

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

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SPECTRUM LNG, LLC  
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FE DOCKET NO. 20-33-LNG

ORDER GRANTING SHORT-TERM AUTHORIZATION  
FOR SMALL-SCALE EXPORTS OF LIQUEFIED NATURAL GAS

DOE/FE ORDER NO. 4542

MAY 26, 2020

## I. INTRODUCTION

On March 25, 2020, Spectrum LNG, LLC (SLNG) filed an Application<sup>1</sup> with the Office of Fossil Energy (FE) of the Department of Energy (DOE) under section 3(a) of the Natural Gas Act (NGA) requesting authority to export domestically produced liquefied natural gas (LNG).<sup>2</sup> SLNG amended its Application on April 24, 2020.<sup>3</sup> In the Application, as amended, SLNG requests short-term, multi-contract authorization to export LNG to any country 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).<sup>4</sup> As explained below, SLNG states that its proposed exports qualify as “small-scale natural gas exports” under DOE/FE’s regulations at 10 C.F.R. §§ 590.102(p) and 590.208(a), and therefore should be deemed to be consistent with the public interest under section 3(a) of the NGA.<sup>5</sup>

SLNG seeks to export this LNG in a volume equivalent to 2.3 billion cubic feet (Bcf) per year (Bcf/yr), or 0.006 Bcf per day, of natural gas.<sup>6</sup> SLNG proposes to export the LNG from the existing Ehrenberg Spectrum LNG Facility located in Ehrenberg, Arizona (the Facility).<sup>7</sup> SLNG

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<sup>1</sup> Spectrum LNG, LLC, Application for Long-Term and Short-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations, FE Docket No. 20-33-LNG (Mar. 25, 2020) [hereinafter App.].

<sup>2</sup> 15 U.S.C. § 717b(a). The authority to regulate the imports and exports of natural gas, including LNG, under section 3 of the NGA (15 U.S.C. § 717b) has been delegated to the Assistant Secretary for FE in Redelegation Order No. 00-002.04G issued on June 4, 2019.

<sup>3</sup> Spectrum LNG, LLC, Amendment to Export Application, FE Docket No. 20-33-LNG (Apr. 24, 2020) [hereinafter Amendment]. SLNG amended the Application to request only short-term export authority (*i.e.*, transactions with terms of no longer than two years), and to reduce its requested export volume.

<sup>4</sup> SLNG is not seeking to export LNG to FTA countries under NGA section 3(c), 15 U.S.C. § 717b(c), as it already holds a FTA export authorization. *See infra* at 4. 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.

<sup>5</sup> 10 C.F.R. § 590.208(a); *see also* U.S. Dep’t of Energy, Small-Scale Natural Gas Exports; Final Rule, 83 Fed. Reg. 35,106 (July 25, 2018).

<sup>6</sup> Amendment at 1.

<sup>7</sup> App. at 3 and Appendix A (describing the Facility).

states that it owns and operates the Facility.<sup>8</sup> SLNG proposes to load the LNG into approved IMO7/TVAC-ASME LNG (ISO) containers at the Facility, and to export the LNG by means of both ocean-going vessels and in ISO containers transported on ocean-going container vessels.<sup>9</sup> SLNG requests the export authorization for a two-year term, commencing on the earlier of the date of first export or two years from the date the authorization is granted.<sup>10</sup>

Upon review, DOE/FE has determined that the proposed exports qualify as “small-scale natural gas exports” under the criteria set forth in 10 C.F.R. § 590.102(p). Accordingly, we grant the Application in the volume of 2.3 Bcf/yr of natural gas, pursuant to 10 C.F.R. § 590.208(a).

Previously, on October 25, 2018, DOE/FE issued Order No. 4289, authorizing SLNG to export domestically produced LNG to Mexico by truck from the Facility.<sup>11</sup> Because the LNG for the FTA order (DOE/FE Order No. 4289), and this Order will originate from the same Facility, the FTA and non-FTA volumes are not additive.

## II. BACKGROUND

**Applicant.** SLNG is an Oklahoma limited liability company with its principal place of business in Tulsa, Oklahoma. SLNG is majority owned by Spectrum Energy Services, LLC and Mark S. Ploen. Spectrum Energy Services, LLC is an Alaskan limited liability company with its principal place of business in Anchorage, Alaska. Spectrum Energy Services, LLC is majority owned by Raymond R. Latchem. Mr. Latchem is the Managing Member of SLNG and Spectrum Energy Services, LLC.<sup>12</sup>

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<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Amendment at 1.

<sup>11</sup> *Spectrum LNG, LLC*, DOE/FE Order No. 4289, FE Docket No. 18-147-LNG, Order Granting Blanket Authorization to Export Liquefied Natural Gas to Mexico by Truck (Oct. 25, 2018).

<sup>12</sup> App. at 1-2.

**Liquefaction Facility and Transport.** SLNG states that it will take delivery of the LNG at the Facility, which SLNG owns and operates.<sup>13</sup> SLNG further states that the Facility has a maximum liquefaction capacity of 2.3 Bcf/yr of natural gas.<sup>14</sup>

The LNG will be loaded into approved ISO containers and transported by truck to ports of export, including the ports of Long Beach/Los Angeles and San Diego.<sup>15</sup> SLNG plans to export the LNG by means of both ocean-going vessels and ISO containers to be transported on ocean-going container vessels.<sup>16</sup>

**Source of Supply.** SLNG states that the Facility is adjacent to the connection between Kinder Morgan and TC Energy's North Baja Pipeline and is connected to the North Baja Pipeline. According to SLNG, feed gas is delivered to the Facility through the extensive pipeline network operated by Kinder Morgan and TC Energy, which is interconnected to the U.S. interstate pipeline grid.<sup>17</sup>

## **II. STANDARD OF REVIEW**

DOE/FE 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 Bcf/yr, 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.*<sup>18</sup>

Small-scale natural gas exports are deemed to be consistent with the public interest under NGA

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<sup>13</sup> *Id.* at 3.

<sup>14</sup> Amendment at 1.

<sup>15</sup> App. at 3.

<sup>16</sup> *Id.* at 3-4.

<sup>17</sup> *Id.* at 3.

<sup>18</sup> 10 C.F.R. § 590.102(p).

section 3(a).<sup>19</sup> Therefore, DOE/FE will issue an export authorization upon receipt of a complete application to conduct small-scale natural gas exports.<sup>20</sup>

#### **IV. DISCUSSION AND CONCLUSIONS**

We find that SLNG's Application, as amended, meets the criteria for small-scale natural gas exports, set forth in 10 C.F.R. § 590.102(p)(1) and (2). First, SLNG requests authority to export LNG to non-FTA countries in a volume equivalent to 2.3 Bcf/yr of natural gas, which is below the limit in the regulation. Second, DOE's NEPA procedures provide for a categorical exclusion for which neither an EIS nor an EA is required—specifically, categorical exclusion B5.7 (10 C.F.R. Part 1021, Subpart D, Appendix B5).<sup>21</sup> DOE/FE is concurrently issuing a categorical exclusion, dated May 22, 2020, finding that the proposed exports are categorically excluded from further NEPA review.<sup>22</sup> Accordingly, pursuant to 10 C.F.R. § 590.208(a), the proposed small-scale exports are deemed to be consistent with the public interest under NGA section 3(a), and DOE/FE will issue the requested authorization.

#### **V. FINDINGS**

On the basis of the findings and conclusions set forth above, DOE/FE grants the Application subject to the Terms and Conditions and Ordering Paragraphs set forth below.

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<sup>19</sup> *Id.* § 590.208(a).

<sup>20</sup> *Id.*; *see also* Small-Scale Natural Gas Exports Final Rule, *supra* note 5.

<sup>21</sup> *See* 10 C.F.R. § 1021.410, Appendix B to Subpart D of Part 1021, Categorical Exclusion B5.7 (“Approvals or disapprovals of new authorizations or amendments of existing authorizations to import or export natural gas under section 3 of the Natural Gas Act that involve minor operational changes (such as changes in natural gas throughput, transportation, and storage operations) but not new construction.”).

<sup>22</sup> U.S. Dep't of Energy, Categorical Exclusion Determination, Spectrum LNG, LLC, FE Docket No. 20-33-LNG (May 22, 2020).

## **VI. 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. SLNG must abide by each Term and Condition or face appropriate sanction.

### **A. Commencement of Operations**

As requested by SLNG, DOE/FE will add as a condition of the authorization that SLNG must commence commercial LNG exports no later than two years from the date of issuance of this Order. Because this Order allows for exports to begin from an existing facility, we find that SLNG should be able to commence small-scale exports of LNG immediately.

### **B. Transfer, Assignment, or Change in Control**

DOE/FE's natural gas 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.<sup>23</sup> DOE/FE has found that this requirement applies to any change of control of the authorization holder. This condition was deemed necessary to ensure that DOE/FE will be given an adequate opportunity to assess the public interest impacts of such a transfer or change.

DOE/FE construes a change in 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

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<sup>23</sup> 10 C.F.R. § 590.405.

other direct or indirect means.<sup>24</sup> A rebuttable presumption that control exists will arise from the ownership or the power to vote, directly or indirectly, 10% or more of the voting securities of such entity.<sup>25</sup>

### **C. Export Quantity**

This Order grants SLNG's Application, as amended, in the full volume of LNG requested, up to the equivalent of 2.3 Bcf/yr of natural gas.

### **D. Combined FTA and Non-FTA Export Authorization Volumes**

Because the export volumes authorized in SLNG's FTA order (DOE/FE Order No. 4289) and this Order each reflect the maximum liquefaction capacity of the Facility, SLNG may not treat the FTA and non-FTA export volumes as additive to one another.

## **VII. ORDER**

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

A. Spectrum LNG, LLC (SLNG) is authorized to export domestically produced LNG loaded from the Ehrenburg Spectrum LNG Facility in Ehrenburg, Arizona (the Facility).<sup>26</sup> SLNG is authorized to export the LNG by vessel and in ISO containers on vessels, in a volume equivalent to 2.3 Bcf/yr of natural gas, pursuant to transactions that have terms of not greater than two years. This authorization is for a term of two years to commence from the date of first commercial export, but not before.

B. SLNG must commence export operations using the Facility no later than two years from the date of issuance of this Order.

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<sup>24</sup> 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. 65,541, 65,542 (Nov. 5, 2014).

<sup>25</sup> See *id.*

<sup>26</sup> If, in the future, SLNG wishes to load LNG from any other facilities (as indicated in its Application at 3), it will be required to file with DOE/FE a request to amend this Order to add those facilities. DOE/FE will evaluate that request under the small-scale standard of review discussed above. See 10 C.F.R. § 590.208(a).

C. This LNG may be exported to any country with which the United States does not have a FTA requiring national treatment for trade in natural gas, which currently has or in the future develops the capacity to import LNG, and with which trade is not prohibited by U.S. law or policy.

D. SLNG 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 U.S. Department of the Treasury and the Pipeline and Hazardous Materials Safety Administration. Failure to comply with these requirements could result in rescission of this authorization and/or other civil or criminal penalties.

E. SLNG shall include the following provision in any agreement or other contract for the sale or transfer of LNG 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 C of DOE/FE Order No. 4542, issued May 26, 2020, in FE Docket No. 20-33-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 Spectrum LNG, LLC that identifies the country (or countries) into which the LNG was actually delivered, and to include in any resale contract for such LNG the necessary conditions to ensure that Spectrum LNG, LLC is made aware of all such actual destination countries.

F. Within two weeks after the first export authorized in Ordering Paragraph A occurs, SLNG shall provide DOE/FE written notification of the date that the first export occurred.

G. With respect to any change in control of the authorization holder, SLNG must comply with DOE/FE's Procedures for Change in Control Affecting Applications and Authorizations to Import or Export Natural Gas.<sup>27</sup>

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<sup>27</sup> See 79 Fed. Reg. at 65,541-42.



H. Monthly Reports: With respect to the exports authorized by this Order, SLNG shall file with the Office of Regulation, Analysis, and Engagement, within 30 days following the last day of each calendar month, a report on Form FE-746R indicating whether exports of LNG have been made. The first monthly report required by this Order is due not later than the 30<sup>th</sup> 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 by ocean-going 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) into which the LNG was actually delivered; (6) the name of the supplier/seller; (7) the volume in thousand cubic feet (Mcf); (8) the price at point of export per million British thermal units (MMBtu); (9) the duration of the supply agreement; and (10) the name(s) of the purchaser(s).

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 vessel; (4) the date of departure from the U.S. export terminal; (5) the country (or countries) into which the LNG was actually delivered; (6) the name of the supplier/seller; (7) the volume in thousand cubic feet (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; 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 on Form FE-746R shall be made to the U.S. Department of Energy (FE-34), Office of Fossil Energy, Office of Regulation, Analysis, and Engagement, according to the methods of submission listed on the Form FE-746R reporting instructions available at <https://www.energy.gov/fe/services/natural-gas-regulation>.

Issued in Washington, D.C., on May 26, 2020.

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Shawn Bennett  
Deputy Assistant Secretary  
Office of Oil and Natural Gas