

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

SABINE PASS LIQUEFACTION, LLC)
_____)

FE DOCKET NO. 20-28-LNG

ORDER GRANTING BLANKET AUTHORIZATION
TO EXPORT PREVIOUSLY IMPORTED
LIQUEFIED NATURAL GAS BY VESSEL
TO FREE TRADE AGREEMENT AND
NON-FREE TRADE AGREEMENT NATIONS

DOE/FE ORDER NO. 4545

JUNE 4, 2020

I. INTRODUCTION

On March 10, 2020, Sabine Pass Liquefaction, LLC (SPL) 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 SPL requests authorization to export liquefied natural gas (LNG) previously imported into the United States from foreign sources in a volume equivalent to 500 billion cubic feet (Bcf) of natural gas on a cumulative basis. SPL seeks to export this LNG by vessel from the Sabine Pass LNG Terminal, owned by Sabine Pass LNG, L.P., in Cameron Parish, Louisiana, on a short-term or spot market basis for a two-year period commencing on June 7, 2020.³

SPL seeks to export this LNG 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. This includes both countries with which the United States has entered into 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 (FTA countries),⁴ and any other country with which trade is not prohibited by U.S. law or policy (non-FTA countries).⁵ SPL states that it does not seek authorization to export any domestically produced natural gas or LNG. SPL is requesting this authorization on its own behalf and as agent for other parties who hold title to the LNG at the time of export.⁶

¹ Sabine Pass Liquefaction, LLC, Application for Blanket Authorization to Export Previously Imported Liquefied Natural Gas, FE Docket No. 20-28-LNG (Mar. 10, 2020) [hereinafter App.].

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. 00-002.04G issued on June 4, 2019.

³ App. at 1.

⁴ 15 U.S.C. § 717b(c). 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.

⁵ 15 U.S.C. § 717b(a).

⁶ App. at 1, 3.

In this Order, DOE/FE grants SPL's Application and authorizes the requested export of previously imported LNG in a volume equivalent to 500 Bcf of natural gas on a cumulative basis over the requested two-year period. Specifically, DOE/FE grants the FTA portion of the Application under NGA section § 3(c), 15 U.S.C. § 717b(c). Section 3(c) was amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486) to require that FTA applications "shall be deemed to be consistent with the public interest" and granted "without modification or delay."⁷ The FTA portion of the Application falls within NGA section 3(c), and therefore DOE/FE approves the requested FTA authorization without modification or delay. Accordingly, none of the public interest analysis discussed below applies to the FTA authorization. As to the non-FTA portion of the Application, DOE/FE has reviewed the record in this proceeding under NGA section 3(a), 15 U.S.C. § 717b(a), and likewise grants that requested authorization, as set forth below.

II. BACKGROUND

Applicant. SPL is a Delaware limited liability company with its principal place of business in Houston, Texas. SPL is an indirect subsidiary of Cheniere Energy, Inc., a Delaware corporation with its primary place of business in Houston, Texas.⁸

Procedural History. DOE/FE previously issued DOE/FE Order No. 4197, authorizing SPL to export LNG previously imported from foreign sources in a volume equivalent to 500 Bcf of natural gas over a two-year period commencing on June 7, 2018, and extending through June 6, 2020.⁹ SPL is authorized to export this LNG by vessel from the Sabine Pass LNG Terminal to

⁷ 15 U.S.C. § 717b(c).

⁸ App. at 2.

⁹ *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 4197, FE Docket No. 18-35-LNG, Order Granting Blanket Authorization to Export Previously Imported Liquefied Natural Gas by Vessel to Free Trade Agreement and Non-Free Trade Agreement Nations, at 13 (June 4, 2018).

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.¹⁰

Additionally, on July 24, 2018, DOE/FE issued DOE/FE Order No. 4218, authorizing SPL to import LNG from various international sources by vessel in a total volume equivalent to approximately 1,600 Bcf of natural gas for a two-year term commencing on January 29, 2019, and extending through January 28, 2021.¹¹ Under the terms of that authorization, SPL may import the LNG at any LNG receiving facility in the United States and its territories.¹²

In this proceeding, SPL filed its Application on March 10, 2020. On April 24, 2020, DOE/FE published a Notice of Application in the *Federal Register* for the non-FTA portion of the Application.¹³ Comments, protests, and motions or notices to intervene on the Application were due on May 26, 2020. DOE/FE received one comment in response to the Notice of Application.¹⁴ The comment, from Maria Hernandez, was not responsive to the Application.¹⁵ No protests or motions to intervene in opposition to the Application were filed, and therefore the Application is uncontested.¹⁶

III. DESCRIPTION OF REQUEST

SPL requests authorization to export previously imported LNG on a short-term or spot market basis in a volume equivalent to 500 Bcf of natural gas cumulatively over a two-year

¹⁰ *Id.*

¹¹ *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 4218, FE Docket No. 18-85-LNG, Order Granting Blanket Authorization to Import Liquefied Natural Gas from Various International Sources by Vessel, at 3 (July 24, 2018).

¹² *Id.*

¹³ U.S. Dep't of Energy, *Sabine Pass Liquefaction, LLC; Application for Blanket Authorization to Export Previously Imported Liquefied Natural Gas to Non-Free Trade Agreement Countries on a Short-Term Basis*, 85 Fed. Reg. 23,014 (Apr. 24, 2020).

¹⁴ Comment of Maria Hernandez, FE Docket No. 20-28-LNG (Apr. 25, 2020) [hereinafter Comment of Maria Hernandez].

¹⁵ *See id.*

¹⁶ 10 C.F.R. § 590.102(b)(1).

period beginning on June 7, 2020.¹⁷ In relevant part, SPL seeks to export this LNG from the Sabine Pass LNG Terminal to non-FTA countries, both on its own behalf and as an agent for other entities.¹⁸ SPL states that it will comply with all DOE/FE requirements for exporters and agents. SPL 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.¹⁹

SPL states that it is not seeking to export domestically produced natural gas or LNG. According to SPL, the LNG proposed for export is derived from its LNG importing activities and is located in storage tanks at the Sabine Pass LNG Terminal. SPL states that this LNG either will be re-exported or re-gasified to be consumed in the domestic natural gas market, contingent on U.S. and global market price signals.²⁰ SPL states that no physical modifications to the Sabine Pass LNG Terminal will be required to accommodate the requested authorization.²¹

IV. APPLICANT'S PUBLIC INTEREST ANALYSIS FOR NON-FTA AUTHORIZATION

SPL maintains that its requested authorization is consistent with NGA section 3(a) and DOE/FE's policy. First, SPL asserts that the volume of previously imported foreign-sourced LNG that it proposes to export is not necessary to meet domestic needs.²² In support of this argument, SPL points to DOE/FE's findings in recent blanket authorizations to export previously imported LNG—including its existing authorization (DOE/FE Order No. 4197)²³ and an

¹⁷ App. at 3.

¹⁸ *Id.*

¹⁹ *Id.* at 4-5.

²⁰ *Id.* at 3.

²¹ *Id.*

²² *Id.* at 4.

²³ App. at 4 (discussing *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 4197).

authorization issued to Cameron LNG, LLC (Cameron LNG) in 2019.²⁴ SPL notes that, in the Cameron LNG order, DOE/FE took administrative notice of the U.S. Energy Information Administration’s (EIA) *Annual Energy Outlook 2019* (AEO 2019) in finding that the requested volume of foreign-sourced LNG was not needed to meet domestic demand.²⁵ SPL suggests that this conclusion should apply to its Application.²⁶

Next, SPL states that granting its requested non-FTA authorization would provide “necessary flexibility” for it to respond to changes in domestic and global markets for natural gas and LNG.²⁷ According to SPL, the requested authorization would enable SPL to avail itself of spot-market LNG import cargoes, which it maintains will help to promote the liquidity of supply available to the U.S. natural gas market and to moderate U.S. natural gas price volatility.²⁸

SPL also contends that the ability to re-export previously imported LNG helps to encourage continued imports, which it asserts will help to ensure that the Sabine Pass LNG Terminal facilities remain in ready operating condition.²⁹

V. DISCUSSION AND CONCLUSIONS FOR NON-FTA AUTHORIZATION

A. Standard of Review

Section 3(a) of the NGA sets forth the applicable standard for DOE/FE’s review of SPL’s requested non-FTA authorization. Section 3(a) provides:

[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 Energy] authorizing it to do so. The [Secretary] shall

²⁴ See *id.* (citing *Cameron LNG, LLC*, DOE/FE Order No. 4425, FE Docket No. 19-62-LNG, Order Granting Blanket Authorization to Export Previously Imported Liquefied Natural Gas by Vessel to Free Trade Agreement and Non-Free Trade Agreement Countries (Aug. 21, 2019)).

²⁵ See *id.* (discussing U.S. Energy Info. Admin., *Annual Energy Outlook 2019* (Jan. 24, 2019), available at: <https://www.eia.gov/outlooks/archive/aeo19/pdf/aeo2019.pdf>).

²⁶ *Id.*

²⁷ *Id.* at 5.

²⁸ See *id.*

²⁹ App. at 5.

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.³⁰

This provision creates a rebuttable presumption that a proposed export of natural gas is in the public interest.³¹ DOE/FE must grant such an application unless the presumption is overcome by an affirmative showing of inconsistency with the public interest.³²

In evaluating an export application under this standard, DOE/FE applies the principles described in DOE Delegation Order No. 0204-111³³—which focus primarily on domestic need for the natural gas to be exported, as described in DOE's 1984 Policy Guidelines³⁴—and any other matters determined to be appropriate to a determination of the public interest. In addition, the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed decisions.

B. Domestic Need

SPL's Application involves a request for authorization to export LNG that was previously imported into the United States from foreign sources.³⁵ Exporting this proposed volume of LNG will not reduce the availability of domestically produced natural gas. On the other hand, exporting previously imported LNG could affect the domestic natural gas market because, for the

³⁰ 15 U.S.C. § 717b(a).

³¹ *See, e.g., Sierra Club v. U.S. Dep't of Energy*, 867 F.3d 189, 203 (D.C. Cir. 2017) (citations omitted).

³² *See id.* (citations omitted).

³³ DOE Delegation Order No. 0204-111 (Feb. 22, 1984), at 1 (¶ (b)). DOE Delegation Order No. 0204-111 was later rescinded by DOE Delegation Order No. 00-002.00 (¶ 2) (Dec. 6, 2001), and DOE Redelegation Order No. 00-002.04 (¶ 2) (Jan. 8, 2002).

³⁴ U.S. Dep't of Energy, *New Policy Guidelines and Delegation Orders from Secretary of Energy to Economic Regulatory Administration and Federal Energy Regulatory Commission Relating to the Regulation of Imported Natural Gas*, 49 Fed. Reg. 6,684 (Feb. 22, 1984).

³⁵ App. at 3.

requested two-year period, the proposed exports will reduce the volume of natural gas potentially available for consumption within the United States.

DOE/FE has issued numerous blanket authorizations to export previously imported LNG in other proceedings.³⁶ These orders were based, in part, on authoritative data indicating that United States consumers have access to substantial quantities of natural gas sufficient to meet domestic demand from other competitively-priced sources. For example, SPL points to DOE/FE's discussion of AEO 2019 in Cameron LNG's authorization.³⁷ For this proceeding, DOE takes administrative notice of the most recent analysis prepared by EIA in the *Annual Energy Outlook 2020* (AEO 2020). AEO 2020 projects annual lower-48 domestic dry natural gas production in 2021 of 35.70 trillion cubic feet (Tcf),³⁸ with total natural gas consumption projected to be 31.92 Tcf in the same year.³⁹

Because domestic natural gas production levels are projected to reach an amount that well exceeds the amount of natural gas proposed for short-term export in SPL's Application, we find that United States consumers will continue to have access to substantial quantities of natural gas sufficient to meet domestic demand from multiple other sources at competitive prices without drawing on the LNG that SPL seeks to export.

C. Other Public Interest Factors

Domestic need is the only explicit public interest consideration identified by DOE in Delegation Order No. 0204-111. Consistent with DOE's Policy Guidelines and DOE/FE

³⁶ See, e.g., *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 4197; *Cameron LNG, LLC*, DOE/FE Order No. 4425 (*supra* note 24).

³⁷ App. at 4.

³⁸ See AEO 2020 Reference Case, Table 60: Lower 48 Natural Gas Production and Supply Prices by Supply Region, available at: <https://www.eia.gov/outlooks/aeo/data/browser/#/?id=72-AEO2020&cases=ref2020&sourcekey=0>.

³⁹ See AEO 2020 Reference Case, Table 13: Natural Gas Supply, Disposition, and Prices, available at: <https://www.eia.gov/outlooks/aeo/data/browser/#/?id=13-AEO2020&cases=ref2020&sourcekey=0>.

precedent, DOE/FE considers the potential effects of proposed exports on other aspects of the public interest, as may be relevant. As noted above, DOE/FE received one comment in response to the Notice of Application, but the comment was non-responsive.⁴⁰

D. Environmental Review

NEPA requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. As noted above, SPL states that the proposed export of previously imported LNG would require no physical modifications to the Sabine Pass LNG Terminal.⁴¹ Under these circumstances, DOE's NEPA procedures provide for a categorical exclusion for which neither an environmental assessment (EA) nor an environmental impact statement (EIS) is required—specifically, categorical exclusion B5.7 (10 C.F.R. Part 1021, Subpart D, Appendix B5).⁴² Accordingly, DOE is concurrently issuing a categorical exclusion, dated June 4, 2020, finding that SPL's proposed exports are categorically excluded from further NEPA review.⁴³

E. Conclusion

Upon review of the record, DOE/FE finds that a grant of the uncontested non-FTA portion of SPL's Application is not inconsistent with the public interest. In particular, the record shows that there is a sufficient supply of natural gas to satisfy domestic demand from multiple other sources at competitive prices without drawing on SPL's proposed exports during the two-year authorization period. Further, the proposed exports qualify for a categorical exclusion

⁴⁰ Comment of Maria Hernandez.

⁴¹ See App. at 3.

⁴² 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.”).

⁴³ U.S. Dep't of Energy, Categorical Exclusion Determination, Sabine Pass Liquefaction, LLC, FE Docket No. 20-28-LNG (June 4, 2020).

under NEPA, such that no EA or EIS will be required. DOE/FE therefore grants SPL's Application, as set forth below.

VI. 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 the export of natural gas, including LNG, to a nation with which there is in effect a FTA requiring national treatment for trade in natural gas shall be deemed consistent with the public interest and granted without modification or delay.⁴⁴ The FTA portion of SPL's Application falls within section 3(c), as amended, and therefore DOE/FE grants the requested authorization without modification or delay.⁴⁵

(2) With respect to the non-FTA portion of the Application, and after due consideration based on all facts and evidence of record, DOE/FE finds that a grant of the export application is not inconsistent with the public interest under NGA section (a), 15 U.S.C. § 717b(a).

(3) SPL requests authorization to export LNG on its own behalf and as agent for other entities who will hold title to the LNG at the time of export. DOE/FE previously addressed the issue of Agency Rights in DOE/FE Order No. 2913,⁴⁶ 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

⁴⁴ 15 U.S.C. § 717b(c).

⁴⁵ 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 non-FTA countries.

⁴⁶ *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).

to export LNG as agent.⁴⁷ DOE/FE found that this proposal was an acceptable alternative to the non-binding policy adopted by DOE/FE in *The Dow Chemical Company*, which established that the title for all LNG authorized for export must be held by the authorization holder at the point of export.⁴⁸ 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.

DOE/FE reiterated its policy on Agency Rights procedures in other authorizations, including *Cameron LNG, LLC*, DOE/FE Order No. 3680.⁴⁹ In that order, DOE/FE determined that, in LNG export orders in which Agency Rights have been granted, DOE/FE shall require registration materials filed for, or by, an LNG title-holder (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.⁵⁰

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

⁴⁷ *See id.* at 9.

⁴⁸ *The Dow Chemical Co.*, 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.

⁴⁹ *Cameron LNG, LLC*, DOE/FE Order No. 3680, FE Docket No. 15-36-LNG, Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Cameron LNG Terminal in Cameron and Calcasieu Parishes, Louisiana, to Free Trade Agreement Nations (July 10, 2015).

⁵⁰ *See id.* at 8-9.

ORDER

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

A. Sabine Pass Liquefaction, LLC (SPL) is authorized to export LNG previously imported from foreign sources in a volume equivalent to 500 Bcf of natural gas pursuant to transactions that have terms of not greater than two years. This authorization shall be effective for a two-year term beginning on June 7, 2020, and extending through June 6, 2022.

B. This LNG may be exported by vessel from the Sabine Pass LNG Terminal to any country with the capacity to import ocean-going LNG carriers and with which trade is not prohibited by U.S. law or policy.

C. SPL 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 and the Federal Energy Regulatory Commission. Failure to comply with this requirement could result in rescission of this authorization and/or other civil or criminal remedies.

D. SPL, or others for whom SPL acts as agent, 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/FE Order No. 4545, issued June 4, 2020, in FE Docket No. 20-28-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 Sabine Pass Liquefaction, LLC that identifies the country (or countries) into which the exported LNG was actually delivered, and to include in any resale contract for such LNG the necessary conditions to ensure that Sabine Pass Liquefaction, LLC is made aware of all such countries.

E. SPL is permitted to use its authorization in order to export LNG as agent for other entities, after registering the other entities with DOE/FE. Registration materials shall include an acknowledgement and agreement by the Registrant to supply SPL with all information and copies of contracts necessary in order to permit SPL 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; and (4) an acknowledgement and agreement by the Registrant to include the provision in Ordering Paragraph D in any contract for the sale or transfer of LNG exported pursuant to this Order.

F. Each registration submitted pursuant to this Order shall have current information on file with DOE/FE. Any changes in company name, contact information, or other relevant modifications, shall be filed with DOE/FE within 30 days of such change(s).

G. As a condition of this order, SPL shall ensure that all persons required by this Order to register with DOE/FE have done so.

H. Monthly Reports: With respect to the export of LNG authorized by this Order, SPL shall file with the Office of Regulation, Analysis, and Engagement, within 30 days following the last day of each calendar month, a report indicating whether exports of LNG have been made. Monthly reports must be filed whether or not initial deliveries have begun. If no exports have

been made, 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 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 is 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 (indicate spot sales); and (10) the name(s) of the purchaser(s).

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

I. The first monthly report required by this Order is due not later than July 30, 2020, and should cover the reporting period from June 7, 2020, through June 30, 2020.

J. 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 June 4, 2020.

Shawn Bennett
Deputy Assistant Secretary
Office of Oil and Natural Gas