

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

AMERICAN LNG MARKETING LLC

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FE DOCKET NO. 15-19-LNG

ORDER GRANTING LONG-TERM, MULTI-CONTRACT AUTHORIZATION
TO EXPORT LIQUEFIED NATURAL GAS IN ISO CONTAINERS LOADED AT THE
PROPOSED TITUSVILLE FACILITY IN TITUSVILLE, FLORIDA,
AND EXPORTED BY VESSEL TO FREE TRADE AGREEMENT NATIONS

DOE/FE ORDER NO. 3656

MAY 29, 2015

I. DESCRIPTION OF REQUEST

On February 3, 2015, American LNG Marketing LLC (American LNG) filed an application (Application)¹ with the Office of Fossil Energy (FE) of the Department of Energy (DOE) under section 3 of the Natural Gas Act (NGA)² for long-term, multi-contract authorization to export liquefied natural gas (LNG) produced from domestic sources in a quantity up to 600,000 metric tons per annum, which American LNG states is equivalent to approximately 30.2 billion cubic feet per year (Bcf/yr) of natural gas (0.08 Bcf per day). American LNG seeks authorization to export the LNG by vessel from a proposed natural gas liquefaction project to be constructed in Titusville, Florida (Titusville Facility), near the Titusville Logistics Center. American LNG states that the Titusville Facility will be constructed, owned, and operated by its corporate affiliate TICO Development Partners, LLC (TICO). According to American LNG, the LNG typically will be delivered into approved ISO IMO7/TVAC-ASME LNG (ISO) containers (truck or rail mounted), then loaded onto container ships or roll-on/roll-off ocean-going carriers for export at the nearby Port Canaveral or other ports in Florida capable of handling such ISO containers without modification (including Port Everglades, Port of Miami, Port of Palm Beach, and Port of Jacksonville).

American LNG seeks authorization to export this LNG for a 20-year term to any country with which the United States currently has, or in the future will have, a free trade agreement (FTA) providing for national treatment for trade in natural gas, and with which trade is not

¹ American LNG Marketing LLC, Application of American LNG Marketing LLC for Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas to Free Trade Agreement Nations, FE Docket No. 15-19-LNG (Feb. 3, 2015).

² The authority to regulate the imports and exports of natural gas, including liquefied natural gas, under section 3 of the NGA (15 U.S.C. § 717b) has been delegated to the Assistant Secretary for FE in Redelegation Order No. 00-006.02 issued on November 17, 2014.

prohibited by U.S. law or policy (FTA countries).³ American LNG seeks to export this LNG on its own behalf and as agent for other entities who hold title to the LNG at the time of export. American LNG requests that this authorization commence on the earlier of the date of first export or seven years from the date the authorization is issued (May 29, 2022).

II. BACKGROUND

Applicant. American LNG states that it is a Delaware limited liability company with its principal place of business in New York, New York. American LNG states that it is in the business of marketing LNG in and outside of the United States. American LNG further states that it is controlled by Fortress Equity Partners (A) LP, a Delaware limited partnership with its principal place of business in New York, New York, and sponsored by entities related to Fortress Investment Group LLC (Fortress). According to American LNG, Fortress is a highly diversified global investment management firm with approximately \$66 billion of assets under management as of September 2014.

American LNG states that affiliate TICO is a special purpose entity whose primary business is to construct, own, and operate the proposed Titusville Facility. TICO is a Delaware limited liability company with its principal place of business in New York, New York. According to American LNG, TICO has secured the land for the proposed Titusville Facility from FDG TICO, LLC (FDG TICO) a Delaware limited liability company with its principal place of business in Coral Gables, Florida. American LNG states that both TICO and FDG TICO are controlled by Fortress.

³ 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.

Liquefaction Project. American LNG states that TICO has secured an approximately 65-acre site (Site) in Titusville, Florida, for the proposed Titusville Facility.⁴ The Site is part of an approximately 230-acre parcel referred to as the Titusville Logistics Center. According to American LNG, businesses and assets near the Titusville Logistics Center include a rail corridor owned by Florida East Coast Railway, a Florida-based freight railroad controlled by Fortress that operates a 351-mile freight rail system between Jacksonville and Miami. American LNG states that construction of the Titusville Facility was expected to commence in February 2015.⁵

American LNG anticipates that the Titusville Facility will have a total production capacity of 1,000,000 gallons of LNG per day (82.6 million cubic feet of natural gas per day), with a storage capacity of approximately 5,000,000 gallons. American LNG states that it will purchase some or all of the output of the proposed Titusville Facility from TICO.

American LNG states that, at the Titusville Facility, LNG typically will be delivered into ISO containers (truck or rail mounted) for both domestic and export customers. The ISO containers designated for delivery to export customers will be loaded onto container ships or roll-on/roll-off ocean-going carriers at the nearby Port Canaveral or other ports in Florida capable of handling such ISO containers without modification (including Port Everglades, Port of Miami, Port of Palm Beach, and Port of Jacksonville). As noted below, American LNG states that the likely destination of these exports will be nations in the Caribbean and Central America with which the United States has a free trade agreement.

Procedural History. The current Order is the second FTA order issued to American LNG. On March 18, 2015, DOE/FE issued Order No. 3601, in which it authorized American LNG, acting on its own behalf and as agent for third parties, to export domestically produced

⁴ A lease option agreement between TICO and FDG TICO demonstrating control over the Site is attached to the Application as Appendix C.

⁵ The location of the Titusville Facility is depicted in Appendix D to the Application.

LNG by ISO containers on vessels from the proposed Hialeah Facility to FTA countries.⁶ The Hialeah Facility is a natural gas liquefaction currently under construction at the Hialeah Railyard in Medley, Florida. Pursuant to that order, American LNG is authorized to export LNG in a volume equivalent to approximately 3.02 Bcf/yr of natural gas (0.008 Bcf/d) for a period of 20 years.⁷

Because the volumes of LNG authorized for export in this Order (equivalent to 30.2 Bcf/yr of natural gas) and in DOE/FE Order No. 3601 (equivalent to 3.02 Bcf/yr of natural gas) are being produced from two different liquefaction facilities, they are additive to one another. Therefore, the grant of this Order brings American LNG's total authorized FTA export volume to 33.22 Bcf/yr of natural gas.

Source of Natural Gas. American LNG states that the Titusville Facility will be connected to the domestic natural gas supply market through an interconnection constructed by Florida Gas Transmission, near existing lateral lines located south of the proposed Titusville Facility and west of the Orlando Utilities Commission's nearby generating facility. American LNG further states that, through Florida Gas Transmission's upstream interconnections, it will be able to source natural gas from a variety of suppliers in the domestic market.

Business Model. American LNG states that it intends primarily to sell LNG for use as a transportation fuel by both railroads and motor vehicles in the continental United States, U.S.

⁶ *American LNG Marketing LLC*, DOE/FE Order No. 3601, FE Docket No. 14-209-LNG, Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas in ISO Containers Loaded at the Proposed Hialeah Facility in Medley, Florida, and Exported by Vessel to Free Trade Agreement Nations (Mar. 18, 2015). We note that, in connection with American LNG's export proceeding involving the Hialeah Facility in FE Docket No. 14-209-LNG, American LNG also sought authority to export LNG to any other country with which trade is not prohibited by U.S. law or policy (non-FTA countries). That request for non-FTA authority remains pending before DOE/FE. See *American LNG Marketing LLC*; Application for Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations, 80 Fed. Reg. 16,000 (Mar. 26, 2015) (Notice of Application).

⁷ See *American LNG Marketing LLC*, DOE/FE Order No. 3601, at 10.

territories, and foreign countries in the Caribbean and Central America, and for use in electric generation facilities converted from fuel oil, primarily in the Caribbean and Central America.

American LNG requests this authorization on its own behalf and as agent for other entities who hold title to the LNG at the time of export. American LNG states that it will comply with all DOE/FE requirements for exporters and agents, including registration requirements. American LNG further states that, when acting as agent, it will register with DOE/FE each LNG title holder for which it seeks to export LNG as agent, and will comply with other registration requirements as set forth in recent DOE/FE orders. At the time of the Application, American LNG had not yet entered into any long-term supply or export agreements, but commits to submitting this information to DOE/FE when such contracts are executed.

Environmental Review. American LNG states that TICO will seek the necessary permits from and consultations with federal, state, and local agencies having jurisdiction over the construction of the Titusville Facility, to the extent applicable.

III. FINDINGS

(1) Section 3(c) of the NGA was amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486) to require that applications requesting authority for (a) the import and export of natural gas, including LNG, from and to a nation with which there is in effect a FTA requiring national treatment for trade in natural gas, and/or (b) the import of LNG from other international sources, be deemed consistent with the public interest and granted without modification or delay. This Application falls within section 3(c), as amended, and therefore, DOE/FE is charged with granting the requested authorization without modification or delay.⁸

⁸ DOE further finds that the requirement 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 countries with which the United States does not have a FTA requiring national treatment for trade in natural gas.

(2) In light of DOE's statutory obligation to grant this Application without modification or delay, there is no need for DOE/FE to review other arguments asserted by American LNG in support of the Application. The instant grant of authority should not be read to indicate DOE's views on those arguments.

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

(4) As described above, American LNG requests authorization to export LNG on its own behalf and as agent for other entities who hold title to the LNG at the time of export. DOE/FE previously addressed the issue of Agency Rights in DOE/FE Order No. 2913,⁹ which granted Freeport LNG Expansion, L.P., *et al.* (collectively, FLEX) authority to export LNG to FTA countries. In that order, DOE/FE approved a proposal by FLEX to register each LNG title holder for whom FLEX sought to export LNG as agent. DOE/FE found that this proposal was an acceptable alternative to the non-binding policy adopted by DOE/FE in *The Dow Chemical Company*,¹⁰ which established that the title for all LNG authorized for export must be held by the authorization holder at the point of export. We find that the same policy considerations that supported DOE/FE's acceptance of the alternative registration proposal in DOE/FE Order No. 2913 apply here as well.

⁹ *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 2913, FE Docket No. 10-160-LNG, Order Granting Long-Term Authorization to Export Liquefied Natural Gas from Freeport LNG Terminal to Free Trade Nations (Feb. 10, 2011).

¹⁰ *The Dow Chemical Company*, DOE/FE Order No. 2859, FE Docket No. 10-57-LNG, Order Granting Blanket Authorization to Export Liquefied Natural Gas, at 7-8 (Oct. 5, 2010), discussed in *Freeport LNG*, DOE/FE Order No. 2913, at 7-8.

DOE/FE reiterated its policy on Agency Rights procedures in *Gulf Coast LNG Export, LLC*.¹¹ In *Gulf Coast*, DOE/FE confirmed that, in LNG export orders in which Agency Rights have been granted, DOE/FE shall require registration materials filed for, or by, an LNG titleholder (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.¹²

To ensure that the public interest is served, the authorization granted herein shall be conditioned to require that where American LNG proposes to export LNG as agent for other entities who hold title to the LNG (Registrants), American LNG must register with DOE/FE those entities on whose behalf it will export LNG in accordance with the procedures and requirements described herein.

(5) Section 590.202(b) of DOE's regulations requires applicants to supply transaction specific factual information "to the extent practicable."¹³ Additionally, DOE regulations at 10 C.F.R. § 590.202(e) 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 determines it will be afforded confidential treatment in accordance with 10 C.F.R. § 1004.11.

(6) DOE/FE will require that American LNG file or cause to be filed with DOE/FE any relevant long-term commercial agreements (contracts) pursuant to which American LNG exports LNG as agent for a Registrant once they have been executed. DOE/FE finds that the submission of all such agreements or contracts within 30 days of their execution using the procedures

¹¹ *Gulf Coast LNG Export, LLC*, DOE/FE Order No. 3163, FE Docket No. 12-05-LNG, Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas By Vessel from the Proposed Brownsville Terminal to Free Trade Agreement Nations (Oct. 16, 2012).

¹² *See id.* at 7-8.

¹³ 10 C.F.R. § 590.202(b).

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 agreement with a minimum term of two years, such as a long-term sales contract involving LNG stored or liquefied at the proposed Titusville Facility.

(7) DOE/FE also will require American LNG to file any long-term contracts American LNG enters into providing for the long-term export of LNG on its own behalf from the Titusville Facility. DOE/FE finds that the submission of these 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).

(8) In addition, DOE/FE finds that section 590.202(c) of DOE/FE’s regulations¹⁴ requires that American LNG file, or cause to be filed, all long-term contracts associated with the long-term supply of natural gas to the Titusville Facility within 30 days of their execution that either American LNG or the Registrant enters into.

(9) DOE/FE recognizes that some information in American LNG’s or a Registrant’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 to the Titusville Facility, may be commercially sensitive. DOE/FE therefore will provide American LNG the option to file or cause to be filed either unredacted contracts, or in the alternative: (A) American LNG may 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

¹⁴ *Id.* § 590.202(c).

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 the 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 the Order shall include an acknowledgement of these requirements.

ORDER

Pursuant to section 3 of the NGA, it is ordered that:

A. American LNG is authorized to export domestically produced LNG by ISO containers on vessels from the proposed Titusville Facility, to be located in Titusville, Florida. The volume authorized in this Order is equivalent to approximately 30.2 Bcf/yr of natural gas for a 20-year term, beginning on the earlier of the date of first export or seven years from the date the authorization is issued (May 29, 2022). American LNG is authorized to export this LNG on its own behalf and as agent for other entities who hold title to the natural gas, pursuant to one or more long-term contracts (a contract greater than two years).

B. This LNG may be exported to Australia, Bahrain, Canada, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Republic of Korea, and Singapore, and to any nation with which the United States subsequently enters into a FTA requiring national treatment for trade in natural gas, provided that the destination nation has the capacity to import LNG via ocean going vessels.

FTA countries are currently identified by DOE/FE at:

<http://www.fossil.energy.gov/programs/gasregulation/index.html>.

C. American LNG 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. (i) American LNG shall file, or cause others to file, with the Office of Oil and Gas Global Security and Supply a non-redacted copy of all executed long-term contracts associated with the long-term export of LNG on its own behalf or as agent for other entities from the Titusville Facility. The non-redacted copies may be filed under seal and must be filed within 30 days of their execution. Additionally, if American LNG 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, American LNG shall also file, or cause others to 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, American LNG shall state why the redacted or non-disclosed information should be exempted from public disclosure.

(ii) American LNG shall file, or cause others to file, with the Office of Oil and Gas Global Security and Supply a non-redacted copy of all executed long-term contracts associated with the long-term supply of natural gas to the Titusville Facility. The non-redacted copies may be filed under seal and must be filed within 30 days of their execution. Additionally, if American LNG 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, American LNG shall also file, or cause others to 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,

American LNG shall state why the redacted or non-disclosed information should be exempted from public disclosure.

E. American LNG shall include, and require others for whom American LNG acts as agent to 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/FE Order No. 3656, issued May 29, 2015, in FE Docket No. 15-19-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 American LNG Marketing 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 ensure that American LNG Marketing LLC is made aware of all such actual destination countries.

F. American LNG is permitted to use its authorization in order to export LNG as agent for other entities, after registering the other parties with DOE/FE. Registration materials shall include an acknowledgement and agreement by the Registrant to supply American LNG with all information necessary to permit American LNG to register that person or entity with DOE/FE, 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; (4) within 30 days of execution, a copy of any long-term contracts not previously filed with DOE/FE, described in Ordering Paragraph D of this Order.

G. Each registration submitted pursuant to this Order shall have current information on file with DOE/FE. Any changes in company name, contact information, change in term of the long-term contract, termination of the long-term contract, or other relevant modification, shall be filed with DOE/FE within 30 days of such change(s).

H. As a condition of this authorization, American LNG shall ensure that all persons required by this Order to register with DOE/FE have done so. Any failure by American LNG to ensure that all such persons or entities are registered with DOE/FE shall be grounds for rescinding in whole or in part the authorization.

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

J. American LNG shall file with the Office of Oil and Gas Global Security and Supply, on a semi-annual basis, written reports describing the progress of the proposed Titusville Facility. The reports shall be filed on or by April 1 and October 1 of each year, and shall include information on the progress of the Titusville Facility, the date the facility is expected to be operational, and the status of the long-term contracts associated with the long-term export of LNG and any long-term supply contracts.

K. Prior to any change in control of the authorization holder, American LNG must obtain the approval of the Assistant Secretary for Fossil Energy. For purposes of this Ordering Paragraph, a “change in control” shall include any change, directly or indirectly, of the power to direct the management or policies of American LNG, 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.¹⁵

L. Monthly Reports: With respect to the LNG exports authorized by this Order, American LNG 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 in ISO containers by vessel have occurred, the report must give the following details of each LNG cargo: (1) the name(s) of the authorized exporter registered with DOE/FE; (2) the name of the U.S. export terminal; (3) the name of the LNG tanker; (4) the date of departure from the U.S. export terminal; (5) the country (or countries) of destination into which the LNG was actually delivered; (6) the name of the supplier/seller; (7) the volume in Mcf; (8) the price at point of export 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)

M. 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

¹⁵ 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. 65,641 (Nov. 5, 2014).

e-mailed to ngreports@hq.doe.gov, or may be faxed to Natural Gas Reports at (202) 586-6050.

Issued in Washington, D.C., on May 29, 2015.

A handwritten signature in black ink, appearing to read "John A. Anderson", written over a horizontal line.

John A. Anderson

Director, Office of Oil and Gas Global Security and Supply
Office of Oil and Natural Gas