

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY AND CARBON MANAGEMENT

CARIB ENERGY (USA) LLC

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DOCKET NO. 24-5-LNG

ORDER GRANTING BLANKET AUTHORIZATION TO EXPORT LIQUEFIED NATURAL
GAS PREVIOUSLY IMPORTED FROM FOREIGN SOURCES AND LIQUEFIED
NATURAL GAS RECEIVED FROM DOMESTIC SOURCES TO FREE TRADE
AGREEMENT NATIONS, AND AUTHORIZING SMALL-SCALE EXPORTS OF
LIQUEFIED NATURAL GAS

DOE/FECM ORDER NO. 5114

APRIL 5, 2024

I. INTRODUCTION

On December 13, 2023, Carib Energy (USA) LLC (Carib Energy) filed an Application¹ with the Office of Fossil Energy and Carbon Management (FECM) of the Department of Energy (DOE), under section 3 of the Natural Gas Act (NGA).² Carib Energy supplemented the Application with additional information on January 26, 2024.³ Carib Energy requests authorization to export liquefied natural gas (LNG) either previously imported into the United States from foreign sources or received from sources within the United States in a volume equivalent to 14.6 billion cubic feet (Bcf) of natural gas on a cumulative basis for a two-year period.⁴

Carib Energy seeks to export this LNG via approved IMO7/TVAC-ASME LNG containers (ISO containers) loaded at the Crowley LNG Puerto Rico Truck Loading Facility (Crowley Facility), located in Peñuelas, Puerto Rico, and transported on ocean-going vessels or via small-scale LNG vessels.⁵ Carib Energy seeks authorization to export this LNG as follows:

- (i) Under section 3(c) of the NGA, to any country with which the United States has entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas (FTA countries),⁶ and

¹ Carib Energy (USA) LLC, Application for Blanket Authorization to Export Liquefied Natural Gas to Free Trade Agreement and Non-Free Trade Agreement Nations, Docket No. 24-5-LNG (Dec. 13, 2023) [hereinafter App.].

² 15 U.S.C. § 717b. The authority to regulate the imports and exports of natural gas, including liquefied natural gas, under section 3 of the NGA has been delegated to the Assistant Secretary for FECM in Redelegation Order No. S4-DEL-FE1-2023, issued on April 10, 2023.

³ Carib Energy (USA) LLC, Supplement to Application for Blanket Authorization to Export Liquefied Natural Gas to Free Trade Agreement and Non-Free Trade Agreement Nations, Docket No. 24-5-LNG (Jan. 26, 2024) [hereinafter App. Supp.].

⁴ App. at 1, 6.

⁵ *Id.* at 1-2, 4.

⁶ 15 U.S.C. § 717b(c). The United States currently has FTAs requiring national treatment for trade in natural gas with Australia, Bahrain, Canada, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Republic of Korea, and Singapore. FTAs with Israel and Costa Rica do not require national treatment for trade in natural gas.

- (ii) Under section 3(a) of the NGA, to any country with which trade is not prohibited by United States law or policy (non-FTA countries).⁷

Carib Energy states that its proposed non-FTA exports qualify as “small-scale natural gas exports” under DOE’s regulations at 10 C.F.R. §§ 590.102(p) and 590.208(a), and therefore should be deemed to be consistent with the public interest under NGA section 3(a).⁸

Carib Energy requests that this consolidated authorization commence on the earlier of April 6, 2024, or the date of an order granting the requested authorization.⁹ Additionally, Carib Energy requests authority to export the LNG on its own behalf and as agent for other entities that hold title to the LNG at the time of export.¹⁰

In this consolidated Order, DOE grants Carib Energy’s Application, as supplemented, and authorizes the requested export volume equivalent to 14.6 Bcf of natural gas over the requested two-year period (*i.e.*, up to 7.3 Bcf of LNG annually).¹¹ This volume is authorized for export on a non-additive basis to both FTA and non-FTA countries. Specifically, DOE finds that the FTA portion of the Application falls within NGA section 3(c), and we therefore grant the requested FTA authorization without modification or delay.¹² DOE also finds that the proposed non-FTA exports qualify as “small-scale natural gas exports” under the criteria set forth in 10 C.F.R. § 590.102(p). Accordingly, we grant the small-scale portion of the Application under 10 C.F.R. § 590.208(a).

⁷ *Id.* § 717b(a); *see* App. at 1; App. Supp. at 1. Carib Energy states that, at present, it exports previously imported LNG to both Barbados (a non-FTA country) and the Dominican Republic (an FTA country), and that it anticipates exporting to Antigua (a non-FTA country) and potentially other markets in the Caribbean, Central America, and South America during the requested authorization term. *See* App. at 3, 7.

⁸ *See* App. at 5-6; 10 C.F.R. §§ 590.102(p), 590.208(a); *see also* U.S. Dep’t of Energy, Small-Scale Natural Gas Exports; Final Rule, 83 Fed. Reg. 35,106 (July 25, 2018) [hereinafter Small-Scale Rule].

⁹ App. Supp. at 3-4.

¹⁰ App. at 4.

¹¹ App. Supp. at 1.

¹² 15 U.S.C. § 717b(c).

Finally, Carib Energy asks DOE to vacate its authorization in DOE/FECM Order No. 4772, as amended by Order No. 4772-A (Docket No. 21-99-LNG),¹³ to the extent that this Order would overlap with Order No. 4772-A.¹⁴ Because Order No. 4772-A expires today (April 5, 2024) and this Order takes effect on April 6, 2024, there is no longer a basis on which to vacate that order.

II. BACKGROUND

Applicant. Carib Energy is a Delaware limited liability company with its principal place of business in Jacksonville, Florida.¹⁵ Carib Energy states that it is “a wholly-owned subsidiary of Crowley Shipping, Inc. (Crowley).”¹⁶ Crowley, in turn, is a wholly-owned subsidiary of Crowley Maritime Corporation, which is a wholly-owned subsidiary of Crowley Holdings, Inc. Crowley Holdings, Inc. is a privately held corporation.¹⁷

Procedural History. Carib Energy currently holds the following long-term authorizations from DOE:

- DOE/FE Order No. 2993, issued in 2011, authorizing the export of domestically produced and previously imported LNG in a volume equivalent to 11.53 Bcf per year (Bcf/yr) of natural gas from the southeast United States to FTA countries in Central America, South America, and the Caribbean for a 25-year term;¹⁸ and
- DOE/FE Order No. 3937, issued in 2016, authorizing the export of domestically produced LNG in a volume equivalent to 1.3 Bcf/yr of natural gas loaded at designated facilities owned by Pivotal LNG, Inc. Carib Energy is authorized to

¹³ *Carib Energy (USA) LLC*, DOE/FECM Order No. 4772, Docket No. 21-99-LNG, Order Granting Blanket Authorization to Export Previously Imported Liquefied Natural Gas in ISO Containers By Vessel to Free Trade and Non-Free Trade Agreement Nations (Dec. 20, 2021), *amended by* DOE/FECM Order No. 4772-A (Jan. 25, 2024) (increasing export volume for portion of export term).

¹⁴ *See* App. at 4; App. Supp. at 3 (correcting authorization expiration date for Order No. 4772-A).

¹⁵ App. at 2; App. Supp. at 3.

¹⁶ App. at 2-3.

¹⁷ *Id.* at 3.

¹⁸ *Carib Energy (USA) LLC*, DOE/FE Order No. 2993, Docket No. 11-71-LNG, Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas to Free Trade Agreement Nations in Central America, South America, or the Caribbean by Vessel in ISO Containers (July 27, 2011).

export this LNG to non-FTA countries in Central America, South America, and the Caribbean for a 20-year period.¹⁹

Crowley Facility and Source of Supply. Carib Energy states that it will purchase LNG from the Crowley Facility, and that this LNG will be loaded into approved ISO containers at the Crowley Facility for export from Puerto Rico.²⁰ Carib Energy further states that the Crowley Facility has an annual LNG send-out capacity equivalent to approximately 7.3 Bcf of natural gas.²¹

Carib Energy seeks to export LNG either previously imported from foreign sources or received from sources within the United States.²² According to Carib Energy, the Crowley Facility receives LNG that has been imported into Puerto Rico via the EcoEléctrica LNG Terminal.²³ Carib Energy notes that, historically, the LNG received at the EcoEléctrica Terminal and purchased by Carib Energy has been imported from sources outside the United States.²⁴ Carib Energy states, however, that “[w]ith the evolving development of new global [natural] gas supply to serve Puerto Rico,” there is “the potential for the EcoEléctrica Terminal to receive LNG from domestic as well as foreign LNG supply sources.”²⁵ Carib Energy adds that third-party LNG suppliers would import the LNG into the EcoEléctrica Terminal, with the domestic LNG originating “from a current or possible future domestic LNG export terminal as selected by the LNG supplier.”²⁶ With this possibility, Carib Energy requests the flexibility to export LNG

¹⁹ *Carib Energy (USA) LLC*, DOE/FE Order No. 3937, Docket No. 16-98-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas in ISO Containers Loaded at Designated Pivotal LNG, Inc. Facilities and Exported by Vessel to Non-Free Trade Agreement Nations in Central America, South America, or the Caribbean (Nov. 28, 2016).

²⁰ App. at 1-2; *see also* App. Supp. at 2-3.

²¹ App. at 3.

²² *Id.* at 4.

²³ *Id.* at 3.

²⁴ App. Supp. at 2.

²⁵ *Id.*

²⁶ *Id.* at 3.

from the Crowley Facility, whether the LNG has been previously imported into Puerto Rico from foreign sources or received from sources within the United States.²⁷

Business Model. Carib Energy requests authorization to export LNG on its own behalf and as agent for other entities that hold title to the LNG at the time of export. Carib Energy states that it will comply with all DOE requirements for exporters and agents, including registration requirements.

III. STANDARD OF REVIEW

A. FTA Authorization

Section 3(c) of the NGA was amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486). In relevant part, applications to export natural gas, including LNG, to countries with which there is a FTA in effect requiring national treatment for trade in natural gas “shall be deemed to be consistent with the public interest” and granted “without modification or delay.”²⁸

B. Small-Scale Authorization

DOE defines a “small-scale natural gas export” as an export of natural gas, including LNG, to a non-FTA country that meets the following two criteria:

- (1) The application proposes to export natural gas in a volume up to and including 51.75 billion cubic feet per year, and
- (2) DOE’s approval of the application does not require an environmental impact statement (EIS) or an environmental assessment (EA) under the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*²⁹

²⁷ *Id.*

²⁸ 15 U.S.C. § 717b(c).

²⁹ 10 C.F.R. § 590.102(p).

Small-scale natural gas exports are deemed to be consistent with the public interest under NGA section 3(a).³⁰ Therefore, DOE will issue an export authorization upon receipt of a complete application to conduct small-scale natural gas exports.³¹

IV. DISCUSSION AND CONCLUSIONS

A. FTA Authorization

We find that the FTA portion of Carib Energy’s Application, as supplemented, falls within NGA section 3(c), and therefore we grant the requested FTA authorization without modification or delay.³²

B. Small-Scale Authorization

We find that the non-FTA portion of the Application, as supplemented, meets the criteria for small-scale natural gas exports, set forth in 10 C.F.R. § 590.102(p). First, Carib Energy requests authority to export LNG to non-FTA countries in a volume equivalent to 14.6 Bcf of natural gas on a cumulative basis over a two-year term. This equates to 7.3 Bcf/yr, which is within the 51.75 Bcf/yr limit in the regulation. Second, DOE’s National Environmental Policy Act (NEPA) procedures provide for a categorical exclusion if neither an EIS nor an EA is required—specifically, categorical exclusion B5.7 (10 C.F.R. Part 1021, Subpart D, Appendix B5), *Export of natural gas and associated transportation by marine vessel*.³³ On April 5, 2024, DOE issued a categorical exclusion for the non-FTA portion of Carib Energy’s Application, as

³⁰ *Id.* § 590.208(a).

³¹ *Id.*; *see also* Small-Scale Rule, *supra* note 8.

³² DOE further finds that the requirements for public notice of applications and other hearing-type procedures in 10 C.F.R. Part 590 are applicable only to applications seeking to export natural gas, including LNG, to non-FTA countries (other than applications for small-scale exports of natural gas, *see* 10 C.F.R. § 590.208(a)).

³³ *See* 10 C.F.R. Part 1021, Subpt. D, App. B, Categorical Exclusion B5.7. This categorical exclusion amended the prior B5.7 categorical exclusion. *See* U.S. Dep’t of Energy, National Environmental Policy Act Implementing Procedures; Final Rule, 85 Fed. Reg. 78,197 (Dec. 4, 2020).

supplemented, under this provision.³⁴ Accordingly, pursuant to 10 C.F.R. § 590.208(a), the proposed small-scale exports are deemed to be consistent with the public interest under NGA section 3(a), and DOE grants the requested authorization.

V. FINDINGS

Based on the findings and conclusions herein, DOE grants the Application, as supplemented, subject to the Terms and Conditions and Ordering Paragraphs set forth below.

VI. TERMS AND CONDITIONS

A. Term of the Authorization

In the Supplement to its Application, Carib Energy requests that its FTA and small-scale non-FTA authorizations commence on the earlier of April 6, 2024, or the date of an order granting the requested authorization, and extend for a two-year period.³⁵ Accordingly, this Order is effective on April 6, 2024, and will extend through April 5, 2026.

B. FTA Countries for FTA Authorization

The countries with which the United States has a FTA requiring national treatment for trade in natural gas are currently: Australia, Bahrain, Canada, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Republic of Korea, and Singapore.

C. Transfer, Assignment, or Change in Control

DOE's natural gas regulations prohibit authorization holders from transferring or assigning authorizations to import or export natural gas without specific authorization by the Assistant Secretary for Fossil Energy and Carbon Management.³⁶ DOE has found that this

³⁴ U.S. Dep't of Energy, Categorical Exclusion Determination, Carib Energy (USA) LLC, Docket No. 24-5-LNG (Apr. 5, 2024).

³⁵ App. Supp. at 3-4.

³⁶ 10 C.F.R. § 590.405.

requirement applies to any change in control of the authorization holder. This condition was deemed necessary to ensure that DOE will be given an adequate opportunity to assess the public interest impacts of such a transfer or change.

DOE construes a change in control to mean a change, directly or indirectly, of the power to direct the management or policies of an entity, whether such power is exercised through one or more intermediary companies or pursuant to an agreement, written or oral, and whether such power is established through ownership or voting of securities, or common directors, officers, or stockholders, or voting trusts, holding trusts, or debt holdings, or contract, or any other direct or indirect means.³⁷ A rebuttable presumption that control exists will arise from the ownership or the power to vote, directly or indirectly, 10% or more of the voting securities of such entity.³⁸

D. Agency Rights

Carib Energy requests authorization to export LNG on its own behalf and as agent for other entities that hold title to the LNG at the time of export. DOE previously has determined that, in LNG export orders in which Agency Rights have been granted, DOE shall require registration materials filed for, or by, an LNG title-holder (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.³⁹

To ensure that the public interest is served, this authorization requires that, where Carib Energy proposes to export LNG as agent for other entities that hold title to the LNG

³⁷ See U.S. Dep't of Energy, Procedures for Changes in Control Affecting Applications and Authorizations to Import or Export Natural Gas, 79 Fed. Reg. 65,541, 65,542 (Nov. 5, 2014).

³⁸ See *id.*

³⁹ See, e.g., *Cameron LNG, LLC*, DOE/FE Order No. 3846, Docket No. 15-90-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from Trains 4 and 5 of the Cameron LNG Terminal to Non-Free Trade Agreement Nations, at 128-29 (July 15, 2016); *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 2913, Docket No. 10-160-LNG, Order Granting Long-Term Authorization to Export Liquefied Natural Gas from the Freeport LNG Terminal to Free Trade Agreement Nations, at 7-8 (Feb. 10, 2011).

(Registrants), it must register those entities with DOE in accordance with the procedures and requirements described herein.

E. Export Quantity

This Order grants Carib Energy's Application in the full volume of LNG requested, equivalent to 14.6 Bcf of natural gas on a cumulative basis for a two-year period for exports to FTA countries and for small-scale exports to non-FTA countries.

F. Non-Additive Export Volumes

Consistent with DOE's small-scale export regulations, Carib Energy may not treat the FTA and small-scale non-FTA volumes in this Order as additive to one another.

VII. ORDER

Pursuant to section 3 of the Natural Gas Act, it is ordered that:

A. Carib Energy (USA) LLC (Carib Energy) is authorized by DOE to export LNG previously imported from foreign sources or received from sources within the United States in a volume equivalent to 14.6 Bcf of natural gas, pursuant to transactions that have terms of not greater than two years. Carib Energy is authorized to export this LNG on its own behalf or as agent for other entities that hold title to the LNG at the time of export. The FTA and small-scale authorizations will commence on April 6, 2024, and extend through April 5, 2026.

B. This LNG may be exported from the Crowley LNG Puerto Rico Truck Loading Facility in Peñuelas, Puerto Rico, to any country that has, or in the future develops, the capacity to import LNG via approved ISO containers transported on ocean-going vessels or via small-scale LNG vessels, and with which trade is not prohibited by U.S. law or policy.

C. Carib Energy shall ensure that all transactions authorized by this Order are permitted and lawful under U.S. laws and policies, including the rules, regulations, orders, policies, and

other determinations of the Office of Foreign Assets Control of the United States Department of the Treasury. Failure to comply with this requirement could result in rescission of this authorization and/or other civil or criminal remedies.

D. Carib Energy, or others for whom Carib Energy acts as agent, shall include the following provision in any agreement or other contract for the sale or transfer of LNG pursuant to this Order:

Customer or purchaser acknowledges and agrees that it will resell or transfer LNG purchased hereunder for delivery only to countries identified in Ordering Paragraph B of DOE/FECM Order No. 5114, issued April 5, 2024, in Docket No. 24-5-LNG, 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 Carib Energy (USA) LLC that identifies the country (or countries) into which the LNG was actually delivered, and to include in any resale contract for such LNG the necessary conditions to ensure that Carib Energy (USA) LLC is made aware of all such countries.

E. Carib Energy is permitted to use its authorization in order to export LNG previously imported from foreign sources or received from sources within the United States as agent for other entities, after registering those entities with DOE. Registration materials shall include an agreement by the Registrant to supply Carib Energy with all information and copies of contracts necessary in order to permit Carib Energy to register that person or entity with DOE, 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 D in any contract for the sale or transfer of LNG exported pursuant to this Order.

Any change in the registration materials—including changes in company name, contact information, length of the long-term contract, termination of the long-term contract, or other relevant modifications—shall be filed with DOE within 30 days of such change(s).

F. Carib Energy shall ensure that all persons required by this Order to register with DOE have done so.

G. With respect to any change in control of the authorization holder, Carib Energy must comply with DOE’s Procedures for Change in Control Affecting Applications and Authorizations to Import or Export Natural Gas.⁴⁰

H. Monthly Reports: With respect to the exports authorized by this Order, Carib Energy shall file with the U.S. Department of Energy, Office of Fossil Energy and Carbon Management, Office of Resource Sustainability, Office of Regulation, Analysis, and Engagement (FE-34), within 30 days following the last day of each calendar month, a report on Form FE-746R indicating whether exports of LNG have been made. Monthly reports must be filed whether or not initial deliveries have begun. If no exports have occurred, a report of “no activity” for that month must be filed. If exports have occurred, the report must provide the information specified for each applicable activity and mode of transportation, as set forth in the Guidelines for Filing Monthly Reports. These Guidelines are available at <https://www.energy.gov/fecm/guidelines-filing-monthly-reports>.

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

⁴⁰ See 79 Fed. Reg. at 65,541-42.

I. The first monthly report required by this Order is due not later than May 31, 2024, and should cover the reporting period from April 6, 2024, through April 30, 2024.

J. All monthly report filings on Form FE-746R shall be made to the Office of Regulation, Analysis, and Engagement according to the methods of submission listed on the Form FE-746R reporting instructions available at <https://www.energy.gov/fecm/regulation>.

Issued in Washington, D.C., on April 5, 2024.

Amy R. Sweeney
Director, Office of Regulation, Analysis, and Engagement
Office of Resource Sustainability