

**UNITED STATES OF AMERICA  
DEPARTMENT OF ENERGY  
OFFICE OF FOSSIL ENERGY**

In the Matter of )  
BP Energy Company )

Docket No. 18-69-LNG

**MOTION TO INTERVENE AND COMMENTS  
OF DOMINION ENERGY COVE POINT LNG, LP**

Pursuant to Rules 303 and 304 of the Administrative Procedures with Respect to the Import and Export of Natural Gas issued by the Office of Fossil Energy of the Department of Energy (“DOE/FE”),<sup>1</sup> Dominion Energy Cove Point, LNG, LP (“DECP”) hereby moves to intervene in the above-captioned proceeding and submits comments on the application of BP Energy Company (“BPEC”) requesting blanket authorization for a two-year period to export on a short-term or spot market basis liquefied natural gas (“LNG”) previously imported into the United States from foreign sources, up to the equivalent of 30 billion cubic feet of natural gas (the “Application”). BPEC requests the authorization to export the LNG solely from the DECP Terminal located in Calvert County, Maryland (the “Cove Point Terminal”) to any country with the capacity to import LNG via ocean-going carrier and with which trade is not prohibited by U.S. law or policy -- *i.e.*, both to countries with which the U.S. has a free trade agreement requiring national treatment for natural gas trade (“FTA”) and to countries with which it does not. BPEC requests the authorization to export LNG both on its own behalf and as agent for other parties who own title to the LNG at the time of export.

**I. Motion to Intervene**

As the owner and operator of the Cove Point Terminal from which BPEC proposes in the Application to export LNG, DECP has an obvious interest in this proceeding. DECP interest

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<sup>1</sup> 10 C.F.R. §§ 590.303 and 304 (2018).

cannot be adequately represented by any other party. Accordingly, DECP moves to intervene in this proceeding and asks that the following representatives be included on the official service list:

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## **II. Comments Regarding the BPEC Application**

DECP certainly agrees with the basic premise of the BPEC Application: the export of previously-imported LNG from the Cove Point Terminal is fully consistent with the public interest. As BPEC notes, and the DOE/FE has held in other orders authorizing the export of previously imported LNG in other proceedings, U.S. consumers have access to substantial quantities of natural gas sufficient to meet domestic demand from other competitively-priced sources.<sup>2</sup> Moreover, because BPEC does not seek authorization to export any domestically produced natural gas, granting the requested authorization would not reduce at all the available amount of domestically-produced natural gas.<sup>3</sup> Nevertheless, DECP has certain reservations about BPEC's requested export authorization.

Most fundamentally, BPEC does not have any contractual right to export LNG from the Cove Point Terminal. BPEC states that its Application "is based on its desire to utilize and optimize the long-term LNG capacity it has contracted for at the Cove Point Terminal" and that granting the requested authorization "would assist BPEC in optimizing its long-term LNG

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<sup>2</sup> See Application at 5, citing, e.g., *ConocoPhillips*, DOE/FE Order No. 3754, FE Docket No. 15-130-LNG (Dec. 16, 2015).

<sup>3</sup> See Application at 6-7. BPEC does correctly note that previously imported and domestically produced LNG may be commingled in DECP's storage facilities. *Id.* at 2.

terminal capacity.”<sup>4</sup> Yet, the only rights that BPEC has contracted for at the Cove Point Terminal are as a “Firm LNG Tanker Discharging Service” customer under the terms of DECP’s Rate Schedule LTD-1 on file with the Federal Energy Regulatory Commission. Rate Schedule LTD-1 is an LNG *import* service that provides only for *discharging* LNG from a tanker, storing it as LNG, and then regasifying the LNG for sendout to domestic markets. BPEC has no contractual right – and DECP has no contractual obligation to BPEC -- to load a tanker for export of LNG or to schedule an export cargo under Rate Schedule LTD-1, or otherwise.

Granting the authorization would provide BPEC the necessary *regulatory* approval from DOE/FE to allow for that option. Yet, BPEC obviously may not export LNG from the Cove Point Terminal unless and until BPEC and DECP mutually agree upon contractual terms allowing it to do so, and DECP has no obligation to enter into any such agreement. The requested DOE/FE authorization alone cannot provide BPEC the marketing optionality it seeks without a contract between DECP and BPEC providing for export services.

Moreover, were an appropriate export contract to be agreed upon by the parties, DECP already has the requisite regulatory authority to allow for that export. DOE/FE Order No. 4046 grants DECP blanket authorization to export both domestically-produced and previously imported LNG to both FTA and non-FTA countries, both on its own behalf or when acting as agent for other entities that hold title to the LNG at the time of export, pursuant to transactions with terms of no longer than two years.<sup>5</sup> The authorization is effective for a two-year period that

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<sup>4</sup> Application at 3 and 4.

<sup>5</sup> *Dominion Cove Point LNG, LP*, DOE/FE Order No. 4046, FE Docket No. 16-205-LNG (June 1, 2017). BPEC suggests in its Application at note 3 that this authorization may not be effective because DECP had requested the authority only for Commissioning Volumes prior to the commencement of commercial operations. Nothing in Order No. 4046, however, reflects any such limitation on the export authorization and DECP has confirmed in discussion with DOE/FE Staff that its blanket authorization is not restricted in that way.

commenced on March 2, 2018 (the date of initial export) and up to a volume equivalent to 250 Bcf of natural gas, provided that the volumes exported under the blanket authorization when combined with LNG exports pursuant to DECP's long-term export authorizations may not exceed the authorized limits of 365 Bcf to FTA countries and 281 Bcf to non-FTA countries during any consecutive 12-month period.<sup>6</sup>

Therefore, if DECP were to enter into a contract, of two years or less duration, allowing BPEC to export LNG from the Cove Point Terminal – which it has not done – the export would already be authorized under Order No. 4046, with DECP acting as BPEC's agent. Thus, no need for separate export authorization for BPEC has been shown. DOE/FE's policy of allowing the holders of export authorization to utilize their authority for others, as their agent, allows the simpler approach of the terminal operator holding authorization for all exports, rather than multiple separate authorizations.<sup>7</sup>

Furthermore, DECP is concerned that multiple holders of authorization for LNG exports from the Cove Point Terminal might present complications and confusion. Record-keeping and reporting would seem simpler if DECP is responsible for all exports from its Terminal. The potential complications are greater because BPEC also has asked for authority to use the requested authorization for others, acting as their agent. Therefore, multiple scenarios are possible where LNG exports could be authorized under either DECP's blanket authorization or BPEC's authorization.

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<sup>6</sup> *Id.* at Ordering Paragraph B. DECP's long-term, multi-contract export authorizations were issued in DOE/FE Order No. 3019, FE Docket No. 11-115-LNG (Oct. 7, 2011)(FTA) and DOE/FE Order No. 3331-A, FE Docket No. 11-128-LNG (May 7, 2015)(Non-FTA).

<sup>7</sup> DOE/FE first allowed agency rights – in place of the prior policy of requiring title to the LNG to be held by the authorization holder – in *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 2913, FE Docket No. 10-160-LNG (Feb. 10, 2011).

DECP recognizes, of course, that DOE/FE has granted export authorizations to shippers in other cases, as BPEC explains in its Application.<sup>8</sup> If DOE/FE grants BPEC's requested export authorization – notwithstanding the concerns expressed by DECP here – DOE/FE should confirm that the BPEC authorization in no way limits or restricts (through volume limitations or otherwise) DECP's pre-existing export authorizations.

WHEREFORE, for all the foregoing reasons, DECP requests that DOE/FE grant this motion to allow its intervention in this proceeding and take into consideration DECP's reservations set forth above when acting on BPEC's Application.

Respectfully submitted,

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Dated: September 10, 2018

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<sup>8</sup> *E.g.*, *ConocoPhillips*, DOE/FE Order No. 3754, FE Docket No. 15-130-LNG (Dec. 16, 2015); *Cheniere Marketing, LLC*, DOE/FE Order No. 3825, FE Docket No. 16-29-LNG (May 26, 2016).

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, in accordance with the requirements of 10 C.F.R. § 590.107(b), I have this day served the foregoing document upon the applicant, BP Energy Company, and the Office of Fossil Energy of the Department of Energy for inclusion in the FE docket in this proceeding.

Dated at Washington, D.C., this 10<sup>th</sup> day of September, 2018.

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