

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

SOUTHERN LNG COMPANY, L.L.C.

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)
) FE DOCKET NO. 12-54-LNG

ORDER GRANTING LONG-TERM MULTI-CONTRACT AUTHORIZATION
TO EXPORT LIQUEFIED NATURAL GAS BY VESSEL
FROM THE ELBA ISLAND TERMINAL
TO FREE TRADE AGREEMENT NATIONS

DOE/FE ORDER NO. 3106

JUNE 15, 2012

I. DESCRIPTION OF REQUEST

On May 15, 2012, Southern LNG Company, L.L.C. (SLNG), filed an application (Application), with the Office of Fossil Energy (FE) of the Department of Energy (DOE) under section 3 of the Natural Gas Act (NGA)¹ for long-term, multi-contract authorization, to export liquefied natural gas (LNG) in an amount up 4 million metric tons per year from its Elba Island Terminal in Savannah, Georgia, for a 25-year term. SLNG states the requested export amount is equivalent to approximately 0.5 billion cubic feet per (Bcf) per day (Bcf/d) of natural gas (which equals 182.5 Bcf per year (Bcf/y)).² SLNG seeks to export LNG by vessel to any nation with which the United States currently has, or in the future will have, a Free Trade Agreement (FTA) requiring the national treatment for trade in natural gas, and that currently has, or in the future develops, the capacity to import LNG via ocean-going carriers.³ SLNG seeks to export this LNG on its own behalf and also as agent for third parties. SLNG requests that this authorization commence on the earlier of the date of first export or ten years from the date the authorization is issued (June 15, 2022).

II. BACKGROUND

SLNG is a Delaware limited liability company, which has its principal place of business in Birmingham, Alabama. SLNG is a wholly owned subsidiary of El Paso Partners Operating

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. 00-002.04E issued on April 29, 2011.

² SLNG requests authorization to export up to 4 million metric tons per year of LNG, which, it states, is equivalent to approximately 0.5 Bcf/d of natural gas. Consistent with DOE regulations (10 CFR part 590), applications are to provide volumes in Bcf, and subsequently, DOE/FE will authorize LNG exports equivalent to 182.5 Bcf/y of natural gas.

³ The United States currently has free trade agreements 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, Peru, Republic of Korea, and Singapore. FTAs with Israel and Costa Rica do not require national treatment for trade in natural gas. An FTA with Panama has been ratified by Congress but has not yet taken effect.

Company, L.L.C. El Paso Pipeline Partners Operating Company, L.L.C. is a wholly owned subsidiary of El Paso Pipeline Partners, L.P., a Delaware limited partnership.

SLNG states that this Application is the first part of its planned two-part export authorization request. Subsequent to this Application, SLNG currently intends to file a separate application with the DOE for long-term authorization to export LNG to those countries with which the United States does not have an FTA and with which trade is not prohibited by U.S. law or policy. SLNG states that it is taking steps necessary to build natural gas processing and liquefaction facilities to receive and liquefy domestic natural gas at the Elba Island Terminal (Project). SLNG states that the Project facilities will be integrated into the existing terminal facilities. SLNG states that the Elba Island Terminal includes (1) berthing and accommodations for two LNG vessels and unloading facilities and piping and appurtenances; (2) an LNG storage and vaporization facility (including five storage tanks capable of storing a total of approximately 550,000 cubic meters, vaporization units and associated piping and control equipment; and (3) associated utilities, infrastructure, and support systems. SLNG also states that the Elba Island Terminal directly connects with the interstate pipelines of Southern Natural Gas Company, L.L.C., Elba Express Company, L.L.C., and Carolina Gas Transmission Corporation and indirectly connects with the interstate pipelines of Transcontinental Gas Pipe Line Company, LLC and Florida Gas Transmission, LLC. SLNG further states that the Elba Island Terminal's capacity for peak vaporization and send-out is 1,755 MMcf per day.

SLNG states that the new facilities proposed as part of the Project will include natural gas pre-treatment, liquefaction, and export facilities with a capacity of up to 4 million tons per year of LNG (approximately equivalent to 0.5 Bcf/day), plus enhancements to the existing equipment and additional utilities. SLNG states that the Project facilities would permit gas to be received

by pipeline at the Elba Island Terminal, liquefied, and loaded from the terminal's storage tanks onto vessels berthed at the existing marine facility. SLNG also states that the Project will be designed to allow SLNG to be capable of providing bi-directional service. Thus, once the Project facilities are operational, the Elba Island Terminal will have the capability to (i) liquefy domestic natural gas for export, or (ii) import LNG for delivery to domestic markets.

SLNG states that the source of the natural gas is available in the United States natural gas pipeline system. SLNG states that as a result of the Elba Island Terminal's direct access to multiple major interstate pipelines and indirect access to the national gas pipeline grid, the Project's customers will have a wide variety of stable and economical supply options from which to choose.

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 to authorize (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 (b) the import of LNG from other international sources, be deemed consistent with the public interest and granted without modification or delay. The instant Application falls within section 3(c), as amended, and therefore, DOE/FE is charged with granting the Application without modification or delay.⁴

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

⁴ DOE further finds that the requirement for public notice of applications and other hearing-type procedures in 10 CFR 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.

(3) The countries with which the United States has an 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, Peru, Republic of Korea, and Singapore.

(4) DOE/FE addressed the issue of agency rights in *Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC*, DOE/FE Order No. 2913 (Order 2913), issued February 10, 2011. In Order 2913, DOE/FE approved a proposal by Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC (collectively, FLEX) to register each LNG title holder for whom FLEX sought to export LNG as agent. This proposal was an acceptable alternative to the non-binding policy adopted by DOE/FE in *Dow Chemical*,⁵ which established that the title for all LNG authorized for export must be held by the authorization holder at the point of export.

The same policy considerations that supported DOE/FE's acceptance of the alternative proposal in Order 2913 apply here as well. The authorization granted herein shall be conditioned to require that where SLNG proposes to export as agent for others, SLNG will register those companies in accordance with the procedures and requirements described herein.

ORDER

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

A. SLNG is authorized to export domestically produced LNG by vessel from its Elba Island Terminal in Savannah, Georgia up to the equivalent of 182.5 Bcf per year of natural gas for a 25-year term, beginning on the earlier of the date of first export or 10 years from the date

⁵ *The Dow Chemical Company*, DOE/FE Opinion and Order No. 2859 (FE Docket No. 10-57-LNG), October 5, 2010, at p. 7 and 8.

the authorization is issued (June 15, 2022), pursuant to one or more long-term contracts with third parties that do not exceed the term of this authorization.

B. This LNG may be exported to Australia, Bahrain, Canada, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Peru, Republic of Korea, and Singapore, and to any nation that 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 ocean going vessels. FTA countries are currently identified by DOE/FE at:

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

C. 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 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. SLNG shall file with the Office of Natural Gas Regulatory Activities all executed long-term contracts associated with the long-term export of LNG from its Elba Island Terminal within 30 days of their execution. SLNG shall file with the Office of Natural Gas Regulatory Activities all executed long-term contracts associated with the long-term supply of natural gas to the Elba Island Terminal with the intent to process this natural gas into LNG for export within 30 days of their execution.

E. SLNG 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 identified in Ordering Paragraph B of DOE/FE Order No. 3106, issued June 15, 2012 in FE Docket No. 12-54-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 Southern LNG Company, L.L.C. 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 Southern LNG Company, L.L.C. is made aware of all such actual destination countries."

F. SLNG is permitted to use its authorization in order to export LNG on behalf of or as agent for others, after registering the other party with DOE/FE. Registration materials shall include an acknowledgement and agreement by the registrant to supply SLNG with all information necessary to permit SLNG 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 CFR 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, filed with DOE/FE under seal, of any long-term contracts, including processing agreements, that result in the export of LNG; and (5) within 30 days of execution by a person or entity required by this Order to register, a copy, filed with DOE/FE under seal, of any long term contracts associated with the long-term

supply of natural gas to its Elba Island Terminal with the intent to process this natural gas into LNG for export pursuant to this authorization.

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. Within two weeks after the first export of domestically produced LNG occurs from its Elba Island Terminal, SLNG shall provide written notification of the date that the first export of LNG authorized in Order Paragraph A above occurred

I. SLNG shall file with the Office of Natural Gas Regulatory Activities, on a semi-annual basis, written reports describing the progress of the proposed liquefaction facility project. 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 proposed LNG liquefaction Project at the Elba Island Terminal, 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.

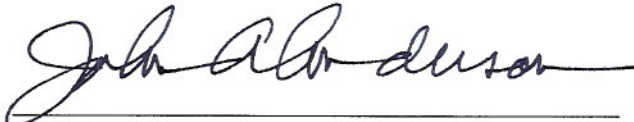
J. Monthly Reports: With respect to the LNG exports authorized by this Order, SLNG shall file with the Office of Natural Gas Regulatory Activities, within 30 days following the last day of each calendar month, a report indicating whether exports of LNG have been made. The first monthly report required 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 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 of destination; (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 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)

K. All monthly report filings shall be made to U.S. Department of Energy (FE-34), Office of Fossil Energy, Office of Natural Gas Regulatory Activities, P.O. Box 44375, Washington, D.C. 20026-4375, Attention: Ms. Yvonne Caudillo. Alternatively, reports may be e-mailed to Ms. Caudillo at Yvonne.caudillo@hq.doe.gov or ngreports@hq.doe.gov, or may be faxed to Ms. Caudillo at (202) 586-6050.

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