

[6450-01-P]

DEPARTMENT OF ENERGY

[FE Docket No. 14-31-LNG]

Cheniere Marketing, LLC; Application for Blanket Authorization to Export Previously Imported Liquefied Natural Gas 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 7, 2014, by Cheniere Marketing, LLC (CMI), requesting blanket authorization 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 seeks authorization to export the LNG by vessel from the Sabine Pass LNG Terminal, owned by Sabine Pass LNG, L.P. and located in Cameron Parish, Louisiana, on a short-term or spot market basis for a two-year period commencing on June 1, 2014. CMI requests authorization 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 requests this authorization on its own behalf and as agent for other parties who hold title to the LNG at the time of export. The Application was filed under section 3 of the Natural Gas Act (NGA). 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 Oil and Gas Global Security and Supply
Office of Fossil Energy
P.O. Box 44375
Washington, DC 20026-4375

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

U.S. Department of Energy (FE-34)
Office of Oil and Gas Global Security and Supply
Office of Fossil Energy
Forrestal Building, Room 3E-042
1000 Independence Avenue, SW
Washington, DC 20585

FOR FURTHER INFORMATION CONTACT:

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Cassandra Bernstein
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SUPPLEMENTARY INFORMATION:

Background

Applicant. CMI states that it is a Delaware limited liability company with its principal place of business in Houston, Texas. CMI further states that it is a wholly-owned subsidiary of Cheniere Development, Inc., which in turn is a wholly-owned subsidiary of Cheniere Energy, Inc. Both Cheniere Development and Cheniere Energy are Delaware corporations with their primary place of business in Houston, Texas. According to CMI, Cheniere Energy is a developer of LNG import terminals and natural gas pipelines on the U.S. Gulf Coast, including the Sabine Pass LNG Terminal.

Procedural History. On June 7, 2012, DOE/FE issued Order No. 3102, in which it authorized CMI to export, on its own behalf or as agent for others, 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, 2012, and extending through June 6, 2014.¹ The Application subject to this Notice, if granted by DOE/FE, would renew that existing blanket authorization.

Additionally, on December 3, 2012, DOE/FE issued Order No. 3208, in which it authorized CMI (in relevant part) to import LNG from various international sources in a total volume equivalent to approximately 1,600 Bcf for a two-year term beginning on January 29, 2013, and extending through January 28, 2015.² Under the terms of this authorization, CMI may import the LNG by vessel to any LNG terminal in the United States and its territories.

Current Application

¹ *Cheniere Marketing, LLC*, DOE/FE Order No. 3102, Order Granting Blanket Authorization to Export Previously Imported Liquefied Natural Gas by Vessel (June 7, 2012).

² *Cheniere Marketing, LLC*, DOE/FE Order No. 3208, Order Granting Blanket Authorization to Import and Export Natural Gas from and to Canada and Mexico, to Import Liquefied Natural Gas from Various International Sources by Vessel, and to Export Liquefied Natural Gas to Canada and Mexico by Vessel and Truck (Dec. 3, 2013).

CMI seeks to export 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. 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. CMI requests this blanket authorization for a two-year period commencing on June 7, 2014—the day after its blanket authorization in DOE/FE Order No. 3102 expires.

CMI proposes to export LNG that is derived from its LNG importing activities and that resides in LNG storage tanks at the Sabine Pass LNG Terminal. CMI states that the LNG either will be re-exported or regasified for consumption in the domestic natural gas market, contingent on U.S. and global market price signals. CMI states that no physical modification to the Sabine Pass LNG Terminal will be required to accommodate the proposed exports. CMI further states that there are no other proceedings related to this Application currently pending before DOE or any other federal agency.

CMI seeks to export the requested LNG on its own behalf and as agent for third parties who hold title to the LNG at the time of export. CMI states that it will comply with all DOE/FE requirements for exporters and agents as set forth in recent DOE/FE orders, including registering each LNG title holder for whom CMI seeks to export as agent. CMI proposes that this registration include a written statement by the title holder acknowledging and agreeing to comply with all applicable requirements set forth in CMI's export authorization, and to include those requirements in any subsequent purchase or sale agreement entered into by that title holder.

Public Interest Considerations

CMI states that section 3 of the NGA creates a statutory presumption in favor of approval of its Application, which opponents bear the burden of overcoming.³ Citing DOE/FE policy on evaluating an export application,⁴ CMI contends that the proposed export of previously imported LNG is consistent with section 3 of the NGA.

In support of its assertion that the requested authorization is in the public interest, CMI cites its existing blanket authorization—DOE/FE Order No. 3102—in which DOE/FE authorized the export of the same volume of previously-imported, foreign-sourced LNG as sought here. CMI states that, in granting that authorization in 2012, DOE/FE determined that the record showed sufficient supply of natural gas to satisfy domestic demand from multiple other sources at competitive prices, without relying on the volumes of imported LNG that CMI would seek to export.⁵

CMI states that DOE/FE made a similar finding in November 2103, when it issued DOE/FE Order No. 3359 to ConocoPhillips Company. In that order, DOE/FE granted ConocoPhillips blanket authority to export LNG previously imported from foreign sources in a cumulative volume equivalent to approximately 500 Bcf of natural gas.⁶ CMI quotes DOE/FE's finding, "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 ConocoPhillips seeks to export."⁷

CMI states that, in DOE/FE Order 3359 (as well as in other blanket authorizations issued in recent years), DOE/FE authorized the export of previously imported LNG based in part on

³ See, e.g., *Panhandle Producers & Royalty Owners Ass'n v. ERA*, 822 F.2d 1105, 1111 (D.C. Cir. 1987).

⁴ New Policy Guidelines and Delegations Order Relating to Regulation of Imported Natural Gas, 49 Fed. Reg. 6684 (Feb. 22, 1984).

⁵ See *Cheniere Marketing, LLC*, DOE/FE Order No 3102, at 8.

⁶ *ConocoPhillips Company*, DOE/FE Order No. 3359, Order Granting Blanket Authorization to Export Previously Imported Liquefied Natural Gas by Vessel (Nov. 7, 2013) (granting authority to export LNG from the LNG terminal facilities on Quintana Island, Texas, owned by Freeport LNG Development, L.P.).

⁷ *Id.* at 7.

data compiled by the U.S. Energy Information Administration (EIA). CMI asserts that this data substantiates U.S. consumer access to ample volumes of natural gas to meet domestic demand from other competitively-priced sources. In Order No. 3359, for example, CMI states that DOE/FE took administrative notice that EIA's *Annual Energy Outlook 2013* (AEO 2013) showed annual domestic dry natural gas production increasing from 21.33 trillion cubic feet (Tcf) in 2010 to a projection of 26.61 Tcf by 2020—an annual increase of 5.28 Tcf.⁸ Consumption over the same period increased only by 2.54 Tcf annually. CMI cites DOE/FE's findings in these proceedings, in addition to EIA's more recent estimates in *Annual Energy Outlook 2014 Early Release Overview*,⁹ to support the conclusion that the foreign-sourced LNG proposed for export in this Application is not needed to meet domestic demand.

Finally, CMI states that the requested authorization would provide CMI with necessary flexibility to respond to changes in domestic and global markets for natural gas and LNG. Under its existing authorization in DOE/FE Order No. 3102, CMI has been able to avail itself of spot-market LNG import cargoes, which promotes the liquidity of supply available to the U.S. market. According to CMI, natural gas derived from the imported LNG will be available to supply local markets when conditions support it, which may moderate the volatility of U.S. gas prices. For these reasons, CMI states that the requested export authorization is consistent with the public interest.

Additional details can be found in CMI's Application, which is posted on the DOE/FE website at:

⁸ See *id.* at 6-7.

⁹ CMI states that, in December 2013, EIA issued its *Annual Energy Outlook 2014 Early Release Reference case*, in which EIA increased its forecast of cumulative dry natural gas production (from 2012 to 2040) by 11% from its forecast in AEO 2013.

http://www.fossil.energy.gov/programs/gasregulation/authorizations/2014_applications/14_31_1ng_howard_re-export.pdf

Environmental Impact

CMI states that the proposed export of previously-imported LNG would require no modifications to the Sabine Pass LNG Terminal. Therefore, CMI maintains that a grant of its Application would not constitute a federal action significantly affecting the human environment within the meaning of the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.*, nor would an environmental impact statement or environmental assessment be required.

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. 00-002.00L (April 29, 2011) and DOE Redelelegation Order No. 00-002.04F (July 11, 2013). In reviewing this LNG export application, DOE will consider domestic need for the 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 commercial parties to freely negotiate their own trade arrangements. Parties that may oppose this application should comment in their responses on these issues.

NEPA requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its NEPA 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. Any person wishing to become a party to the

proceeding must file a motion to intervene or notice of intervention, as applicable. 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 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 C.F.R. 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. 14-31-LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office of Oil and Gas Global Security and Supply at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Oil and Gas Global Supply at the address listed in **ADDRESSES**. All filings must include a reference to FE Docket No. 14-31-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. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file

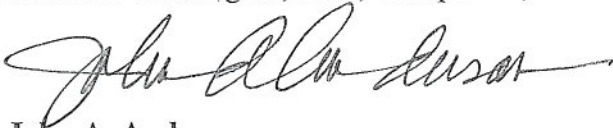
additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

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 C.F.R. § 590.316.

The Application is available for inspection and copying in the Division of Natural Gas Regulatory Activities docket room, Room 3E-042, 1000 Independence Avenue, S.W., 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 April 22, 2014.

A handwritten signature in black ink, appearing to read "John A. Anderson", with a stylized flourish at the end.

John A. Anderson
Director, Division of Natural Gas Regulatory Activities
Office of Oil and Gas Global Security and Supply
Office of Oil and Natural Gas