

RECEIVED

By Docket Room at 2:21 pm, Mar 22, 2022

**UNITED STATES OF AMERICA
BEFORE THE DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY AND CARBON MANAGEMENT**

In the Matter of

COVE POINT LNG, LP

)
)
)

FE Docket No. 22-22-LNG

**APPLICATION OF COVE POINT LNG, LP
FOR BLANKET AUTHORIZATION
TO EXPORT PREVIOUSLY IMPORTED LIQUEFIED NATURAL GAS
BY VESSEL FROM THE COVE POINT TERMINAL IN CALVERT COUNTY, MARYLAND**

George W. Flugrad
Senior Counsel
Eastern Gas Transmission and Storage, Inc.
6603 West Broad Street
Richmond, VA 23230
(804) 613-5206
George.Flugrad@bhegts.com

J. Patrick Nevins
Latham & Watkins LLP
555 11th Street, NW
Washington, D.C. 20004-1304
(202) 637-3363
patrick.nevins@lw.com

Counsel for
Cove Point LNG, LP

Filed: March 22, 2022

**UNITED STATES OF AMERICA
BEFORE THE DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY AND CARBON MANAGEMENT**

In the Matter of)	
)	FE Docket No. 22-22-LNG
COVE POINT LNG, LP)	

**APPLICATION OF COVE POINT LNG, LP
FOR BLANKET AUTHORIZATION
TO EXPORT PREVIOUSLY IMPORTED LIQUEFIED NATURAL GAS
BY VESSEL FROM THE COVE POINT TERMINAL IN CALVERT COUNTY, MARYLAND**

Pursuant to Section 3 of the Natural Gas Act (“NGA”) 1/ and Part 590 of the Department of Energy’s (“DOE”) regulations, 2/ Cove Point LNG, LP (“Cove Point”) hereby files this application (“Application”) with the Office of Fossil Energy and Carbon Management of the DOE (“DOE/FE”) for short-term, blanket authorization to export pursuant to transactions with terms of no longer than two years liquefied natural gas (“LNG”) that has been previously imported to the United States from foreign sources. Cove Point requests blanket authorization to export previously-imported LNG in volumes of up to the equivalent of 70 billion cubic feet (Bcf) of natural gas over a two-year period commencing upon issuance by vessel from its existing LNG import/export terminal in Calvert County, Maryland (the “Terminal”). Cove Point requests this new authorization to replace, in essence, its blanket authorization to export previously imported LNG issued in DOE/FE Order No. 4508 3 that expired on March 1, 2022. Cove Point respectfully requests that DOE/FE grant this application by July 1, 2022, so as to allow Cove Point the flexibility to provide exports of previously imported LNG under short-term transactions, if and when operationally, contractually, and economically desirable during this period of extraordinary global demand for natural gas.

1 15 U.S.C. § 717(b) (2012).

2 10 C.F.R. Part 590 (2021).

3 *Dominion Energy Cove Point LNG, LP*, DOE/FE Order No. 4508 (Feb. 28, 2020) issued in Docket No. 19-156-LNG. On November 23, 2020, Cove Point notified DOE/FE of the company’s name, resulting in the amendment of that blanket authorization (and of Cove Point’s other export authorizations) solely to reflect the new name in Order No. 4508-A (Dec. 2, 2020).

Cove Point requests the new blanket authorization solely for LNG previously imported by vessel at the Terminal from foreign sources because its long-term authorizations (as amended) now encompass short-term exports of domestically produced natural gas. Cove Point requests the new blanket authorization for short-term exports 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, whether or not the country has a Free Trade Agreement (FTA) with the United States requiring national treatment for trade in natural gas: in other words, for exports to both FTA and non-FTA countries. To be consistent with prior blanket authorizations, and in an effort to facilitate and expedite approval of this application, Cove Point commits that the volumes exported under the requested blanket authorization when added to volumes exported under Cove Point's existing long-term export authorizations will not exceed the quantities authorized by DOE/FE in the long-term authorizations. Cove Point requests this authorization both on its own behalf and when acting as agent on behalf of other entities who themselves hold title to the LNG, after registering each such entity with DOE/FE in accordance with the established procedures.

In support of this Application, Cove Point respectfully shows as follows:

I. DESCRIPTION OF THE APPLICANT

The exact legal name of Cove Point is Cove Point LNG, LP. Cove Point owns the Cove Point LNG Terminal in Calvert County, Maryland, as well as an 88-mile natural gas pipeline connecting the Terminal to the interstate pipeline grid. The Terminal has long been used to import LNG. Beginning in 2018, Cove Point began to export LNG from the Terminal, rendering it a bi-directional facility capable of both imports and exports of LNG depending on market conditions.

Cove Point is a limited partnership organized and existing under the laws of the State of Delaware with its principal place of business at 2100 Cove Point Road, Lusby, Maryland, 20657. Cove Point also has business offices located at 6603 West Broad Street, Richmond, Virginia, 23230.

The general partner of Cove Point is BHE GT&S LLC, a wholly-owned subsidiary of Berkshire Hathaway Energy Company ("BHE"), that also owns twenty-five percent (25%) of Cove Point's limited

partnership interests.⁴ A subsidiary of Dominion Energy, Inc. (“Dominion”) owns fifty percent (50%) of Cove Point’s limited partnership interests while the remaining twenty-five percent (25%) of the limited partnership interests is owned by Bowie Acquisitions LLC, an affiliate of Brookfield Asset Management Inc. (“Brookfield”), a global alternative asset manager.⁵ BHE GT&S is a limited liability corporation organized and existing under the laws of the State of Delaware with its principal place of business at 6603 West Broad Street, Richmond, Virginia, 23230. BHE GT&S is an interstate natural transmission and storage company operating more than 5,500 miles of transmission lines and over 750 Bcf of natural gas storage in the eastern United States, as well as LNG, gathering, processing, and field services businesses.

II. COMMUNICATIONS AND CORRESPONDENCE

The names, titles and mailing addresses of the persons to whom correspondence and communications concerning this Application, including service of all pleadings and notices, are to be addressed are:

George W. Flugrad
Senior Counsel
Eastern Gas Transmission and Storage, Inc.
6603 West Broad Street
Richmond, VA 23230
(804) 613-5206
George.Flugrad@bhegts.com

J. Patrick Nevins
Latham & Watkins LLP
555 11th Street, NW
Washington, D.C. 20004-1304
(202) 637-3363
patrick.nevins@lw.com

These individuals are designated to receive service and should be placed on the official service list for this proceeding.

⁴ BHE’s acquisition of the general partner and operating interest in Cove Point, as well as its 25% limited partnership interest, was explained in a “Notification In Accordance with Procedures for Changes in Control” filed with DOE/FE on July 9, 2020. DOE/FE responded to that notification, recognizing that the change in control was deemed granted when no protest was filed, in a letter dated Sept. 30, 2020.

⁵ The reduction of Dominion’s previous ownership interest in Cove Point, which resulted from the BHE acquisition, was explained in the July 9, 2020 notification referenced above. Brookfield’s ownership interest was explained in an earlier “Notification Regarding Planned Change in Indirect Ownership In Accordance with Procedures for Changes in Control” filed with DOE/FE on October 23, 2019. DOE/FE responded to that notification, recognizing that the change in control was deemed granted when no protest was filed, in a letter dated March 13, 2020.

III. BACKGROUND AND EXISTING AUTHORIZATIONS

The Federal Energy Regulatory Commission (FERC) in 2014 authorized Cove Point, pursuant to NGA Section 3, to site, construct, and operate its Liquefaction Project at the Terminal.⁶ The Liquefaction Project includes one liquefaction train with capacity to produce up to 5.75 million metric tonnes per annum (MTPA) of LNG, as well as other related facilities, as fully explained in the FERC orders. Cove Point exported LNG from the Terminal for the first time on March 2, 2018, and placed its Liquefaction Project fully in service on April 9, 2018.

In DOE/FE Order No. 3019, issued on October 7, 2011 in FE Docket No. 11-115-LNG, DOE/FE issued long-term, multi-contract authorization for Cove Point to export domestically produced LNG by vessel from the Terminal to countries with which the United States has, or in the future enters into, a FTA requiring national treatment for trade in natural gas (“FTA countries”) in a volume up to the equivalent of 365 Bcf of natural gas per year for a period of 25 years. In DOE/FE Order No. 3331, issued on September 11, 2013 in FE Docket No. 11-128-LNG, DOE/FE conditionally granted Cove Point long-term, multi-contract authority to export domestically produced LNG by vessel from the Terminal to nations with which the United States has not entered into such an FTA (“non-FTA countries”), conditioned on the satisfactory completion of the environmental review process for the Liquefaction Project that was then on-going in the FERC proceedings. Order No. 3331 authorized export of LNG to non-FTA countries in volumes equivalent to 281 Bcf of natural gas per year or approximately 5.75 MTPA, equivalent to the liquefaction capacity of the Liquefaction Project for a period of 20 years. The volumes authorized in Order No. 3019 and No. 3331 are *not* additive. In both orders, DOE/FE authorized Cove Point to export the LNG solely as agent for other entities that will hold title to the LNG pursuant to one or more long-term (greater than two year) contracts, after registering each such entity with DOE/FE.

⁶ *Dominion Cove Point LNG, LP*, 148 FERC ¶ 61,244 (2014), *reh’g denied*, 151 FERC ¶ 61,095 (2015), *petition for review denied sub nom. Earth Reports, Inc. v. FERC*, 828 F.3d 949 (D.C. Cir. 2016).

Following the FERC order authorizing the Liquefaction Project, with the environmental condition of Order No. 3331 having been satisfied, DOE/FE issued on May 7, 2015 its “Final Opinion and Order,” DE/FE Order No. 3331-A, authorizing Cove Point to export LNG to non-FTA countries. Order No. 3331-A authorizes Cove Point to export LNG up to the equivalent of 281 Bcf per year to non-FTA countries, while acting as an agent for others pursuant to long-term contracts, for a term of 20 years commencing on the earlier of the date of first commercial export or seven years from the date of order issuance. DOE/FE later denied a request for rehearing and affirmed its previous findings and conclusions in DOE/FE Order No. 3331-B, issued on April 16, 2016.

Following DOE/FE’s policy statement, “Extending Natural Gas Export Authorizations to Non-Free Trade Agreement Countries Through The Year 2050,” Cove Point requested that its long-term authorizations be extended by amendment. DOE/FE accordingly extended the term of Cove Point’s FTA and non-FTA long-term authorizations through December 31, 2050, in DOE/FE Order No. 3019-B and 3331-D issued in Docket Nos. 11-115-LNG and 11-128-LNG on October 21, 2020.⁷

In addition to the long-term export authorizations, Cove Point has also been issued, in sequence, two blanket export authorizations for transactions of no longer than two years. First, in DOE/FE Order No. 4046, issued on June 2, 2017 in FE Docket No. 16-205-LNG, Cove Point was authorized, on its own behalf or as an agent for others who hold title to the LNG, to export LNG equivalent to up to 250 Bcf of natural gas pursuant to transactions with terms of no longer than two years. That blanket authorization applied over the two-year period commencing with the first export of LNG from the Terminal, and authorized exports to both FTA and non-FTA nations and allowing for export of both domestically produced LNG and previously imported LNG. That blanket authorization expired on March 2, 2020, and was succeeded without interruption by an essentially identical blanket authorization – again for up to 250 Bcf over two years for both domestic and previously imported LNG – in DE/FE Order No. 4508 issued

⁷ The missing orders in the sequence, DOE/FE Order Nos. 3019-A and 3331-C, were amendments solely to reflect an earlier corporate name change issued on August 4, 2017.

on February 28, 2020, in Docket No. 19-156-LNG, for the two-year term extending through March 1, 2022. In both orders, the volumes of LNG authorized for export under the blanket authorization pursuant to transactions of no longer than two years were *not* additive to the volumes authorized under Cove Point's long-term export authorizations, meaning that they did not increase the total export volumes from the Terminal.

On December 18, 2020, DOE/FE issued a Policy Statement discontinuing its practice of issuing separate long-term and short-term authorizations for exports of natural gas from the same facility.⁸ Instead, long-term authorizations to export domestically produced natural gas now include additional authority to export the same approved volume pursuant to transactions with terms of less than two years on a non-additive basis. Concurrently with that Policy Statement, DOE/FE issued Order No. 4641, amending existing long-term authorizations, including those issued to Cove Point in Order Nos. 3019 and 3331 (as amended), to incorporate short-term exports.⁹ That order generally vacated, as no longer necessary, blanket authorizations issued to the holders of the long-term export authorizations; but vacated Cove Point's blanket authorization only in part, with the authorization remaining in effect with respect to the export of LNG previously imported from foreign sources.¹⁰

In addition to these export authorizations, Cove Point has a blanket authorization to import LNG from various international sources by vessel up to a total volume equivalent to 36 Bcf of natural gas over the two-year period ending February 28, 2023. *Cove Point LNG, LP*, DOE/FE Order No. 4642, in FE Docket No. 20-157-LNG (December 18, 2020). Cove Point's customers with contractual rights to import LNG at the Terminal also have their own import authorizations. Moreover, one of those import

8 "Including Short-Term Export Authority in Long-Term Authorizations for the Export of Natural Gas on a Non-Additive Basis," Policy Statement, 86 Fed. Reg. at 2,243 (Jan. 12, 2021), available at: https://www.energy.gov/sites/prod/files/2020/12/f82/ST%20Exports%20Policy%20Statement_0.pdf.

9 Order No. 4641 sets out the list of long-term FTA authorizations, including those of Cove Point, in its Appendix B for FTA authorizations and Appendix B for non-FTA authorizations.

10 Order No. 4641, Ordering Paragraph C. Appendix C of the Order lists the short-term authorizations vacated in their entirety while Appendix D shows the short-term authorizations (including Cove Point's) that were partially vacated.

customers, BP Energy Company (“BP”), has been granted its own blanket authorization to export previously imported LNG from the Cove Point Terminal in a volume equivalent to up to 30 Bcf of natural gas over a two-year period.¹¹ The BP authorization does not restrict, through volume limitations or otherwise, Cove Point’s own export authorization.¹²

IV. AUTHORIZATION REQUESTED

Cove Point respectfully requests blanket authorization that will allow it to export from its Terminal, pursuant to transactions with terms of no longer than two years, LNG that has been previously imported to the United States from foreign sources. Cove Point requests blanket authorization to export previously-imported LNG in volumes up to the equivalent of 70 Bcf natural gas in total over the two-year period commencing upon issuance of the authorization. The requested volume is less than the amount authorized in Cove Point’s recently expired blanket authorization issued in DOE/FE Order No. 4508, ¹³ as well as in its earlier blanket authorization, ¹⁴ because those authorizations also encompassed short-term exports of domestically produced LNG, which now is authorized instead by Cove Point’s long-term export authorizations.

Cove Point requests authorization to re-export this LNG to both (1) any country which has, or in the future develops, the capacity to import LNG via ocean-going carriers and with which the U.S. has, or in the future enters into, an FTA requiring the national treatment for trade in natural gas or is otherwise deemed by the United States as being treated as an FTA nation, and (2) any country with the capacity to import LNG via ocean-going carriers and with which the United States does not have such an FTA but

¹¹ *BP Energy Company*, DOE/FE Order No. 4628, issued on December 2, 2020 in FE Docket No. 20-102-LNG. A similar blanket export authorization to BP was issued on November 19, 2018 in DOE/FE Order No. 4302. The export authorization does not give BP any independent contractual right to export from the Terminal, which obviously depends on agreement with contractual terms with Cove Point.

¹² See DOE/FE Order No. 4628, Ordering Paragraph B.

¹³ DOE/FE Order No. 4508 (Feb. 28, 2020).

¹⁴ DOE/FE Order No. 4046 (June 2, 2017).

with which trade is not prohibited by United States law or policy. In other words, Cove Point seeks the blanket authorization for re-exports to both FTA countries and non-FTA countries.

While Cove Point expects that most LNG exported from the Terminal will be under long-term contracts and authorized under its long-term export authorizations,¹⁵ continuing authorization to allow other exports on a spot or short-term basis provides Cove Point increased flexibility to respond to market conditions and promote the maximum utilization of the Terminal. The long-term authorizations, as amended, now apply for short-term exports of domestically produced LNG, but not of previously imported LNG. For that purpose, the blanket authorization requested here is necessary to allow Cove Point's to provide exports of previously imported LNG under short-term transactions, if and when operationally, contractually, and economically desirable – just as it could pursuant to its prior blanket authorizations.

Cove Point generally operates its Terminal as a “tolling facility,” providing services to other customers that own the LNG. Therefore, Cove Point anticipates that it generally will act under the requested blanket authorization as agent for others that will hold title to the LNG at the time of export. To promote maximum flexibility, however, Cove Point requests the blanket authorization to re-export LNG apply both on its own behalf and when acting as agent for entities with which it would contract that hold title to the LNG at the time of export – just as in Cove Point's recently expired blanket authorization.¹⁶ Cove Point will comply fully with all applicable DOE/FE requirements when acting as an agent for others, as required in its existing export authorizations and further explained in the Freeport LNG Development, L.P. and Gulf Coast LNG Export LLC orders.¹⁷ Thus, when acting as an agent, Cove Point will register with DOE/FE each LNG title holder for which it seeks to export LNG as agent,

¹⁵ Cove Point has entered into long-term Terminal Use Agreements with two customers: ST Cove Point LLC and GAIL Global (USA) LNG, LLC. Cove Point has submitted its contracts with those export customers, and registered them with DOE/FE, in accordance with the requirements of its long-term export authorizations.

¹⁶ See DE/FE Order No. 4508, Finding No. 4.

¹⁷ *Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC*, FE Order No. 2913 (Feb. 10, 2011)(establishing the criteria for exports for agents subsequently adopted in a number of orders); *Gulf Coast LNG Export LLC*, DOE/FE Order No. 3163 at 7-8 (Oct. 16, 2012)(reiterating and explaining agency policy).

and will provide the DOE/FE a written statement by the title holder that acknowledges and agrees to (1) comply with all requirements in Cove Point's export authorization, and (2) include those requirements in any subsequent purchase or sale agreement entered into by the title holder.

The authorized export volumes for re-exports *ought* not need to be limited by the level of authorized long-term exports. The volume limitation in the long-term export authorization is based on the production capacity of the Liquefaction Project at that Terminal, which is irrelevant to volumes that have been previously imported from foreign sources. Notably, the long-term volume limitation does not apply to short-term re-exports from the Terminal pursuant to BP's blanket authorization, and the same should apply equally to re-exports for others. And exports of previously-imported LNG do not reduce in any way the availability of domestically produced natural gas. Furthermore, as explained in Section V below, incremental exports of additional U.S. LNG are in the public interest.

Notwithstanding these facts, Cove Point commits that (just as under its prior blanket authorizations) the volumes re-exported under the requested blanket authorization will not be additive to the authorized long-term volumes. Thus, the volume of short-term re-exports when added to the volumes exported under Cove Point's long-term export authorizations will not exceed the authorized, total long-term authorized exports of 365 Bcf to FTA countries and 281 Bcf to non-FTA countries during any consecutive 12-month period.

Cove Point proposes the application of this volume limitation to be consistent with prior blanket authorizations, and in an effort to facilitate and expedite the timely approval of this application. In particular, Cove Point respectfully requests that DOE/FE grant this application by July 1, 2022.

V. CONSISTENCY WITH THE PUBLIC INTEREST

Section 3(c) of the NGA, as amended by § 201 of the Energy Policy Act of 1992, requires that applications to authorize exports of natural gas, including LNG, to a nation with which there is in effect a FTA requiring national treatment for trade of natural gas be "deemed to be consistent with the public

interest” and “granted without modification or delay.” ¹⁸ In addition, DOE/FE has held that the statutory requirement for granting FTA applications without delay or modification overrides otherwise applicable regulatory requirements for public notice and other procedures set forth in 10 C.F.R. Part 590. Under this statutory structure, the portion of this Application that requests blanket authorization to re-export LNG from the Cove Point Terminal to FTA countries should be granted without modification or delay, consistent with DOE/FE’s established practice.

With respect to exports to non-FTA countries, Section 3(a) of the NGA,¹⁹ sets forth the following statutory standard:

[N]o person shall export 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 ²⁰] 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 in part, with such modification and upon such terms and conditions as the [Secretary] may find necessary or appropriate.

This statutory language creates a presumption that the proposed export of natural gas is in the public interest. DOE/FE has consistently held that it must grant export applications unless opponents of the application overcome this presumption by making an affirmative demonstration that the proposed export is inconsistent with the public interest. ²¹

¹⁸ 15 U.S.C. § 717b(c).

¹⁹ 15 U.S.C. 717b(a).

²⁰ The Secretary’s authority was established by the DOE Organization Act of 1977, which transferred jurisdiction over gas import and export authorizations from the Federal Power Commission.

²¹ E.g., *Philips Alaska Natural Gas Corp. and Marathon Oil Co.*, DOE/FE Order No. 1473 at 13 (April 2, 1999); *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 2961 at 28 (May 20, 2011); *Dominion Cove Point LNG, LP*, DOE/FE Order No. 3331 at page 7 (Sept. 11, 2013); *Dominion Cove Point LNG, LP*, DOE/FE Order No. 3331-B at 11 (April 18, 2016); *Venture Global Plaquemines LNG, LLC*, DOE/FE Order No. 4446 at 18-19 (Oct. 16, 2019); *Cheniere Marketing LLC and Corpus Christie Liquefaction, LLC*, DOE/FE Order No. 4799 at 26 (March 16, 2022)(hereinafter “*Cheniere Marketing 2022*”).

Furthermore, the Policy Guidelines developed by DOE/FE to implement NGA Section 3 (which are applicable to exports as well as imports 22) promote the free and open trade of natural gas. 23 The Policy Guidelines were “designed to establish natural gas trade on a market-competitive basis and to provide immediate as well as long-term benefits to the American economy from this trade.” 24 Moreover, the Guidelines provide that:

The market, not government, should determine the price and other contract terms of imported [or exported] gas. U.S. buyers [sellers] should have full freedom – along with the responsibility – for negotiating the terms of trade arrangements with foreign sellers [buyers]....

* * *

The policy cornerstone of the public interest standard [of NGA Section 3] is competition. Competitive import [export] arrangements are an essential element of the public interest, and natural gas imported [exported] under arrangements that provide for the sale of gas in volumes and at prices responsive to market demands largely meets the public interest test....25

In authorizing long-term non-FTA exports for Cove Point (as well as in numerous other export authorizations), DOE/FE has explained that it “continues to subscribe to the principle set forth in our 1984 Policy Guidelines that, under most circumstances, the market is the most efficient means of allocating natural gas supplies.”26 Thus, DOE/FE has promoted the competitive, free-trade policies embodied in the Policy Guidelines by consistently authorizing LNG exports to non-FTA nations in over

22 E.g., *Philips Alaska*, DOE/FE Order No. 1473 at 14; *Yukon Pacific Corp.*, DOE/FE Order No. 350, 1 FE ¶ 70,259 at 71,128 (1989); *Dominion Cove Point LNG, LP*, DOE/FE Order No. 3331 at page 8 (Sept. 11, 2013).

23 *Policy Guidelines and Delegation Orders Relating to the Regulation of Imported Natural Gas*, 49 Fed. Reg. 6,684 (Feb. 22, 1984).

24 *Id.* at 6,684.

25 *Id.* at 6685 and 6687. The parenthetical references to exports are added in the above quotation to reflect the applicability of the Policy Guidelines to exports. See note 22, *supra*.

26 *Dominion Cove Point LNG, LP*, Order No. 3331 at 141 (Sept. 11, 2013) and Order No. 3331-A at 97 (May 7, 2015). See also, e.g., *Freeport LNG Expansion, L.P.*, Order No. 3282 at 112 (May 17, 2013); *Cameron LNG, LLC*, DOE/FE Order No. 3391 at 132 (Feb. 11, 2014); *Cheniere Marketing, LLC*, Order No. 3638 at 205 (May 12, 2015); *Sabine Pass Liquefaction, LLC*, Order No. 3669 at 210 (June 26, 2015); *Pieridae Energy (USA), LTD.*, Order No. 3768 at 216 (Feb. 5, 2016); *Venture Global Calcasieu Pass, LLC*, DOE/FE Order No. 4346 at 69 (Jun. 17, 2015); *Venture Global Plaquemines LNG, LLC*, DOE/FE Order No. 4446 at 42 (July 21, 2016); *Cheniere Marketing 2022* at 61.

30 decisions spanning more than a decade and as recently as just earlier this month.²⁷ DOE/FE should continue to follow its longstanding practice with this Application.

Most importantly here, of course, DOE/FE engaged in a robust and thorough analysis of the public interest in LNG exports by Cove Point from the Terminal when authorizing long-term exports to non-FTA countries in Order Nos. 3331, 3331-A, and 3331-B. When previously granting Cove Point its blanket authorizations, for short-term exports of both domestically produced gas and re-exports, DOE/FE concluded that “no additional public interest review beyond that conducted in the earlier non-FTA export proceeding is warranted.”²⁸ DOE/FE has similarly held that no additional analysis is needed to issue blanket export authorization for other LNG export facilities for which it had already issued long-term export authorization, including in an order issued less than a year ago.²⁹ The conclusions that no further analysis was needed were based, at least in part, on the limiting requirement that the volumes authorized under the blanket authorization for export to non-FTA nations will not exceed the volumes already authorized in the long-term authorizations. Accordingly, as explained above, Cove Point proposes that this same volume limitation again apply with the new blanket authorization. As a result, no additional public interest review is required for DOE/FE to conclude that the requested blanket authorization will not be inconsistent with the public interest.

The general benefits of LNG exports are well known to DOE/FE and have been explained by it in numerous orders as well as a series of studies. In 2012, 2015, and again in 2018, DOE/FE released

²⁷ A list of all the non-FTA approvals with docket numbers, volumes, and links to the relevant DOE/FE orders is available at: <https://www.energy.gov/fecm/articles/summary-lng-export-applications-lower-48-states>. Of course, as DOE/FE has recognized “it is far from certain that all or even most of the proposed LNG export projects will ever be realized because of the time, complexity, and expense of commercializing, financing, and constructing LNG export terminals, as well as the uncertainties inherent in the global market demand for LNG.” Term Extension Policy Statement, 85 Fed. Reg. at 52,243.

²⁸ DOE/FE Order No. 4046 at 13; DOE/FE Order No. 4508 at 10.

²⁹ *Southern LNG Co., LLC*, DOE/FE Order No. 4687 (March 30, 2021). *See also, e.g., Sabine Pass Liquefaction, LLC*, Order No. 3767 at page 10 (Jan. 13, 2016); *Cameron LNG, LLC*, DOE/FE Order No. 3904 at 8-9 (Oct. 3, 2016); *Sabine Pass Liquefaction, LLC*, Order No. 4150 at 9 (Jan. 30, 2018). This practice, of course, informed DOE/FE’s 2021 Policy Statement to incorporate short-term export authority into long-term authorizations. *Supra.* note 8.

studies assessing the macroeconomic impacts of LNG exports to inform its decisions on applications seeking authorization to export LNG to non-FTA nations.³⁰ The conclusions of those studies have been uniformly supportive of the public interest in LNG exports. And DOE/FE just this month confirmed that that assumptions underlying the 2018 study remain consistent with more recent assessments of current and future natural gas supply, demand, and prices.³¹

Furthermore, DOE/FE has consistently issued requested blanket authorizations to export previously imported LNG.³² As DOE/FE recognized in those orders, re-exporting natural gas that came from foreign sources does not in any way reduce the availability of domestic natural gas: a primary focus of its consideration of export authorization.³³ Re-exports admittedly may affect domestic natural gas markets because, for the two-year period of the requested blanket authorization, the volumes re-exported could potentially have been available for consumption within the United States. In any event, however, export of previously imported LNG certainly cannot have any greater impact on the domestic market than exports of domestically produced natural gas, which DOE/FE has invariably found to be consistent with the public interest.

Domestic natural gas resources are abundant, environmentally friendly, and affordable, and are sufficient to meet both the domestic consumption demand and any expected level of LNG exports. In considering blanket authorizations for re-exports, DOE/FE consistently has recognized that U.S.

30 The studies are available at: <https://www.energy.gov/fecm/downloads/lng-export-studies>. See also DOE/FE's many long-term export authorizations referenced at *supra*. note 26.

31 *Cheniere Marketing 2022* at 46.

32 *E.g.*, *Southern LNG Co., LLC*, DOE/FE Order No. 4687 (March 30, 2021); *BP Energy Company*, DOE/FE Order No. 4628 (Dec. 2, 2020); *Sabine Pass Liquefaction, LLC*, Order No. 4545 (June 4, 2020); *Cameron LNG, LLC*, Order No. 4425 (Aug. 21, 2019); *Freeport LNG Development, L.P.*, Order No. 4424 (Aug. 21, 2019); *Sabine Pass Liquefaction, LLC*, Order No. 4197 (June 4, 2018).

33 DOE Delegation Order No. 0204-111, which directed that regulation of gas exports be “based on a consideration of the domestic need for the gas to be exported and such other matters as the Administrator finds in the circumstances of a particular case to be appropriate.” DOE Delegation Order No. 0204-111 (Feb. 22, 1984) at 1 (¶ b); *see also Policy Guidelines and Delegation Orders Relating to the Regulation of Imported Natural Gas*, 49 Fed. Reg. at 6,690.

consumers have access to sufficient quantities of natural gas to meet all domestic demand for other competitively-priced sources, without the need for imports.³⁴ This conclusion is, once again, confirmed by the most recent projections by the U.S. Energy Information Agency (“EIA”), which DOE/FE has considered in other blanket certificate authorizations. Specifically, the *Annual Energy Outlook 2022* (“AEO 2022”), just released on March 3, 2022, projects annual domestic dry natural gas production in 2022 of 35.69 trillion cubic feet (Tcf), compared to total gas consumption for 2022 of 30.46 Tcf; for 2023, the AEO 2022 projections forecast production of 36.05 Tcf and consumption of 30.54 Tcf.³⁵ In its most recent orders, DOE/FE similarly recognized that “EIA’s projections in AEO 2022 continue to show market conditions that will accommodate increased exports of natural gas.”³⁶ Given the short-term nature of the requested blanket authorization, this data further supports the conclusion that the proposed export of previously imported LNG is not inconsistent with the public interest.

While no further support for the requested blanket authorization is needed, Cove Point notes that the need around the world for additional exports of the abundant, low-cost, and clean-burning U.S. natural gas has never been clearer. The economic, geopolitical, and environmental benefits of LNG exports are manifestly in the public interest. The economic benefits of U.S. LNG supplies to the world are obvious, as reflected between the tremendous difference currently between domestic natural gas prices and prices elsewhere in the world, including in both Asia and Europe.³⁷ The geopolitical importance of U.S. natural

³⁴ See the orders cited in *supra*. note 29.

³⁵ AEO 2022 is available at: <https://www.eia.gov/outlooks/aeo/>. The projections for 2022 and 2023 provided above are set forth in the AEO 2022 Reference Case, Table 13: Natural Gas Supply, Disposition, and Prices, which is available at: <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.eia.gov%2Foutlooks%2Faeo%2Fexcel%2Faeotab13.xlsx&wdOrigin=BROWSELINK>.

³⁶ *Cheniere Marketing 2022* at 46.

³⁷ Comparative natural gas prices around the world for the period January 2019 – February 2022 are shown in EIA, Today In Energy, “Three countries provided almost 70% of liquefied natural gas received in Europe in 2021, (Feb. 22, 2022), available at: <https://www.eia.gov/todayinenergy/detail.php?id=51358>.

gas supplies, which DOE has consistently recognized in its long-term export authorizations,³⁸ has been highlighted and dramatically reinforced by recent events involving Russia and Ukraine.³⁹ In addition, exporting LNG enables trading partners around the world to use more environmentally friendly natural gas for the generation of electricity in place of their current use of coal, diesel, or heavy fuel oil. Thus, exporting LNG will allow other nations to utilize natural gas to reduce greenhouse gas emissions, just as the United States has done.⁴⁰

For all of these reasons, especially the thorough public interest analysis that DOE/FE has already conducted regarding LNG exports from the Cove Point Terminal to non-FTA countries, the authorization requested here for blanket authorization to re-export previously imported LNG from the Terminal should be granted as consistent with the public interest.

VI. ENVIRONMENTAL IMPACT

The requested blanket authorization and the related LNG exports will not require the construction of any new or additional facilities, nor any modification of the Cove Point facilities previously authorized by the FERC. DOE regulations at 10 CFR Part 1021, Subpart D, Appendix B5, provide a list of categorical exclusions from the preparation of an environmental analysis or environmental impact

³⁸ E.g., *Dominion Cove Point LNG, LP*, DOE/FE Order No. 3331-A at 96. For a more recent example, see, e.g., *Cheniere Marketing 2022* at 54.

³⁹ Regarding the increased geopolitical importance of LNG supplies in light of recent events, see *Cheniere Marketing 2022* at 54; *Joint Statement by President Biden and President von der Leyen on U.S.-EU Cooperation on Energy Security*, Jan. 28, 2022, available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2022/01/28/joint-statement-by-president-biden-and-president-von-der-leyen-on-u-s-eu-cooperation-on-energy-security/>; Office of the Spokesperson, *Joint Statement on the U.S.-EU Energy Council*, Feb. 7, 2022, available at: <https://www.state.gov/joint-statement-on-the-u-s-eu-energy-council/>.

⁴⁰ Between 2005 and 2019, total U.S. electricity generation increased by almost 2% while related CO₂ emissions fell by 33%: while some of those emissions reductions were due to increased use of renewable generation, much of it resulted from the substitution of coal with environmentally superior natural gas for electric generation. EIA, *U.S. Energy-Related Carbon Dioxide Emissions*, Sept. 30, 2020, available at: <https://www.eia.gov/environment/emissions/carbon/#:~:text=EIA%20calculated%20that%20between%202005,carbon%20generation%20totaled%205%2C475%20MMmt.&text=Between%202005%20and%202019%2C%20total,CO2%20emissions%20fell%20by%2033%25>.

statement under NEPA. Specifically, categorical exclusion B5.7 provides for an exclusion where approvals of authorizations to import or export natural gas under NGA section 3 involve minor operational changes but no new construction. Cove Point's export of Commissioning Volumes falls within this categorical exclusion and no further environmental analysis is required.

Therefore, the proposal does not constitute a major federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, *et seq.*).

VII. APPENDICES

The following appendices are attached to this Application:

Appendix A: Verification

Appendix B: Opinion of Counsel

VIII. CONCLUSION

Based on the reasons set forth above, Cove Point respectfully requests that the DOE/FE grant Cove Point short-term, blanket authorization to re-export LNG previously imported from foreign sources of up to the equivalent of 70 Bcf of natural gas from its existing LNG Terminal in Calvert County, Maryland, over a period of up to two years commencing on issuance of the new blanket authorization 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, whether or not the country has a Free Trade Agreement with the United States requiring national treatment for trade in natural gas. As previously stated, Cove Point respectfully

requests that DOE/FE grant this application by July 1, 2022, so that the requested authorization will be in place for the coming winter, when imports of LNG into the Terminal might be expected.

Respectfully submitted,

A handwritten signature in cursive script, reading "J. Patrick Nevins", positioned above a horizontal line.

J. Patrick Nevins
Latham & Watkins LLP
555 11th Street, NW
Washington, D.C. 20004-1304
(202) 637-3363
patrick.nevins@lw.com

George W. Flugrad
Senior Counsel
Eastern Gas Transmission and Storage, Inc.
6603 West Broad Street
Richmond, VA 23230
(804) 613-5206
George.Flugrad@bhegts.com

Counsel for
Cove Point LNG, LP

Dated: March 22, 2022

Appendix A

Verification

STATE OF VIRGINIA)

) SS:

CITY OF RICHMOND)

David Monger, being first duly sworn on his oath deposes and says: that he is the Director, Commercial Business for Cove Point LNG, LP.; that he is duly authorized to make this Verification; that he has read the foregoing submittal and is familiar with the contents thereof; that all the statements and matters contained therein are true and correct to the best of his information, knowledge and belief; and that he is authorized to execute and file the same with the U.S. Department of Energy.

David Monger

David Monger

Director, Commercial Business

Cove Point LNG, LP

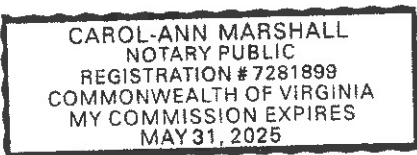
Sworn to and subscribed before me this 22nd day of March, 2022

Carol - A Marshall

Notary Public

In and For said City

My Commission Expires:



Appendix E

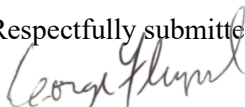
OPINION OF COUNSEL

Opinion of Counsel

This opinion is submitted pursuant to 10 C.F.R. Section 590.202(c) of the Department of Energy administrative procedures. The undersigned is counsel to Cove Point LNG, LP.

I have reviewed the corporate documents of Cove Point LNG, LP and it is my opinion that the proposed export of natural gas is within the company's corporate powers.

Respectfully submitted.



George W. Flugrad
Senior Counsel
Eastern Gas Transmission and Storage, Inc.
6603 West Broad Street
Richmond, VA 23230
(804) 613-5206
George.Flugrad@bhegts.com

Dated: March 21, 2022