

800 17th Street N.W., Suite 1100 | Washington, DC 20006 | T 202.955.3000 | F 202.955.5564
Holland & Knight LLP | www.hklaw.com

Paul F. Forshay
+1 202-469-5557
Paul.Forshay@hklaw.com

May 2, 2024

Ms. Amy Sweeney
U.S. Department of Energy
Office of Fossil Energy and Carbon Management
Room 3E-052, FE-34
Forrestal Building
1000 Independence Avenue, SW
Washington, DC 20585

**Re: Carib Energy (USA) LLC, DOE/FECM Docket No. 16-98-LNG
Application to Amend Sources and Volumes of Domestic Liquefied Natural Gas
for Export to Non-Free Trade Agreement Nations Authorized by
DOE/FECM Order No. 3937**

Dear Ms. Sweeney:

Pursuant to Section 3 of the Natural Gas Act and Part 590 of the regulations of the Department of Energy (“DOE”), Carib Energy (USA) LLC (“Carib Energy”) submits its Application to Amend Sources and Volumes of Domestic Liquefied Natural Gas for Export to Non-Free Trade Agreement Nations Authorized by DOE/FECM Order No. 3937.

This application proposes to amend DOE/FECM Order No. 3937 by (i) expanding the list of authorized Pivotal LNG, Inc. (“Pivotal”) facilities from which Carib Energy may source domestically produced LNG for export to include the Pivotal facility located in Jacksonville, Florida, and (ii) increasing the maximum authorized level of exported volumes from 1.3 Bcf/year to 7.0 Bcf/year. In all other respects, the authorization to export LNG granted by Order No. 3937 would remain unchanged.

A Verification and Opinion of Counsel also are enclosed. Carib Energy has submitted the \$50 filing fee through the online payment portal.

Please contact the undersigned with any questions concerning the enclosed application.

Respectfully submitted,

/s/ Paul F. Forshay
Paul F. Forshay

Counsel for Carib Energy (USA) LLC

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

Carib Energy (USA) LLC) FECM Docket No. 16-98-LNG

**APPLICATION TO AMEND SOURCES AND VOLUMES
OF DOMESTIC LIQUEFIED NATURAL GAS FOR EXPORT
TO NON-FREE TRADE AGREEMENT NATIONS
AUTHORIZED BY DOE/FECM ORDER NO. 3937**

Pursuant to Section 3 of the Natural Gas Act (“NGA”)¹ and Part 590 of the Department of Energy’s (“DOE”) regulations,² Carib Energy (USA) LLC (“Carib Energy”) hereby submits its application to amend the long-term authorization to export domestically produced liquefied natural gas (“LNG”) to non-Free Trade Agreement (“non-FTA”) countries previously granted by DOE/Office of Fossil Energy and Carbon Management (“FECM”) pursuant to DOE/FECM Order No. 3937.³ More specifically, Carib Energy seeks to amend Order No. 3937 to (i) expand the list of authorized Pivotal LNG, Inc. (“Pivotal”) facilities from which Carib Energy may source domestically produced LNG for export to include the Pivotal facility located in Jacksonville, Florida, and (ii) increase the maximum authorized level of exported volumes from 1.3 Bcf/year to 7.0 Bcf/year. In all other respects, the authorization to export LNG granted by Order No. 3937 would remain unchanged.

¹ 15 U.S.C. § 717b (a) and (c) (2018).

² 10 C.F.R. Part 590 (2022).

³ *Carib Energy (USA) LLC*, “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,” DOE/FECM Order No. 3937, DOE/FECM Docket No. 16-98-LNG (Nov. 28, 2016).

As explained below, Carib Energy’s application to increase the level of long-term exports to Non-FTA countries under DOE/FECM Order No. 3937 is filed pursuant to DOE/FECM’s “small-scale natural gas exports” rule codified at 10 C.F.R. §§ 590.102(p) and 590.208(a) and should be deemed consistent with the public interest under NGA Section 3(a). Accordingly, Carib Energy respectfully requests that DOE/FECM approve this application without modification or delay.

I. COMMUNICATIONS

Communications regarding Carib Energy’s application should be directed to the following:

Matthew Jackson
Vice President
Crowley Advanced Energy
9487 Regency Square Blvd.
Jacksonville, FL 32225
Email: Matthew.Jackson@crowley.com

Paul F. Forshay
Holland & Knight LLP
800 17th Street N.W., Suite 1100
Washington, D.C. 20006
Tel.: 202-469-5557
Email: paul.forshay@hklaw.com

Timothy S. Bush
VP & Deputy General Counsel
Crowley Maritime Corporation
9487 Regency Sq. Blvd.
Jacksonville, FL 32225
Email: Timothy.Bush@crowley.com

Brendan H. Connors
Holland & Knight LLP
800 17th Street N.W., Suite 1100
Washington, D.C. 20006
Tel.: 202-469-5409
Email: brendan.connors@hklaw.com

II. DESCRIPTION OF THE APPLICANT

Carib Energy is a wholly-owned subsidiary of Crowley Shipping, Inc. (“Crowley”), incorporated in the State of Delaware with its principal place of business in Jacksonville, Florida. Crowley 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.

III. BACKGROUND AND EXISTING AUTHORIZATIONS

On November 28, 2016, DOE/FECM issued Order No. 3937. That order authorized Carib Energy to export up to 1.3 Bcf/year of domestically produced LNG in approved IMO7/TVAC-ASME LNG (ISO) containers loaded at designated Pivotal facilities and transported by truck to any port in the southeastern United States capable of accommodating LNG exports by ISO containers transported by ocean-going container vessels. Order No. 3937 authorized Carib Energy to source its LNG from five natural gas liquefaction facilities owned and operated by Pivotal or a Pivotal affiliate: the Trussville LNG Facility (Trussville, Alabama), the Chattanooga LNG Facility (Chattanooga, Tennessee), the Riverdale LNG Facility (Riverdale, Georgia), the Cherokee LNG Facility (Ball Ground, Georgia), and the Macon LNG Facility (Macon, Georgia). Order No. 3937 originally authorized Carib Energy to export LNG to any non-FTA country in Central America, South America and the Caribbean for a term of 20 years. A subsequent DOE/FECM policy change modified Carib Energy's authorization under Order No. 3937 to include short-term export authority on a non-additive basis.⁴

In addition to its long-term authorization to export LNG to non-FTA countries under Order No. 3937, Carib Energy holds (1) a long-term authorization to export domestically produced and previously imported LNG in approved ISO containers transported by ocean-going vessel from the southeastern United States, including Florida Texas and the Gulf Coast to FTA nations in Central America, South America and the Caribbean under DOE/FECM Order No. 2993,⁵ and (2) a short-

⁴ See *U.S. Department of Energy*, "Order Amending Long-Term Authorizations for the Export of Natural Gas to Include Short-Term Export Authority on a Non-Additive Basis, and Vacating Related Short-Term Authority in Separate Orders," DOE/FECM Order No. 4641, DOE/FECM Docket Nos. 10-85-LNG, *et al.* (December 18, 2020).

⁵ *Carib Energy (USA) LLC*, "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," DOE/FECM Order No. 2993, DOE/FECM Docket No. 11-71-LNG (July 27, 2011). Like DOE/FECM Order No. 3937, DOE/FECM Order No. 2993 was amended by DOE/FECM Order No. 4641 to include short-term export authority on a non-additive basis.

term authorization to re-export up to 7.3 Bcf/year of LNG from Puerto Rico to FTA and non-FTA countries in Central America, South America and the Caribbean transported on ocean-going vessels or via small-scale LNG vessels under DOE/FECM Order No. 5114.⁶

IV. AMENDMENTS REQUESTED

Carib Energy requests that DOE/FECM amend the list of Pivotal/Pivotal-affiliated liquefaction facilities from which Carib Energy may source domestically produced LNG for export under Order No. 3937 to include the Pivotal LNG facility located in Jacksonville, Florida. Pivotal's facility in Jacksonville, JAX LNG, is a joint venture between NorthStar Midstream and Pivotal LNG. The facility has a liquefaction capacity of 360,000 gallons per day with four million gallons of on-site storage. JAX LNG would provide LNG to Carib Energy via dual truck loading bays.

Carib Energy also requests that DOE/FECM increase the maximum authorized level of exported volumes under Order No. 3937 from 1.3 Bcf/year to 7.0 Bcf/year. There are no other proceedings related to this application currently pending before DOE/FECM or any other federal agency.

V. STANDARD OF REVIEW

Like its original authorization application in DOE/FECM Docket No. 16-98-LNG, Carib Energy's pending request to amend the long-term authorization to export LNG to non-FTA countries previously granted by Order No. 3937 is reviewed under Section 3(a) of the NGA.⁷

⁶ *Carib Energy (USA) LLC*, "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, DPE/FECM Docket No. 24-5-LNG (April 5, 2024).

⁷ 15 U.S.C. § 717b (a) (2018).

Section 3(a) creates a rebuttable presumption that a proposed export of natural gas is in the public interest. Under this standard, DOE/FECM “must grant such an application unless opponents of the application overcome that presumption by making an affirmative showing of inconsistency with the public interest.”⁸ In applying this public interest standard, DOE/FECM applies the principles set forth in DOE Delegation Order No. 0204-111, which focuses on domestic need for the gas proposed for export, and the Secretary’s natural gas policy guidelines.

Small-scale exports to non-FTA countries are deemed consistent with the public interest under NGA Section 3(a) pursuant to DOE/FECM regulations. Section 590.208(a) of DOE’s regulations provides:

Small-scale natural gas exports are deemed to be consistent with the public interest under section 3(a) of the Natural Gas Act, 15 U.S.C. 717b(a). DOE will issue an export authorization upon receipt of any complete application to conduct small-scale natural gas exports. DOE’s regulations regarding notice of applications, 10 CFR 590.205, and procedures applicable to application proceedings, 10 CFR part 590, subpart C (10 CFR 590.303 to 10 CFR 590.317), are not applicable to small-scale natural gas exports.

10 C.F.R. § 590.208(a) (2023). Section 590.102(p) of DOE’s regulations, in turn, defines a “small-scale natural gas export” as:

An export of natural gas to nations with which there is not in effect a free trade agreement with the United States requiring national treatment for trade in natural gas and with which trade is not prohibited by U.S. law or policy that the application for such export authority satisfies 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

⁸ *Cheniere Marketing, LLC and Corpus Christi Liquefaction, LLC*, DOE/FECM Order No. 3638, Final Opinion and Order Granting Long-term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Proposed Corpus Christi Liquefaction Project to be Located in Corpus Christi, Texas to Non-Free Trade Agreement Nations, at 12 (May 12, 2015); *Sabine Pass Liquefaction, LLC*, DOE/FECM Order No. 2961, Opinion and Order Conditionally Granting Long-Term Authorization to Export Liquefied Natural Gas From Sabine Pass LNG Terminal to Non-Free Trade Agreement Nations, at 28 (May 20, 2011).

(2) DOE's approval of the application does not require an environmental impact statement or an environmental assessment under the National Environmental Policy Act, 42 U.S.C. 4321 et seq.

10 C.F.R. § 590.102(p) (2023).

VI. PUBLIC INTEREST

Carib Energy's proposed amendments to Order No. 3937 are consistent with the public interest and merit prompt approval. DOE/FECM has found repeatedly that the United States possesses more than adequate gas supplies and reserves to meet the domestic need for natural gas into the foreseeable future.⁹ Moreover, because Carib Energy's proposed amendment would modestly increase the level of LNG authorized for export annually under Order No. 3937 to a level that remains well within DOE/FECM's small-scale export exemption, it would have no significant impact on the domestic availability of natural gas.

The addition of Pivotal LNG's Jacksonville facility to the list of authorized LNG sources, together with its proposed increase in authorized exports, would expand Carib Energy's LNG supply options and afford it increased flexibility to serve the immediate, ongoing needs of countries in the Caribbean region, as well as emerging needs in Central American and South American markets. Like the LNG volumes recently authorized for re-export by DOE/FECM Order No. 5114, Carib Energy's expanded LNG sourcing and export capabilities under the requested amendments would (1) support both Carib Energy's ability to meet gas supply needs in non-FTA countries, and (2) advance the climate change and energy security policies underlying the U.S.-

⁹ See, e.g., *Freeport LNG Expansion, L.P.*, "Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations," DOE/FECM Order No. 4961 at 59-60, DOE/FECM Docket No. 21-98-LNG (March 3, 2023). *U.S. Department of Energy*, "Final Rule – Small-Scale Natural Gas Exports," 83 Fed. Reg. No. 143 at 35109-35110 (July 25, 2018).

Caribbean Partnership to Address Climate Crisis 2030 (“PACC 2030”) by reducing the use of heavy fuel oil.¹⁰

Carib Energy’s proposed increase in authorized exports to non-FTA countries, meanwhile, is deemed in the public interest under NGA Section 3(a) pursuant to Sections 590.208(a) and 590.102(p) of DOE/FECM’s regulations due to its modest annual volumes in combination with the applicable DOE/FECM categorical exclusion from NEPA review (discussed below). Indeed, the proposed increase in small-scale LNG export volumes, which would serve the immediate, ongoing needs of countries in the Caribbean region, as well as emerging needs in Central American and South American markets, are precisely the type of small-scale exports that DOE/FECM authorized to “allow for greater diversity and competition in the natural gas market, consistent with the public interest under NGA section 3(a).”¹¹ Moreover, DOE/FECM previously has applied the small-scale export exemption to a long-term export authorization to non-FTA nations like that requested here by Carib Energy.

Accordingly, Carib Energy’s requested amendments to Order No. 3937 (i) adding Pivotal LNG’s Jacksonville facility to the list of authorized LNG sources and (ii) increasing the authorized level of export volumes to 7 Bcf/year are consistent with the public interest and should be granted without modification or delay.

VII. ENVIRONMENTAL IMPACT

DOE regulations provide a list of categorical exclusions from the preparation of an environmental analysis or environmental impact statement under NEPA. Categorical exclusion

¹⁰ See DOE/FECM Order No. 4772-A at 17.

¹¹ Final Rule, Small-Scale Natural Gas Exports, DOE/FECM Docket No. 17-86-R, Fed. Reg. Vol. 83, No. 143 at 35107 (July 25, 2018).

B5.7 (“Export of natural gas and associated transportation by marine vessel”) affords an exclusion, in relevant part, for “Approvals . . . of . . . amendments of existing authorizations to export natural gas under section 3 of the Natural Gas Act and any associated transportation of natural gas by marine vessel.”¹²

Because Carib Energy seeks modest amendments to include Pivotal’s Jacksonville, Florida facility as an authorized source for exported LNG together with an increase in authorized export volumes pursuant to its existing authorization under Order No. 3937, its application falls within categorical exclusion B5.7. Accordingly, no further environmental analysis under NEPA is required.

VIII. APPENDICES

The following appendices are included with this Application:

Appendix A: Verification

Appendix B: Opinion of Counsel

¹² See 10 C.F.R. Part 1021, Subpart D. App. B, Categorical Exclusion B5.7.

IX. CONCLUSION

For the foregoing reasons, Carib Energy respectfully requests that DOE/FECM grant the proposed amendments to Order No. 3937 by expanding the list of authorized sources of LNG to include Pivotal LNG's Jacksonville facility and increasing the level of authorized export volumes to 7.0 Bcf/year.

Respectfully submitted,

/s/ Paul Forshay

Paul F. Forshay

Holland & Knight LLP

800 17th Street N.W., Suite 1100

Washington, D.C. 20006

Tel: (202) 469-5557

Email: paul.forshay@hklaw.com

Counsel for Carib Energy (USA) LLC

May 2, 2024

APPENDIX A

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

Carib Energy (USA) LLC) DOE/FECM Docket No. 16-98-LNG

VERIFICATION

I, Matthew Jackson, declare that I am Vice President – Crowley Advanced Energy and am duly authorized to make this Verification on behalf of Carib Energy (USA) LLC; that I have read the foregoing instrument and that the facts therein stated are true and correct to the best of my knowledge, information, and belief.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed in Jacksonville, Florida on May 2, 2024.

/s/ Matthew Jackson
Matthew Jackson
Vice President
Crowley Advanced Energy
9487 Regency Square Blvd.
Jacksonville, FL 32225

APPENDIX B

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

Carib Energy (USA) LLC) DOE/FECM Docket No. 16-98-LNG

OPINION OF COUNSEL

This opinion is furnished pursuant to Section 590.202(c) of the Department of Energy's Regulations, 10 C.F.R. § 590.202(c) and in connection with the request of Carib Energy (USA) LLC ("Carib Energy") to amend sources and volumes of domestic liquefied natural gas for export to Non-Free Trade Agreement nations authorized by DOE/FECM Order No. 3937. I am counsel for Carib Energy. I have reviewed and relied upon the corporate formation documents of Carib Energy and information provided to me by its upstream parent company, Crowley Maritime Corporation. Based on the foregoing, and for the purposes of Carib Energy's application to the Office of Fossil Energy and Carbon Management, I am of the opinion that the proposed exports as described in the application are within the corporate powers of Carib Energy.

Respectfully submitted,

/s/ Paul Forshay
Paul F. Forshay
Holland & Knight LLP
800 17th Street, N.W., Suite 1100
Washington, D.C. 20006
Tel: 202/469-5557
Email: paul.forshay@hklaw.com

May 2, 2024