UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

CHENIERE MARKETING, LLC	)	FE DOCKET NO. 14-31-LNG

ORDER GRANTING BLANKET AUTHORIZATION
TO EXPORT PREVIOUSLY IMPORTED
LIQUEFIED NATURAL GAS BY VESSEL

DOE/FE ORDER NO. 3442

JUNE 6, 2014

I. SUMMARY

Following an examination of the record evidence in this proceeding pursuant to the requirements of section 3 of the Natural Gas Act (NGA), 15 U.S.C. § 717b, as amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486); DOE's regulations, 10 C.F.R. Part 590; and applicable delegations and redelegations of authority,[1] the Office of Fossil Energy (FE) of the Department of Energy (DOE) is herein granting the application of Cheniere Marketing, LLC (CMI) filed on March 7, 2014 (Application).[2]

This authorization grants CMI's request to export liquefied natural gas (LNG) previously imported into the United States from foreign sources in a volume equivalent to approximately 500 billion cubic feet (Bcf) of natural gas on a cumulative basis. CMI is authorized to export this LNG by vessel from the Sabine Pass LNG Terminal, located in Cameron Parish, Louisiana, and owned by CMI's affiliate Sabine Pass LNG, L.P., on a short-term or spot market basis for a two-year period commencing on June 7, 2014.[3] CMI is authorized to export the 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. CMI is further authorized to export the LNG on its own behalf and as agent for other entities who hold title at the time of export, after registering those entities with DOE/FE. This Order does not authorize CMI to export domestically produced LNG.

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[1] 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. 00-002.04F, issued on July 11, 2013.

[2] Cheniere Marketing, LLC, Application for Blanket Authorization to Export Liquefied Natural Gas, FE Docket No. 14-31-LNG (Mar. 7, 2014) [hereinafter App.].

[3] As discussed below, CMI's current blanket authorization to export LNG previously imported from foreign sources, granted in DOE/FE Order No. 3102 on June 7, 2012, extends through June 6, 2014. *See Cheniere Marketing, LLC*, DOE/FE Order No. 3102, Ordering Granting Blanket Authorization to Export Previously Imported Liquefied Natural Gas by Vessel (June 7, 2012).

II. BACKGROUND

Applicant. CMI is a Delaware limited liability company with its principal place of business in Houston, Texas. CMI is a wholly-owned subsidiary of Cheniere Development, Inc., which in turn is a wholly-owned subsidiary of Cheniere Energy, Inc. Both Cheniere Development and Cheniere Energy are Delaware corporations with their primary place of business in Houston, Texas. According to CMI, Cheniere Energy is a developer of LNG import and export terminals and natural gas pipelines on the Gulf Coast of the United States, including the Sabine Pass LNG Terminal.

Procedural History. As noted above, DOE/FE previously issued Order No. 3102, in which it granted CMI blanket authorization to export, on its own behalf or as agent for others, LNG previously imported from foreign sources in a volume equivalent to approximately 500 Bcf of natural gas on a cumulative basis over a two-year period commencing on June 7, 2012, and extending through June 6, 2014.[4]

Additionally, on December 3, 2012, DOE/FE issued Order No. 3208, in which it authorized CMI (in relevant part) to import LNG from various international sources in a total volume equivalent to approximately 1,600 Bcf for a two-year term beginning on January 29, 2013, and extending through January 28, 2015. Under the terms of this authorization, CMI may import the LNG by vessel to any LNG terminal in the United States and its territories.

In this proceeding, CMI filed the Application on March 7, 2014. On April 30, 2014, DOE/FE published a Notice of Application in the Federal Register.[5] The Notice of Application stated that comments, protests, motions and notices to intervene, and requests for additional

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[4] *See supra* at 2 n.3.

[5] Cheniere Marketing, LLC, Application for Blanket Authorization to Export Previously Imported Liquefied Natural Gas on a Short-Term Basis, 79 Fed. Reg. 24,411 (Apr. 30, 2014).

procedures would be due no later than May 30, 2014. DOE/FE received no filings in response to this Notice.

III. CURRENT APPLICATION

CMI requests authorization to export LNG previously imported into the United States from foreign sources in a volume equivalent to approximately 500 Bcf of natural gas on a cumulative basis. CMI notes that it is not seeking authorization to export domestically-produced natural gas or LNG. CMI states that it plans to export the LNG from the Sabine Pass LNG Terminal to any country with the capacity to import the LNG via ocean-going carrier and with which trade is not prohibited by U.S. law or policy.

CMI proposes to export LNG that is derived from its LNG importing activities and that resides in LNG storage tanks at the Sabine Pass LNG Terminal. CMI states that the LNG either will be re-exported or regasified for consumption in the domestic natural gas market, contingent on U.S. and global market price signals. CMI states that no physical modification to the Sabine Pass LNG Terminal will be required to accommodate the proposed exports. CMI further states that there are no other proceedings related to this Application currently pending before DOE or any other federal agency.

CMI seeks to export the requested LNG on its own behalf and as agent for third parties who hold title to the LNG at the time of export. CMI states that it will comply with all DOE/FE requirements for exporters and agents as set forth in recent DOE/FE orders, including registering each LNG title holder for whom CMI seeks to export as agent. CMI proposes that this registration include a written statement by the title holder acknowledging and agreeing to comply with all applicable requirements set forth in CMI's export authorization, and to include those requirements in any subsequent purchase or sale agreement entered into by that title holder.

Citing DOE/FE's findings in Order No. 3102 as well as findings in similar proceedings, CMI asserts that the proposed export of previously imported foreign-sourced LNG is consistent with section 3 of the NGA and with DOE/FE policy.

IV. DECISION

A. Standard of Review

Pursuant to the transfer of authorities under sections 301(b) and 402 of the DOE Organization Act, 42 U.S.C. § 7151(b) and 42 U.S.C. § 7172, DOE/FE is responsible for evaluating the instant application under section 3 of the NGA. 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 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).

In evaluating an export application under this standard, DOE/FE applies the principles described in DOE Delegation Order No. 0204-111, which focus primarily on domestic need for the gas to be exported, as described in the Secretary's natural gas policy guidelines,[6] 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

CMI's Application involves a request for authorization to export LNG that is imported into the United States from foreign sources. Exporting this proposed volume of LNG necessarily

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

could 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 requested two-year export 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.[7] 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. Specifically, DOE takes administrative notice that an analysis prepared by the U.S. Energy Information Administration (EIA) in the *Annual Energy Outlook 2013* (AEO 2013), issued in May 2013 and discussed in CMI's Application, shows annual domestic dry natural gas production increasing from 21.33 trillion cubic feet (Tcf) in 2010, to a projection of 26.61 Tcf by 2020[8]—an annual increase of 5.28 Tcf. Consumption over the same period increased only by 2.54 Tcf annually (from 23.78 to 26.32 Tcf).

CMI also notes that, on December 16, 2013, EIA issued its *Annual Energy Outlook 2014* (AEO 2014) Early Release Reference case, in which it increased its forecast of cumulative dry natural gas production between 2012 to 2040 by 11% from the amount projected in AEO 2013.[9] Inasmuch as domestic natural gas production levels are projected to increase by an amount that well exceeds the amount of gas proposed for export in CMI's Application, even while the level of imports and domestic gas prices are both projected to fall, we find that United States

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[7] *See, e.g., ConocoPhillips Company*, DOE/FE Order No. 3359, Order Granting Blanket Authorization to Export Previously Imported Liquefied Natural Gas by Vessel (Nov. 7, 2013); *Freeport LNG Development, L.P.*, DOE/FE Order No. 3317, Order Granting Blanket Authorization to Export Previously Imported LNG by Vessel (July 19, 2013).

[8] *See* EIA, AEO 2013, at 147 (Table A13).

[9] *See Annual Energy Outlook 2014 Early Release Overview* at 13.

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 which CMI seeks to export.

C. Agency Rights

As described above, CMI requests authorization to export LNG on its own behalf and as agent for other entities who themselves 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,[10] which granted Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC (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,*[11] 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 Order No. 2913 apply here as well.

DOE/FE reiterated its policy on Agency Rights procedures in *Gulf Coast LNG Export, LLC.*[12] 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 title-holder (Registrant) to include the same company identification information and long-term

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[10] *Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC*, DOE/FE Order No. 2913, Order Granting Long-Term Authorization to Export Liquefied Natural Gas from Freeport LNG Terminal to Free Trade Nations (Feb. 10, 2011) [hereinafter *FLEX*].
[11] *The Dow Chemical Company*, DOE/FE Order No. 2859, Order Granting Blanket Authorization to Export Liquefied Natural Gas (Oct. 5, 2010), at 7-8, discussed in *Freeport LNG*, DOE/FE Order No. 2913, at 7-8.
[12] *Gulf Coast LNG Export, LLC*, Order No. 3163, 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).

contract information of the Registrant as if the Registrant had filed an application to export LNG on its own behalf.[13]

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

D. Other Public Interest Considerations

Domestic need is the only explicit public interest consideration identified by DOE in Delegation Order No. 0204-111. However, consistent with DOE's Guidelines and DOE/FE precedent,[14] DOE/FE considers the potential effects of proposed exports on other aspects of the public interest. In this proceeding, those considerations include the environment.

E. Environmental Review

NEPA requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. In the Application, CMI states that the proposed export of previously imported LNG would require no modifications to the Sabine Pass LNG Terminal. 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.[15] Accordingly, DOE issued a Categorical Exclusion Determination, dated June 4, 2014, which found that CMI's proposed exports are categorically excluded from further NEPA review.[16]

E. Conclusion

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[13] *See id.* at 7-8.
[14] *E.g.*, *FLEX*, DOE/FE Order No. 1473.
[15] *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.").
[16] U.S. Dep't of Energy Categorical Exclusion Determination, Cheniere Marketing, LLC, FE Docket No. 14-31-LNG (June 4, 2014).

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. 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 CMI's proposed exports during the two-year authorization period. Further, the proposed exports qualify for a categorical exclusion under NEPA, such that no EA or EIS will be required. DOE/FE therefore grants CMI's Application, as set forth below.

ORDER

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

A. CMI 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 no longer than two years. This authorization shall be effective for a two-year term beginning on June 7, 2014, and extending through June 6, 2016.

B. This LNG may be exported 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. CMI, or others for whom CMI acts as agent, shall include the following provision in any 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 with the capacity to import ocean-going LNG carriers and with which trade is not prohibited by U.S. law or policy, 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 Cheniere 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 Cheniere Marketing, LLC is made aware of all such actual destination countries.

D. As a condition of this authorization, CMI shall ensure that all persons required by this Order to register with DOE/FE have done so. Any failure by CMI 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.

E. Registration materials shall include an acknowledgement and agreement by the Registrant to supply CMI with all information and copies of contracts necessary in order to permit CMI 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 C 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. **Monthly Reports:** With respect to the export of LNG authorized by this Order, CMI shall file with the Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, 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 of the U.S. export terminal; (2) the country of destination; (3) the date of departure from the U.S. export terminal; (4) the name(s) of the supplier(s)/seller(s); (5) the name(s) of the LNG tankers; (6) the volume in Mcf; (7) the price per MMBtu at the point of exit; (8) the name(s) of the purchaser(s); and (9) the duration of the supply agreement.

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

H. The first monthly report required by this Order is due not later than July 30, 2014, and should cover the reporting period from June 7, 2014, through June 30, 2014.

I. All monthly report filings shall be made to U.S. Department of Energy (FE-34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, 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.

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