaluating the instant application under section 3 of the NGA. Section 3(a) provides:

[N]o person shall export any natural gas from the United States to a foreign country or import any natural gas from a foreign country without first having secured an order of the [Secretary of Energy] authorizing it to do so. The [Secretary] shall issue such order upon application, unless after opportunity for hearing, [he] finds that the proposed exportation or importation will not be consistent with the public interest. The [Secretary] may by [the Secretary's] order grant such application, in whole or part, with such modification and upon such terms and conditions as the [Secretary] may find necessary or appropriate.

15 U.S.C. § 717b(a).

In evaluating an export application under this standard, DOE/FE applies the principles described in DOE Delegation Order No. 0204-111, which focus primarily on domestic need for the gas to be exported, as described in the Secretary's natural gas policy guidelines,⁷ and any other matters determined to be appropriate to a determination of the public interest. In addition, the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed decisions.

⁷ New Policy Guidelines and Delegations Order Relating to Regulation of Imported Natural Gas, 49 Fed. Reg. 6684 (Feb. 22, 1984).

B. Domestic Need

CMI's Application involves a request for authorization to export LNG that was previously imported into the United States from foreign sources. Exporting this proposed volume of LNG will not reduce the availability of domestically produced natural gas. On the other hand, exporting previously imported LNG could affect the domestic natural gas market because, for the requested two-year export period, the proposed exports will reduce the volume of natural gas potentially available for consumption within the United States.

DOE/FE has issued numerous blanket authorizations to export previously imported LNG in other proceedings.⁸ These orders were based, in part, on authoritative data indicating that United States consumers have access to substantial quantities of natural gas sufficient to meet domestic demand from other competitively-priced sources. Specifically, DOE takes administrative notice of an analysis prepared by the U.S. Energy Information Administration (EIA) in the *Annual Energy Outlook 2015*, released in April 2015, showing projected annual domestic dry natural gas production in 2020 of 28.82 trillion cubic feet (Tcf), with total natural gas consumption projected to be 26.14 Tcf in the same year.⁹

Inasmuch as domestic natural gas production levels are projected to reach an amount that well exceeds the amount of natural gas proposed for short-term export in CMI's Application, we find that United States consumers will continue to have access to substantial quantities of natural gas sufficient to meet domestic demand from multiple other sources at competitive prices without drawing on the LNG which CMI seeks to export.

⁸ See, e.g., *ConocoPhillips*, DOE/FE Order No. 3754, FE Docket No. 15-130-LNG, Order Granting Blanket Authorization to Export Previously Imported Liquefied Natural Gas by Vessel (December 16, 2015).

⁹ See *Annual Energy Outlook 2015*, at A-27 (Table A13), available at: [http://www.eia.gov/forecasts/aeo/pdf/0383\(2015\).pdf](http://www.eia.gov/forecasts/aeo/pdf/0383(2015).pdf).

C. Agency Rights

CMI requests authorization to export LNG on its own behalf and as agent for other entities who will hold title to the LNG at the time of export. DOE/FE previously addressed the issue of Agency Rights in DOE/FE Order No. 2913,¹⁰ which granted Freeport LNG's subsidiaries Freeport LNG Expansion, L.P., *et al.* (collectively, FLEX) authority to export LNG to FTA countries. In that order, DOE/FE approved a proposal by FLEX to register each LNG title holder for whom FLEX sought to export LNG as agent. DOE/FE found that this proposal was an acceptable alternative to the non-binding policy adopted by DOE/FE in *The Dow Chemical Company*,¹¹ which established that the title for all LNG authorized for export must be held by the authorization holder at the point of export. We find that the same policy considerations that supported DOE/FE's acceptance of the alternative registration proposal in DOE/FE Order No. 2913 apply here as well.

DOE/FE reiterated its policy on Agency Rights procedures in *Gulf Coast LNG Export, LLC*.¹² In *Gulf Coast*, DOE/FE confirmed that, in LNG export orders in which Agency Rights have been granted, DOE/FE shall require registration materials filed for, or by, an LNG titleholder (Registrant) to include the same company identification information and long-term contract information of the Registrant as if the Registrant had filed an application to export LNG on its own behalf.¹³

¹⁰ *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 2913, FE Docket No. 10-160-LNG, Order Granting Long-Term Authorization to Export Liquefied Natural Gas from Freeport LNG Terminal to Free Trade Nations (Feb. 10, 2011).

¹¹ *The Dow Chemical Company*, DOE/FE Order No. 2859, FE Docket No. 10-57-LNG, Order Granting Blanket Authorization to Export Liquefied Natural Gas, at 7-8 (Oct. 5, 2010), discussed in *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 2913, at 7-8.

¹² *Gulf Coast LNG Export, LLC*, DOE/FE Order No. 3163, FE Docket No. 12-05-LNG, Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas By Vessel from the Proposed Brownsville Terminal to Free Trade Agreement Nations (Oct. 16, 2012).

¹³ *See id.* at 7-8.

To ensure that the public interest is served, this authorization shall be conditioned to require that where CMI proposes to export LNG as agent for other entities who hold title to the LNG (Registrants), CMI must register with DOE/FE those entities on whose behalf it will export LNG in accordance with the procedures and requirements described herein.

D. Other Public Interest Considerations

Domestic need is the only explicit public interest consideration identified by DOE in Delegation Order No. 0204-111. However, consistent with DOE's Guidelines and DOE/FE precedent,¹⁴ DOE/FE considers the potential effects of proposed exports on other aspects of the public interest. In this proceeding, those considerations include environmental factors.

E. Environmental Review

NEPA requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. As noted above, CMI states that the proposed export of previously imported LNG would require no new construction or modifications to the Sabine Pass LNG Terminal. Under these circumstances, DOE's NEPA procedures provide for a categorical exclusion for which neither an environmental assessment (EA) nor an environmental impact statement (EIS) is required.¹⁵ Accordingly, DOE issued a Categorical Exclusion Determination, dated May 25, 2016, which found that CMI's proposed exports are categorically excluded from further NEPA review.¹⁶

¹⁴ *E.g.*, *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 2913, *supra* at 7 n.10.

¹⁵ See 10 C.F.R. § 1021.410 Appendix B to Subpart D of Part 1021, Categorical Exclusion B5.7 ("Approvals or disapprovals of new authorizations or amendments of existing authorizations to import or export natural gas under section 3 of the Natural Gas Act that involve minor operational changes (such as changes in natural gas throughput, transportation, and storage operations) but not new construction.").

¹⁶ U.S. Dep't of Energy Categorical Exclusion Determination, Cheniere Marketing, LLC, FE Docket No. 16-29-LNG (May 25, 2015).

F. Conclusion

After due consideration based on all facts and evidence of record, DOE/FE finds that a grant of the export application is not inconsistent with the public interest. In particular, the record shows that there is a sufficient supply of natural gas to satisfy domestic demand from multiple other sources at competitive prices without drawing on CMI's proposed exports during the two-year authorization period. Further, the proposed exports qualify for a categorical exclusion under NEPA, such that no EA or EIS will be required. DOE/FE therefore grants CMI's Application, as set forth below.

ORDER

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

A. CMI is authorized to export LNG previously imported from foreign sources in a volume equivalent to 500 Bcf of natural gas pursuant to transactions that have terms of no longer than two years. This authorization shall be effective for a two-year term beginning on June 7, 2016, and extending through June 6, 2018.

B. This LNG may be exported by vessel from the Sabine Pass LNG Terminal to any country with the capacity to import ocean-going LNG carriers and with which trade is not prohibited by U.S. law or policy.

C. CMI, or others for whom CMI acts as agent, shall include the following provision in any 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 with the capacity to import ocean-going LNG carriers and with which trade is not prohibited by U.S. law or policy, 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 Cheniere Marketing, LLC that identifies the country (or countries) into which the exported LNG was actually delivered and/or received for end use, and to include in any resale contract for such

LNG the necessary conditions to insure that Cheniere Marketing, LLC is made aware of all such countries.

D. As a condition of this authorization, CMI shall ensure that all persons required by this Order to register with DOE/FE have done so. Any failure by CMI to ensure that all such persons or entities are registered with DOE/FE shall be grounds for rescinding in whole or in part the authorization.

E. Registration materials shall include an acknowledgement and agreement by the Registrant to supply CMI with all information and copies of contracts necessary in order to permit CMI to register that person or entity with DOE/FE, including: (1) the Registrant's agreement to comply with this Order and all applicable requirements of DOE's regulations at 10 C.F.R. Part 590, including but not limited to destination restrictions; (2) the exact legal name of the registrant, state/location of incorporation/registration, primary place of doing business, and the registrant's ownership structure, including the ultimate parent entity if the Registrant is a subsidiary or affiliate of another entity; (3) the name, title, mailing address, e-mail address, and telephone number of a corporate officer or employee of the Registrant to whom inquiries may be directed; and (4) an acknowledgement and agreement by the Registrant to include the provision in Ordering Paragraph C in any contract for the sale or transfer of LNG exported pursuant to this Order.

F. Each registration submitted pursuant to this Order shall have current information on file with DOE/FE. Any changes in company name, contact information, or other relevant modifications, shall be filed with DOE/FE within 30 days of such change(s).

G. Monthly Reports: With respect to the export of LNG authorized by this Order, CMI shall file with the Office of Regulation and International Engagement, within 30 days following the last day of each calendar month, a report indicating whether exports of LNG have been made.

Monthly reports must be filed whether or not initial deliveries have begun. If no exports have been made, 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 terminal; (3) the name of the LNG tanker; (4) the date of departure from the U.S. export terminal; (5) the country (or countries) into which the LNG is actually delivered and/or received for end use; (6) the name of the supplier/seller; (7) the volume in Mcf; (8) the price at point of export per million British thermal units (MMBtu); (9) the duration of the supply agreement (indicate spot sales); and (10) the name(s) of the purchaser(s).

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

H. The first monthly report required by this Order is due not later than July 30, 2016, and should cover the reporting period from June 7, 2016, through June 30, 2016.

I. All monthly report filings shall be made to U.S. Department of Energy (FE-34), Office of Regulation and International Engagement, Office of Fossil Energy, 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 May 26, 2016.



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