

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

CARIB ENERGY (USA) LLC)
) FE DOCKET NO. 11-141-LNG
)

FINAL ORDER GRANTING LONG-TERM MULTI-CONTRACT
AUTHORIZATION TO EXPORT LIQUEFIED
NATURAL GAS IN ISO CONTAINERS
BY VESSEL TO NON-FREE TRADE AGREEMENT NATIONS
IN CENTRAL AMERICA, SOUTH AMERICA, OR
THE CARIBBEAN

DOE/FE ORDER NO. 3487

SEPTEMBER 10, 2014

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FREQUENTLY USED ACRONYMS

AEO	Annual Energy Outlook
APGA	American Public Gas Association
Bcf/d	Billion Cubic Feet per Day
Bcf/yr	Billion Cubic Feet per Year
CO ₂	Carbon Dioxide
DOE	U.S. Department of Energy
EIA	U.S. Energy Information Administration
EITE	Energy Intensive, Trade Exposed
EPA	U.S. Environmental Protection Agency
EUR	Estimated Ultimate Recovery
FDI	Foreign Direct Investment
FE	Office of Fossil Energy, U.S. Department of Energy
FERC	Federal Energy Regulatory Commission
FLEX	Freeport LNG Expansion, L.P. and FLNG Liquefaction LLC
FTA	Free Trade Agreement
GCELC	Gulf Coast Environmental Labor Coalition
GDP	Gross Domestic Product
GNGM	Global Natural Gas Model
IECA	Industrial Energy Consumers of America
kWh	Kilowatt-Hour
LNG	Liquefied Natural Gas
LTA	Liquefaction Tolling Agreement
Mcf	Thousand Cubic Feet
MMBtu	Million British Thermal Units
MMcf/d	Million Cubic Feet per Day
mtpa	Million Metric Tons per Annum
NEI	National Export Initiative
NEMS	National Energy Modeling System
NEPA	National Environmental Policy Act
NGA	Natural Gas Act
NGLs	Natural Gas Liquids
NOA	Notice of Availability
Tcf/yr	Trillion Cubic Feet per Year
TRR	Technically Recoverable Resources

I. INTRODUCTION

On October 20, 2011, Carib Energy (USA) LLC (Carib) filed an application (Application)¹ with the Office of Fossil Energy of the Department of Energy (DOE/FE) pursuant to Section 3 of the Natural Gas Act (NGA)² requesting long-term, multi-contract authorization to export up to a total of 120,000 gallons per day of domestically sourced liquefied natural gas (LNG), which Carib states is equal to approximately 3.44 billion cubic feet of natural gas per year (Bcf/yr), or 0.01 billion cubic feet of natural gas per day (Bcf/d), for a 25-year period commencing on the earlier of the date of first export or five years from the date the requested authorization is granted. Carib sought authority to export the LNG to any country in Central America, South America, or the Caribbean that presently has or in the future acquires the capacity to import LNG via approved ISO IMO7/TVAC-ASME LNG (ISO) containers transported on ocean-going carriers, provided that trade is not prohibited by United States law or policy with that country, and provided further that the country has not entered into a free trade agreement with the United States providing for national treatment for trade in natural gas (non-FTA countries).³ As described in the Application, Carib's plan was to pick up the ISO containers holding LNG at an unspecified liquefaction facility and to transport the ISO containers over highways on trucks for re-delivery to the ocean-going carriers.

¹ Application of Carib Energy (USA) LLC for Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Countries, FE Docket No. 11-141-LNG (Oct. 20, 2011) [hereinafter Carib App.].

² 15 U.S.C. § 717b. This authority is delegated to the Assistant Secretary for Fossil Energy pursuant to Redelegation Order No. 00-002.04F (July 11, 2013).

³ Carib is presently authorized to export LNG in an amount up to the equivalent of 11.53 Bcf/yr (0.03 Bcf/d) to FTA countries in Central America, South America, and the Caribbean. *Carib Energy (USA) LLC*, DOE/FE Order No. 2993 (Order No. 2993), 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).

On December 20, 2011, DOE/FE published a Notice of the Application in the Federal Register.⁴ The Notice of Application called on interested persons to submit protests, motions to intervene, notices of intervention, and comments by February 27, 2012. No comments were filed in support of or opposition to the Application although DOE/FE received one motion for leave to intervene and comments from the American Public Gas Association (APGA).

Carib submitted proposed amendments to the Application on December 12, 2012 and May 6, 2013.⁵ The amendments (a) stated that Carib sought to export LNG from the Floridian Natural Gas Storage Company, LLC facility being developed in Martin County, Florida (Floridian Facility); (b) identified the supplier of natural gas for export as BP Energy Company (BPEC); (c) changed the maximum volumes sought to be authorized for export from 120,000 gallons per day to 600,000 gallons per day, approximately equivalent to 21.9 Bcf/yr (or 0.06 Bcf/d) of natural gas; and (d) sought DOE/FE's approval of a change of control of the Applicant due to the acquisition of Carib by Crowley Petroleum Services, Inc. For the reasons discussed below, DOE/FE will give effect to those amendments.

II. SUMMARY OF FINDINGS AND CONCLUSIONS

Based on a review of the complete record and for the reasons set forth below, DOE/FE has concluded that it has not been shown that the Carib Application is inconsistent with the public interest. DOE/FE further finds that Carib should be authorized to export LNG at a volumetric rate not to exceed 14.6 Bcf/yr (0.04 Bcf/d) of natural gas, which is equivalent to the maximum daily send out capacity of natural gas in liquefied state via the FERC-authorized truck

⁴ Carib Energy (USA) LLC, Application for Long-Term Authorization to Export Domestically Produced Liquefied Natural Gas for a 25-Year Period, 76 Fed. Reg. 80913 (Dec. 27, 2011) [hereinafter Notice of Application].

⁵ On October 17, 2013, Carib filed a pleading, styled as a third amendment to its Application. Carib requested in this pleading that DOE/FE process the Application expeditiously and before all other pending long-term applications to export LNG to non-FTA countries listed on DOE/FE's Order of Precedence.

loading station at the Floridian Facility,⁶ for a 20-year term. This represents a partial grant of the authorization requested by Carib. See discussion at section VIII.E, *infra*. Additionally, as discussed in Section IV.F of this Order, Carib’s exports from the Floridian Facility authorized in this Order fall within the scope of a categorical exclusion from the preparation of an environmental impact statement (EIS) or environmental assessment (EA) under the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321-4347 (2000). Consequently, the authorization issued by this Order will not be conditioned on further environmental analysis or review.

III. PUBLIC INTEREST STANDARD

Section 3(a) of the NGA sets forth the standard for review of Carib’s Application:

[N]o person shall export any 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 Energy⁷] 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 part, with such modification and upon such terms and conditions as the [Secretary] may find necessary or appropriate.

15 U.S.C. § 717b(a). This provision creates a rebuttable presumption that a proposed export of natural gas is in the public interest. DOE/FE must grant such an application unless the presumption is rebutted by an affirmative showing of inconsistency with the public interest.⁸

⁶ “Floridian states that the maximum daily send out capacity of natural gas in liquefied state via the truck loading station would be equivalent to approximately 40 MMcf/d”, *Floridian Natural Gas Storage Company, LLC*, Order Amending Certificate, 140 FERC ¶ 61,167 at 61,741-61,742 (2012).

⁷ The Secretary’s authority was established by the Department of Energy Organization Act, 42 U.S.C. § 7172, which transferred jurisdiction over imports and export authorizations from the Federal Power Commission to the Secretary of Energy.

⁸ See, e.g., *Sabine Pass*, Order No. 2961, at 28; *Phillips Alaska Natural Gas Corp. & Marathon Oil Co.*, DOE/FE Order No. 1473, Order Extending Authorization to Export Liquefied Natural Gas from Alaska, at 13 (April 2, 1999), citing *Panhandle Producers & Royalty Owners Ass’n v. ERA*, 822 F.2d 1105, 1111 (D.C. Cir. 1987).

While Section 3(a) establishes a broad public interest standard and a presumption favoring export authorizations, the statute does not define “public interest” or identify criteria that must be considered. In prior decisions, however, DOE/FE has identified a range of factors that it evaluates when reviewing an application for export authorization. These factors include economic impacts, international impacts, security of natural gas supply, and environmental impacts, among others. To conduct this review, DOE/FE looks to record evidence developed in the application proceeding.⁹

DOE/FE’s prior decisions have also looked to certain principles established in its 1984 Policy Guidelines.¹⁰ The goals of the Policy Guidelines are to minimize federal control and involvement in energy markets and to promote a balanced and mixed energy resource system. The Guidelines provide that:

The market, not government, should determine the price and other contract terms of imported [or exported] natural gas The federal government’s primary responsibility in authorizing imports [or exports] will be to evaluate the need for the gas and whether the import [or export] arrangement will provide the gas on a competitively priced basis for the duration of the contract while minimizing regulatory impediments to a freely operating market.¹¹

While nominally applicable to natural gas import cases, DOE/FE subsequently held in Order No. 1473 that the same policies should be applied to natural gas export applications.¹²

In Order No. 1473, DOE/FE stated that it was guided by DOE Delegation Order No. 0204-111. That delegation order, which authorized the Administrator of the Economic Regulatory Administration to exercise the agency’s review authority under section 3 of the NGA,

⁹ See, e.g., *Sabine Pass*, DOE/FE Order No. 2961, at 28-42 (reviewing record evidence in issuing conditional authorization); *Freeport LNG*, DOE/FE Order No. 3282, at 109-14 (discussing same); *Lake Charles Exports*, DOE/FE Order No. 3324, at 121-27.

¹⁰ New Policy Guidelines and Delegations Order Relating to Regulation of Imported Natural Gas, 49 Fed. Reg. 6684 (Feb. 22, 1984) [hereinafter 1984 Policy Guidelines].

¹¹ *Id.* at 6685.

¹² *Phillips Alaska Natural Gas*, DOE/FE Order No. 1473, at 14 (citing *Yukon Pacific Corp.*, DOE/FE Order No. 350, Order Granting Authorization to Export Liquefied Natural Gas from Alaska, 1 FE ¶ 70,259, 71,128 (1989)).

directed the Administrator to regulate exports “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.”¹³ In February 1989, the Assistant Secretary for Fossil Energy assumed the delegated responsibilities of the Administrator of ERA.¹⁴

Although DOE Delegation Order No. 0204-111 is no longer in effect, DOE/FE’s review of export applications has continued to focus on: (i) the domestic need for the natural gas proposed to be exported, (ii) whether the proposed exports pose a threat to the security of domestic natural gas supplies, (iii) whether the arrangement is consistent with DOE/FE’s policy of promoting market competition, and (iv) any other factors bearing on the public interest described herein.

IV. DESCRIPTION OF REQUEST

Carib has applied for a long-term, multi-contract authorization to export domestically produced LNG up to the equivalent of 0.06 Bcf/day of natural gas (21.9 Bcf/yr) by vessel in ISO containers from the Floridian Facility for a 25-year term. Carib requests that its authorization commence on the earlier of the date of first export or the fifth anniversary of the date of issuance of the requested authorization. Carib seeks authorization to export LNG from the Floridian Facility to any non-FTA country located within Central America, South America, or the Caribbean that has, or in the future develops, the capacity to import LNG via use of approved ISO IMO7/TVAC-ASME LNG containers transported on ocean-going carriers, and with which trade is not prohibited by United States law or policy.

¹³ DOE Delegation Order No. 0204-111, at 1; *see also* 49 Fed. Reg. at 6690.

¹⁴ *See* Applications for Authorization to Construct, Operate, or Modify Facilities Used for the Export or Import of Natural Gas, 62 Fed. Reg. 30,435, 30,437 n.15 (June 4, 1997) (citing DOE Delegation Order No. 0204-127, 54 Fed. Reg. 11,436 (Mar. 20, 1989)).

Carib states that it will take delivery of LNG at the Floridian Facility and will transport the LNG within the United States over highways, using approved 40-foot ISO IMO7/TVAC-ASME LNG containers. Carib explains that these containers comply with all U.S. Department of Transportation regulations, and the third parties with whom Carib will be contracting to handle transportation will comply with all required permits, including but not limited to any federal, state, or local permits relating to hazardous materials and cryogenic handling requirements.

Carib further states that it expects deliveries from the Floridian Facility to take place throughout the year on a daily basis, spaced regularly throughout the day. Whereas the Application originally stated that, due to physical limitations, no more than 120,000 gallons per day of LNG could be loaded from the Floridian Facility, the December 12, 2012 amendment changed the request to up to 600,000 gallons of LNG per day, or approximately 0.06 Bcf/d.

A. Description of Applicant.

The Application states that Carib is a Delaware limited liability corporation with its principal place of business in Coral Springs, Florida. Pursuant to the May 3, 2013, amendment, Carib states that it is a wholly owned subsidiary of Crowley Petroleum Services, Inc. (Crowley). Carib further asserts that Crowley is a wholly owned subsidiary of Crowley Maritime Corp. (CMC), which is in turn a wholly owned subsidiary of Crowley Holdings, Inc. (CHI). Carib states that CHI is a family- and employee-owned company.

B. Procedural History

Carib filed the Application on October 11, 2011, and DOE/FE published the Notice of the Application on December 20, 2011.¹⁵ As indicated above, no comments were filed in support of or opposition to the Application. APGA submitted the sole motion for leave to intervene and comments. Carib submitted amendments to the Application on December 12, 2012, and May 3, 2013.¹⁶

C. Amendments to the Application

1. December 12, 2012 Amendment

The December 12 filing proposed to amend the Application in the following respects: (1) Carib identified the facility from which it intended to obtain LNG as the Floridian Natural Gas Storage Company, LLC facility being developed in Martin County, Florida (Floridian Facility); (2) Carib identified its supplier of LNG as BP Energy Company (BPEC); and (3) Carib increased the requested export volume from 120,000 gallons per day to 600,000 gallons per day, approximately equivalent to 21.9 Bcf/yr (0.06 Bcf/d) of natural gas. DOE/FE did not receive any filings in opposition to the December 12 amendment.

Section 590.204 of DOE's regulations (10 CFR 590.204) provides that applicants may amend their applications at any time prior to issuance of a final opinion and order and directs that applicants shall amend applications whenever there are changes in material facts or conditions upon which the applications are based. Section 590.204 further provides that the Assistant Secretary may for good cause shown decline to act upon amendments in whole or in part. Upon

¹⁵ Carib Energy (USA) LLC, Application for Long-Term Authorization to Export Domestically Produced Liquefied Natural Gas for a 25-Year Period, 76 Fed. Reg. 80913 (Dec. 27, 2011) [hereinafter Notice of Application].

¹⁶ On October 17, 2013, Carib filed a pleading, styled as a third amendment to its Application.¹⁶ Carib requested in this pleading that DOE/FE process the Application expeditiously and before all other pending long-term applications to export LNG to non-FTA countries listed on DOE/FE's Order of Precedence. The issuance of this Order renders the October 17 pleading moot.

consideration, we will accept the three changes to the Application proposed in the December 12 filing. In this regard, we note that the proposed amendment was a substantive change to the Application but that no party opposed the changes contained in the filing.

2. May 6, 2013 Amendment

Carib filed a second amendment to the Application on May 6, 2013. The May 6 filing proposed a change in control of the applicant arising from the fact that Crowley had acquired 100 percent ownership of all membership interests in Carib. Under DOE/FE regulations, such a transfer of control must be approved by the agency. See 10 CFR 590.405. By letter dated May 30, 2013, DOE/FE approved this change of control and amended the pending Application as requested in the May 6 filing.

D. Floridian Facility

Carib states in the December 12 amendment that the Floridian Facility received a certificate of public convenience and necessity from the Federal Energy Regulatory Commission (FERC) in Docket No. CP08-13-000 on August 29, 2008,¹⁷ and that a requested amendment of the certificate was approved in FERC Docket No. CP12-100-000 on August 31, 2012.¹⁸ Carib states that no modifications to the Floridian Facility would be required for Carib to take delivery of LNG from the Facility. Carib expects deliveries from the Floridian Facility to take place throughout the year on a daily basis, spaced roughly equally, such that deliveries in any one day would not vary extremely from others. As indicated previously, the Application originally stated that, due to physical limitations, no more than 120,000 gallons per day of LNG could be loaded from the Floridian Facility, but the December 12, 2012, amendment of the Application states that

¹⁷ *Floridian Natural Gas Storage Company, LLC*, Order Issuing Certificate, 124 FERC ¶ 61,124 (2008).

¹⁸ *Floridian Natural Gas Storage Company, LLC*, Order Amending Certificate, 140 FERC ¶ 61,167 (2012).

Carib was seeking authority to export up to 600,000 gallons of LNG per day. Carib also stated in the un-amended Application that each ISO container that it planned to use for LNG transport has a capacity of 10,200 gallons and that truck traffic from the Facility will be limited to no more than 11 trucks per day, or less than one truck per hour over a twelve hour period. Pursuant the above-referenced FERC authorizations, the daily LNG truck send-out capacity from the Floridian Facility will be approximately 0.04 Bcf/d.

E. Source of Natural Gas and Export Locations

Carib states that the source of its natural gas supply is domestic and that its initial supplier will be BPEC. Carib explains that it intends to enter into letters of intent (LOIs) with additional suppliers in the future.

Carib states that it will initially take delivery of LNG at the Floridian Facility and will transport the LNG within the United States over highways, using approved 40-foot ISO containers. Carib states that all ISO containers will be tracked from the time of loading until delivery at the export terminal by use of a proprietary GPS tracking system. Carib states that it expects deliveries from the Facility to take place throughout the year on a daily basis.

Carib indicates that exports may occur from the ports of Jacksonville, West Palm, Miami, Pensacola, and Tampa, Florida; Mobile, Alabama; Gulfport, Mississippi; Savannah, Georgia; New Orleans, Louisiana; and Houston and Galveston, Texas. See Appendix D to the Application. Carib states that the decision of which ports will be used will be based on the final LNG destination.

F. Environmental Review

FERC has completed its environmental review of the Floridian Facility pursuant to an application for a certificate of public convenience and necessity under section 7 of the NGA, 15 U.S.C. § 717f. That review included both an environmental impact statement (EIS) and an

Environmental Assessment (EA). The EIS addressed the construction and operation of the Floridian Facility, including its operation as a natural gas liquefaction and storage facility. The EA addressed truck operations, including traffic flow and other impacts associated with the arrival at and departure of trucks from the Floridian Facility. We find that these environmental review documents addressed all of the reasonably foreseeable activities likely to arise from Carib's proposed exports of LNG in the current Application.¹⁹ While the construction and commencement of operations of the Floridian Facility has not yet occurred, no further construction or change in operations beyond those addressed in the FERC EIS and EA is likely.

The Department's regulations at 10 C.F.R. Part 1021, Subpart D, Appendix B5, lists categorical exclusions from NEPA review. Item B5.7 provides a categorical exclusion where approvals or disapprovals of authorizations to import or export natural gas under NGA section 3 involve minor operational changes but not new construction. Carib's proposed exports from the Floridian Facility fall within the scope of the B5.7 categorical exclusion because the contemplated construction and operations reviewed by FERC will not be changed due to action on Carib's application. Accordingly, on May 30, 2014, DOE/FE issued a Categorical Exclusion Determination applying a categorical exclusion under NEPA for the current Application.

The issuance of a categorical exclusion for the Application supports a determination that no further environmental review of Carib's Application is required under NEPA. The relatively small volume authorized for export under the Application, as amended, and the fact no parties have raised environmental concerns in this proceeding further support our determination that the order issued here need not await consideration of environmental impacts.

¹⁹ See FERC Final Environmental Impact Statement, *Floridian Natural Gas Storage Project*, Docket No. CP08-13-000 (July 2008); FERC Environmental Assessment, *Floridian Natural Gas Amendment Project*, Docket No. CP12-100-000 (July 2012).

V. APPLICANT'S PUBLIC INTEREST ANALYSIS

Carib asserts that section 3(a) of the NGA creates a rebuttable presumption that an application for LNG export authority is in the public interest and that such an application will be granted unless the presumption is overcome by an opponent of the application. Carib likewise cites to the Policy Statement for the proposition that DOE/FE seeks to minimize federal control and involvement in energy markets. Carib maintains that the focus of the agency's public interest evaluation is the domestic need for natural gas. According to Carib, DOE/FE also considers any threat to the security of domestic natural gas supplies due to the proposed export and any other issue determined to be appropriate, including whether the proposed authorization is consistent with DOE's policy of promoting competition in the marketplace.

Carib observes that it is seeking authority to export relatively small volumes of LNG, as compared to other recently approved and still pending export applications:

The maximum total volume of natural gas Carib expects to export in any year to both FTA and non-FTA countries is over 70 times less than the export authority sought by, and conditionally granted to, Sabine Pass Liquefaction, LLC ("Sabine") in orders issued by the DOE/FE in September 2010 and May 2011; the export authority Carib is seeking in this Application is even [a] smaller fraction of that total. Export of such smaller volumes of LNG has become economically and technically feasible in recent years due to the combined factors of increased domestic supply of natural gas and the development of approved containers allowing the safe and effective transport of smaller volumes of LNG than has previously been practical. This change allows Carib to take advantage of excess natural gas supply in the United States and use that supply to fill a need of customers in Central America, South America, and the Caribbean, countries with customers that lack the infrastructure and the demand to justify tanker loads of LNG, which represent much larger volumes of LNG.

App. at 8-9.

Carib refers to the AEO 2010 to support its view that U.S. consumers have access to substantial quantities of natural gas and points out that AEO 2011 more than doubled the AEO 2010 estimate of technically recoverable shale gas reserves and doubled projected shale gas production from 6.0 to 12.0 Tcf by 2035. The decrease in natural gas prices from 2008 to 2010

provides additional evidence of abundant supplies, according to Carib. Even considering the cumulative impact of recent authorizations issued by this agency, Carib maintains that the small volumes that it seeks authority to export will come from excess supply that cannot be marketed economically in the domestic market.

The export of these volumes, Carib maintains, will not have a significant impact on domestic natural gas supplies but will fulfill a need for natural gas among small countries that lack access to natural gas and do not have sufficient demand to justify shipment of a large LNG tanker. Carib states that exports of natural gas to the proposed destination countries also will enable those countries to stabilize power production by providing access to a feedstock for generation and stand-by power generation.

Carib contends as well that the proposed exports will benefit the United States and the world-wide environment by supporting the use of natural gas rather than more environmentally damaging diesel or heavy fuel oil. Carib also maintains that the U.S. trade balance will improve, furthering the objectives of President Obama's National Export Initiative. Moreover, Carib asserts, the destination countries will be able to diversify their supply base, thereby contributing to greater overall transparency, efficiency, and liquidity of international natural gas markets.

Carib states that granting the Application also will enable Carib to foster the development of a domestic natural gas and natural gas by-product market, particularly in natural gas liquids such as ethane, propane, and condensates that can be substituted for petroleum products made from imported oil. According to Carib, this in effect will reduce U.S. dependence on imported oil and further help to reduce trade imbalances. Carib asserts that these developments may help decouple international natural gas prices from oil prices in some markets and may exert

downward pressure on natural gas market prices in those markets. Last, Carib states that exports of domestic LNG will stimulate job creation in the United States.

VI. MOTIONS TO INTERVENE AND COMMENTS SUBMITTED IN RESPONSE TO THE NOTICE OF APPLICATION

DOE/FE received no comments in support of or opposing the Application, and one motion to intervene and comments from the APGA.²⁰ APGA states that it is a national, non-profit association of publicly-owned natural gas distribution systems, with approximately 700 members in 36 states. APGA notes that its members include municipal gas distribution systems, public utility districts, county districts, and other public agencies that have natural gas distribution facilities. APGA explains that it has a direct and substantial interest in this proceeding that cannot be adequately represented by any other party.

APGA further states that it has intervened in and protested many LNG applications because the requested authorizations in the aggregate could adversely affect the price of domestic gas. However, APGA explains that the current Application is of a different scale in terms of size and scope, and Carib does not aim to sell its product in global markets where cartel-driven oil prices affect the domestic price of natural gas. Given these distinguishing characteristics, according to APGA, the Application should be treated as *sui generis* and the concerns expressed by APGA in opposition to previous export applications do not apply to the current Application.²¹

²⁰ American Public Gas Ass'n Motion for Leave to Intervene and Comments (Feb. 7, 2012) [hereinafter APGA Mot.].

²¹ *Id.* at 3.

VII. DISCUSSION AND CONCLUSIONS

A. APGA's Motion to Intervene

The motion to intervene submitted by APGA is unopposed and is deemed granted. 10 C.F.R. § 590.303(g).

B. Carib's Application

Several factors support a partial grant of the requested authorization:

First, the statutory presumption that a proposed export of natural gas is consistent with the public interest puts the burden on opponents of the Application to show that the requested authorization is inconsistent with the public interest. In this case, the Application is unopposed. The only intervenor—the APGA—has stated that the basis for its opposition to other LNG export applications should not be applied to this proceeding. APGA did not change its position in response to the two amendments to the Application.

Second, we agree with Carib and APGA that the Application is of a different magnitude than the other applications for long-term export authorizations that we have previously considered. Export of the maximum LNG truck send-out capacity of the Floridian Facility (approximately 0.04 Bcf/d) is unlikely to have a significant impact on domestic natural gas markets or on the domestic economy generally.

C. Conclusion

We have reviewed the evidence in the record and have not found an adequate basis to conclude that Carib's export of LNG to non-FTA countries will be inconsistent with the public interest. For that reason, we are granting in part Carib's proposed exports to non-FTA countries subject to the limitations and conditions described in this Order.

VIII. TERMS AND CONDITIONS

To ensure that the authorization issued by this Order is not inconsistent with the public interest, DOE/FE has attached the following terms and conditions to the authorization. The reasons for each term or condition are explained below. Carib must abide by each term and condition or face rescission of its authorization or other appropriate sanction.

A. Term of the Authorization

Carib has requested a 25-year term for the authorization commencing on the earlier of the date of first export or five years from the date the requested authorization is granted. However, we find that it is in the public interest to limit the authorization to no longer than a 20-year term beginning from the earlier of the date of first export or the date five years from the date that a final order authorizing the exports is issued. This term will help to ensure that the term of the authorization will be sufficient to support repayment of any capital costs involved in financing the undertaking. We find that a 20-year term is likely sufficient to achieve this result. On the other hand, the shortened term will provide DOE with the opportunity to periodically reassess whether an existing authorization continues to function in the public interest. We note as well that other applicants for long-term LNG export authorizations likewise have received terms no longer than 20 years.²²

B. Commencement of Operations Within Five Years

Carib requested this authorization to commence on the earlier of the date of first export or five years from the date of the issuance of this Order. This condition will help to ensure that other entities that may seek similar authorizations are not frustrated in their efforts to obtain those authorizations by authorization holders that are not engaged in actual export operations.

²² See, e.g., *Sabine Pass*, DOE/FE Order No. 2961-A, at 29; *Freeport LNG*, DOE/FE Order No. 3282, at 122; *Lake Charles Exports*, DOE/FE Order No. 3324, at 135; and *Dominion Cove Point*, DOE/FE Order No. 3331, at 151.

Carib's request is unopposed and not inconsistent with the public interest. Therefore, DOE/FE will impose the condition.

C. Transfer, Assignment, or Change in Control

DOE/FE's natural gas import/export 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.²³ As a condition of the similar authorization issued to Sabine Pass in Order No. 2961, DOE/FE found that the requirement for prior approval by the Assistant Secretary under its regulations applies to any change of effective control of the authorization holder either through asset sale or stock transfer or by other means. This condition was deemed necessary to ensure that, prior to any transfer or change in control, DOE/FE will be given an adequate opportunity to assess the public interest impacts of such a transfer or change.

To clarify its interpretation of its regulations, DOE/FE will construe a change of 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. A rebuttable presumption that control exists will arise from the ownership or the power to vote, directly or indirectly, 10 percent or more of the voting securities of such entity.

²³ 10 C.F.R. § 590.405.

D. Contract Provisions for the Sale or Transfer of LNG to be Exported

DOE/FE's regulations require applicants to supply transaction-specific factual information "to the extent practicable."²⁴ Additionally, DOE/FE regulations allow confidential treatment of the information supplied in support of or in opposition to an application if the submitting party requests such treatment, shows why the information should be exempted from public disclosure, and DOE/FE determines it will be afforded confidential treatment in accordance with 10 C.F.R. § 1004.11.²⁵

DOE/FE will require that Carib file or cause to be filed with DOE/FE any relevant long-term commercial agreements, including LOIs, pursuant to which Carib exports LNG. DOE/FE finds that the submission of all such agreements or contracts within 30 days of their execution using the procedures described below will be consistent with the "to the extent practicable" requirement of section 590.202(b). By way of example and without limitation, a "relevant long-term commercial agreement" would include an LOI or other agreement with a minimum term of two years whereby Carib intends to provide export services.

In addition, DOE/FE finds that section 590.202(c) of DOE/FE's regulations²⁶ requires that Carib file, or cause to be filed, all long-term contracts associated with the long-term supply of natural gas for export by Carib, within 30 days of their execution.

DOE/FE recognizes that some information in Carib's long-term commercial agreements associated with the export of LNG, and/or long-term contracts associated with the long-term supply of natural gas, may be commercially sensitive. DOE/FE therefore will provide Carib the option to file or cause to be filed either unredacted contracts, or in the alternative (A) Carib may

²⁴ 10 C.F.R. § 590.202(b).

²⁵ *Id.* § 590.202(e).

²⁶ *Id.* § 590.202(c).

file, or cause to be filed, long-term contracts under seal, but it also will file either: i) a copy of each long-term contract with commercially sensitive information redacted, or ii) a summary of all major provisions of the contract(s) including, but not limited to, the parties to each contract, contract term, quantity, any take or pay or equivalent provisions/conditions, destinations, re-sale provisions, and other relevant provisions; and (B) the filing must demonstrate why the redacted information should be exempted from public disclosure.

To ensure that DOE/FE destination and reporting requirements included in this Order are conveyed to subsequent title holders, DOE/FE will include as a condition of this authorization that future contracts for the sale or transfer of LNG exported pursuant to this Order shall include an acknowledgement of these requirements.

E. Export Quantity

Carib has sought export authorization in a volume equivalent to 0.06 Bcf/d of natural gas. Yet the Floridian Facility's LNG send-out capacity, as reflected in the relevant FERC orders,²⁷ is approximately 0.04 Bcf/d. As indicated in *Freeport LNG Expansion, L.P., et al.*, DOE/FE's policy is not to authorize exports that exceed the capacity of the liquefaction capacity at the LNG export terminal that will be used to support the proposed export operations.²⁸ In keeping with relevant precedent, this Order authorizes the export of LNG up to the liquefaction and truck send-out capacity of the Floridian Facility of 14.6 Bcf/yr (0.04 Bcf/d).

²⁷ 140 FERC ¶ 61,167 at P 6.

²⁸ *Order Conditionally Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Freeport LNG Terminal on Quintana Island, Texas, to Non-Free Trade Agreement Nations*, DOE/FE Order No. 3357 (issued November 15, 2013) at 162.

F. Environmental Review

As explained above, the Application qualifies for a categorical exclusion, which DOE/FE issued on May 30, 2014, and no further environmental review or environmental conditions are necessary.

IX. FINDINGS

We find that it has not been shown that a partial grant of the requested authorization will be inconsistent with the public interest, and we further find that the Application should be granted subject to the terms and conditions set forth herein.

X. ORDER

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

A. Carib is authorized to export domestically produced LNG in approved ISO IMO7/TVAC-ASME LNG containers from the proposed Floridian Facility in Martin County, Florida, in an amount up to the equivalent of 14.6 Bcf/yr of natural gas for a term of 20 years to commence on the earlier of the date of first export or seven years from the date that this Order is issued.

B. The 20-year authorization period will commence on the earlier of the date of first export or five years from the date of the issuance of this Order. This LNG may be exported to any country in Central America, South America, or the Caribbean which presently has or in the future acquires the capacity to import LNG via approved ISO IMO7/TVAC-ASME LNG containers transported on ocean-going carriers, provided that trade is not prohibited by United States law or policy with such country and the country has not entered into a free trade agreement with United States providing for national treatment for trade in natural gas.

C. Carib shall ensure that all transactions authorized by this Order are permitted and lawful under United States 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, the FERC, and the U.S. Department of Transportation. Carib shall further ensure that the third parties with whom Carib or others on Carib's behalf will be contracting to handle truck transport of LNG in ISO containers will obtain and comply with any required federal, state, or local permits relating to hazardous materials and cryogenic handling. Failure to comply with these requirements could result in rescission of this authorization and/or other civil or criminal remedies.

D. (i) Carib shall file with the Office of Oil and Gas Global Security and Supply a non-redacted copy of all executed long-term contracts that Carib enters into, including LOI's, associated with Carib's long-term export of LNG from the Floridian Facility. The non-redacted copies may be filed under seal and must be filed within 30 days of their execution. Additionally, if Carib has filed the contracts described in the preceding sentence under seal or subject to a claim of confidentiality or privilege, within 30 days of their execution, Carib shall also file for public posting either: i) a redacted version of the contracts described in the preceding sentence, or ii) major provisions of the contracts. In these filings, Carib shall state why the redacted or non-disclosed information should be exempted from public disclosure.

(ii) Carib shall file with the Office of Oil and Gas Global Security and Supply a non-redacted copy of all executed long-term contracts that Carib enters into associated with the long-term supply of natural gas for export from the Floridian Facility by Carib. The non-redacted copies may be filed under seal and must be filed within 30 days of their execution. Additionally, if Carib has filed the contracts described in the preceding sentence under seal or subject to a claim of confidentiality or privilege, within 30 days of their execution, Carib shall also file for public posting either: i) a redacted version of the contracts described in the preceding sentence,

or ii) major provisions of the contracts. In these filings, Carib shall state why the redacted or non-disclosed information should be exempted from public disclosure.

E. Carib shall include the following provision in any agreement or other contract for the sale or transfer of LNG exported 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 Order No. 3487, issued September 10, 2014, in FE Docket No. 11-141-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 of destination, upon delivery, into which the exported LNG was actually delivered, and to include in any resale contract for such LNG the necessary conditions to insure that Carib Energy (USA) LLC is made aware of all such actual destination countries.

F. Within two weeks after the first export of domestically produced LNG by Carib occurs from the Floridian Facility, Carib shall provide written notification of the date that the first export of LNG authorized in Ordering Paragraph A above occurred.

G. Prior to any change in control of the authorization holder, Carib must obtain the approval of the Assistant Secretary for Fossil Energy. For purposes of this Ordering Paragraph, a “change of control” shall include any change, directly or indirectly, of the power to direct the management or policies of Carib, 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.

H. Monthly Reports: With respect to the LNG exports authorized by this Order, Carib shall file with the Office of Oil and Gas Global Security and Supply, within 30 days following the last day of each calendar month, a report indicating whether exports of LNG have been made.

The first monthly report required by this Order is due not later than the 30th day of the month following the month of first export. In subsequent months, if exports have not occurred, a report of “no activity” for that month must be filed. If exports of LNG have occurred, the report must give the following details of each LNG cargo: (1) the name(s) of the authorized exporter; (2) the name of the U.S. export port or terminal; (3) the name of the vessel carrying the LNG; (4) the date of departure from the U.S. export port or terminal; (5) the country (or countries) of destination into which the exported LNG was actually delivered; (6) the name of the supplier/seller; (7) the delivered volume in Mcf; (8) the price at point of export in U.S. dollars per million British thermal units (MMBtu); (9) the name and location (city, state) of the facility where the ISO container is loaded with LNG; (10) the mode(s) of transport used to move the loaded ISO container from the loading facility to the export port or terminal; (11) the duration of the supply agreement (indicate spot sales); and (12) the name(s) of the purchaser(s).

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

I. All monthly report filings shall be made to U.S. Department of Energy (FE-34), Office of Fossil Energy, Office of Oil and Gas Global Security and Supply, P.O. Box 44375, Washington, D.C. 20026-4375, Attention: Natural Gas Reports. Alternatively, reports may be e-mailed to ngreports@hq.doe.gov or may be faxed to Natural Gas Reports at (202) 586-6050.

J. Carib’s request to amend its Application, filed December 12, 2012, is granted.

K. Carib's request to amend its Application, filed October 17, 2013, is dismissed as moot.

Issued in Washington, D.C., on September 10, 2014.



Christopher A. Smith
Principal Deputy Assistant Secretary
Office of Fossil Energy