

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY AND CARBON MANAGEMENT

CARIB ENERGY (USA) LLC

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)
) DOCKET NO. 16-98-LNG

ORDER AMENDING LONG-TERM AUTHORIZATION
TO GRANT SMALL-SCALE EXPORTS OF LIQUEFIED NATURAL GAS
TO NON-FREE TRADE AGREEMENT NATIONS IN CENTRAL AMERICA,
SOUTH AMERICA, AND THE CARIBBEAN

DOE/FECM ORDER NO. 3937-A

SEPTEMBER 10, 2024

I. INTRODUCTION

On November 28, 2016, the Department of Energy’s (DOE) Office of Fossil Energy (now the Office of Fossil Energy and Carbon Management)¹ issued DOE/FE Order No. 3937 (Order)² to Carib Energy (USA) LLC (Carib Energy) under section 3(a) of the Natural Gas Act (NGA).³ Under the Order, Carib Energy is authorized to export domestically produced liquefied natural gas (LNG), in a volume up to the equivalent of 1.3 billion cubic feet (Bcf) per year (Bcf/yr) of natural gas, for a 20-year term.⁴ Carib Energy is authorized to export this LNG to any country in Central America, South America, and the Caribbean with which the United States does not have a free trade agreement (FTA) requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (non-FTA countries).⁵

Specifically, Carib Energy is authorized to load the LNG into approved IMO7/TVAC-ASME LNG (ISO) containers at designated facilities, then to transport the ISO containers by truck and load the containers for export by vessel.⁶ The LNG currently may be sourced from “five existing natural gas liquefaction facilities owned and operated by Pivotal LNG, Inc. or by one of Pivotal’s affiliates” (Facilities).⁷

¹ The Office of Fossil Energy (FE) changed its name to the Office of Fossil Energy and Carbon Management (FECM) on July 4, 2021.

² *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), <https://www.energy.gov/sites/prod/files/2016/11/f34/ord3937.pdf>.

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

⁴ This 20-year term commenced on December 30, 2021, the date of Carib Energy’s first export of LNG. *See Carib Energy (USA) LLC*, DOE/FE Order No. 3937, at 39 (Ordering Para. B); *Carib Energy (USA) LLC*, First Export of LNG, Docket No. 16-98-LNG (Apr. 6, 2022).

⁵ *Carib Energy (USA) LLC*, DOE/FE Order No. 3937, at 39 (Ordering Para. C); *see also* 15 U.S.C. § 717b(a).

⁶ *See Carib Energy (USA) LLC*, DOE/FE Order No. 3937, at 39 (Ordering Para. A).

⁷ These Facilities are 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). *See Carib Energy (USA) LLC*, DOE/FE Order No. 3937, at 39 (Ordering Para. A).

On May 3, 2024, Carib Energy filed an application (Amendment Application)⁸ under NGA section 3 and DOE/FECM’s “‘small-scale natural gas exports’ rule codified at 10 C.F.R. §§ 590.102(p) and 590.208(a).”⁹ Carib Energy seeks to amend Order No. 3937 in two respects. First, Carib Energy asks DOE to add an additional existing Pivotal facility—the JAX LNG facility located in Jacksonville, Florida—to the list of authorized Facilities from which Carib Energy may source LNG for export.¹⁰ Second, Carib Energy requests an increase in its authorized export volume from 1.3 Bcf/yr to 7.0 Bcf/yr of natural gas.¹¹ Carib Energy states that, in all other respects, Order No. 3937 would remain unchanged.¹²

In this Order, DOE finds that Carib Energy’s two requested amendments fall under DOE’s regulations for small-scale exports of natural gas at 10 C.F.R. §§ 590.102(p) and 590.208(a), and are therefore deemed to be consistent with the public interest under NGA section 3(a).¹³ Accordingly, DOE grants Carib Energy’s Amendment Application, as set forth below.

This Order, however, does not provide Carib Energy with an independent right to purchase or load LNG at any of the Facilities. DOE takes no position on the commercial arrangements that may be necessary for Carib Energy to effectuate the export of LNG approved in Order No. 3937, as amended by this Order.

⁸ Carib Energy (USA) LLC, 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, Docket No. 16-98-LNG (May 3, 2024) [hereinafter Amendment App.].

⁹ *Id.* at 2. In 2016, when DOE issued Carib Energy’s Order, these small-scale regulations did not yet exist, as DOE did not promulgate the rule for small-scale natural gas exports until 2018. *See* U.S. Dep’t of Energy, Small-Scale Natural Gas Exports; Final Rule, 83 Fed. Reg. 35,106 (July 25, 2018) (codifying 10 C.F.R. §§ 590.102(p), 590.208(a)). Now, however, Carib Energy’s requested amendment to Order No. 3937 may be reviewed under these regulations, as discussed herein.

¹⁰ Amendment App. at 1; *see also id.* at 4 (describing the JAX LNG facility).

¹¹ *Id.* at 1, 4.

¹² *Id.* at 1.

¹³ 15 U.S.C. § 717b(a).

II. DESCRIPTION OF REQUEST

In support of the Amendment Application, Carib Energy states that its requested increase in non-FTA exports—from 1.3 Bcf/yr to 7.0 Bcf/yr of natural gas—would “remain[] well within DOE/FECM’s small-scale export exemption” and “would have no significant impact on the domestic availability of natural gas.”¹⁴ Carib Energy further states that the addition of Pivotal’s JAX LNG facility to the list of authorized LNG sources, together with Carib Energy’s 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.”¹⁵

III. STANDARD OF REVIEW FOR 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.*¹⁶

Small-scale natural gas exports are deemed to be consistent with the public interest under NGA section 3(a).¹⁷ Therefore, DOE will issue an export authorization upon receipt of a complete application to conduct small-scale natural gas exports.¹⁸

IV. DISCUSSION AND CONCLUSIONS

Upon review of the record, DOE finds that Carib Energy’s Amendment Application

¹⁴ Amendment App. at 6.

¹⁵ *Id.*

¹⁶ 10 C.F.R. § 590.102(p).

¹⁷ *Id.* § 590.208(a).

¹⁸ *Id.*

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 an amended volume equivalent to 7.0 Bcf/yr of natural gas (which is within the limit in the regulation), as well as to source this LNG from an additional facility (the JAX LNG facility) for a total of six authorized Facilities. Second, DOE’s National Environmental Policy Act (NEPA) procedures provide for a categorical exclusion if neither an EA nor an EIS is required—specifically, categorical exclusion B5.7, *Export of natural gas and associated transportation by marine vessel*.¹⁹ On September 10, 2024, DOE issued a categorical exclusion for Carib Energy’s Amendment Application under this provision.²⁰ Accordingly, pursuant to 10 C.F.R. § 590.208(a), Carib Energy’s requested amendments to Order No. 3937 are deemed to be consistent with the public interest under NGA section 3(a).

V. FINDINGS

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

VI. TERMS AND CONDITIONS

The Terms and Conditions imposed by DOE in Order No. 3937 remain in effect, except that the export quantity referenced in Term and Condition D is amended to 7.0 Bcf/yr of natural gas (0.019 Bcf per day), consistent with Ordering Paragraph A below.²¹ Carib Energy must continue to abide by each Term and Condition or face appropriate sanction.

¹⁹ See 10 C.F.R. Part 1021, Subpt. D, App. B, Categorical Exclusion B5.7.

²⁰ U.S. Dep’t of Energy, Categorical Exclusion Determination, Carib Energy (USA) LLC, Docket No. 16-98-LNG (Sept. 10, 2024).

²¹ See *Carib Energy (USA) LLC*, DOE/FE Order No. 3937, at 38 (Term and Condition D).

VII. ORDER

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

A. The Amendment Application filed by Carib Energy (USA) LLC (Carib Energy) is granted.

B. The following paragraph replaces Ordering Paragraph A of Order No. 3937 in its entirety:

Carib Energy (USA) LLC is authorized to export 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 on ocean-going container vessels. The ISO containers can be loaded onto ocean-going carriers for export at those ports. The LNG can be sourced from the following six existing natural gas liquefaction facilities owned and operated by Pivotal LNG, Inc. or by one of Pivotal's affiliates: 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), the Macon LNG Facility (Macon, Georgia), and the JAX LNG Facility (Jacksonville, Florida) (collectively, Facilities), subject to any applicable

regulatory approvals governing those Facilities.²² Carib Energy is authorized to export this LNG in a volume equivalent to 7.0 Bcf/yr of natural gas solely on its own behalf, pursuant to one or more contracts of any duration.²³

C. All other obligations, rights, and responsibilities established by DOE in Order No. 3937 remain in effect.

Issued in Washington, D.C., on September 10, 2024.

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

²² If, in the future, Carib Energy wishes to obtain LNG for export from facilities other than these six Facilities, it will be required to file with DOE a request to amend this Order to add those facilities. DOE will evaluate that request under the same standard of review discussed above.

²³ See U.S. Dep't of Energy, 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. 2243 (Jan. 12, 2021). Additionally, as noted above, this Order does not provide Carib Energy with an independent right to purchase or load LNG at any of the authorized Facilities. Carib Energy and each of the Facilities may agree upon contractual terms for Carib Energy's export services, as they deem appropriate. This Order also does not restrict, through volume limitations or otherwise, any existing or future authorizations issued by DOE for any of the Facilities.