

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

GOLDEN PASS PRODUCTS LLC

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FE DOCKET NO. 12-88-LNG

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

DOE/FE ORDER NO. 3147

SEPTEMBER 27, 2012

I. DESCRIPTION OF REQUEST

On August 17, 2012, Golden Pass Products LLC (GPP) 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 up to 740 billion cubic feet (Bcf) per year of natural gas produced from domestic sources as liquefied natural gas (LNG), a volume equal to 15.6 million metric tons per annum (mtpa) of LNG. GPP seeks authorization to export the LNG by vessel from the existing Golden Pass LNG Terminal (Golden Pass Terminal), a facility located in Sabine Pass, Texas, for a 25-year term commencing on the earlier of the date of first export or 10 years from the date the authorization is issued (September 27, 2022). GPP seeks to export this LNG to any country which has or in the future develops the capacity to import LNG via ocean-going carrier and with which the United States has, or in the future enters into, a free trade agreement (FTA) requiring national treatment for trade in natural gas.² GPP seeks to export this LNG on its own behalf and also as agent for third parties.

II. BACKGROUND

GPP is a Delaware limited liability company with its principal place of business in Houston, Texas. GPP is owned by QTL U.S. Terminal LLC and Golden Pass LNG Terminal Investments LLC. GPP is affiliated with Golden Pass LNG Terminal, LLC, which owns and

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 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, Peru, Republic of Korea, and Singapore. FTAs with Israel and Costa Rica do not require national treatment for trade in natural gas. A FTA with Panama has been ratified by Congress but has not yet taken effect.

operates an LNG import terminal located near the town of Sabine Pass, in Jefferson County, Texas.³

GPP states that this Application is the first part of a two-part export authorization request to export LNG from domestic sources from the Golden Pass Terminal. Subsequent to this Application, GPP intends to file a separate application with DOE for long-term authorization to export LNG to those countries with which the United States does not have a FTA and with which trade is not prohibited by U.S. law or policy.

GPP plans to construct new facilities adjacent to the existing Golden Pass Terminal site. GPP states that construction of the liquefaction facilities will create a combined, bi-directional facility capable of importing or exporting LNG with greater flexibility in response to varied market conditions. GPP states that it plans to export domestically produced natural gas delivered from the interstate pipeline grid and sourced from the very large and liquid U.S. gas market. GPP notes that the facility's location on the Gulf Coast is in an active production area linked by existing pipelines to multiple supply sources.

GPP states that it plans to enter into one or more long-term contractual agreements with customers, with terms up to 25 years in length, on a date that is closer to the start of export operations. GPP states that the long-term contracts will allow GPP to liquefy natural gas and load it onto LNG tankers for export. GPP asserts that all customers that seek to use the agency services of GPP or who seek to utilize tolling series will be responsible for procuring their own gas supplies and holding title to the gas that they will deliver to the GPP facility. GPP acknowledges that in its role as agent for others, it will file under seal with DOE any relevant

³ The Golden Pass Terminal was authorized by the FERC in *Golden Pass LNG Terminal LP and Golden Pass Pipeline LP*, 112 FERC ¶ 61, 041 (2005) ("Certificate Order"), *amended*, *Golden Pass Pipeline LP*, 117 FERC ¶ 61, 015, *further amended*, 117 FERC ¶ 61, 332 (2006), *further amended*, 134 FERC ¶ 61, 037 (2011).

long-term commercial agreements it enters into with the LNG title holders on whose behalf the exports are performed. GPP also states that it will register with DOE any title holder for whom GPP will act as agent to export LNG. GPP states that it will cause such title holder to comply with all applicable DOE/FE requirements included in GPP's export authorization as well as all DOE/FE requirements related to any subsequent purchase or sale agreement entered into by the title holder. Finally, GPP acknowledges that any tolling customer who does not use the agency services of GPP will be required to have their own authorization granting the export of LNG issued by DOE/FE.

GPP states that it submits its Application pursuant to the standard established by section 3 of the NGA, under which applications for export to FTA countries are deemed to be in the public interest, and must be granted without modification or delay.⁴ In support of its Application, GPP cites the *Annual Energy Outlook 2012*, prepared by the U.S. Energy Information Administration (EIA), which foresees the existence of substantial domestic gas supplies to support the long-term export of natural gas, including LNG. Specifically, GPP notes that EIA estimates the United States possessed 2,203 trillion cubic feet of technically recoverable natural gas resources as of January 2, 2010.⁵ In addition, GPP asserts that its export request is fully consistent with President Obama's National Export Initiative, signed in 2010.⁶

GPP states that it will initiate the pre-filing review process at the Federal Energy Regulatory Commission (FERC) for the proposed project facilities following issuance of the long-term export authorization requested in this Application. GPP anticipates that, consistent with the National Environmental Policy Act, FERC will act as lead agency in the environmental

⁴ 15 U.S.C. §717b(c).

⁵ U.S. Energy Information Administration, *Annual Energy Outlook 2012*, at 91.

⁶ Executive Order No. 13534, 75 FR 12433 (March 11, 2010).

review of the proposed facilities, with DOE acting as a cooperating agency. Accordingly, GPP requests that DOE/FE issue a conditional order approving the Application pending completion of FERC's environmental review.

III. 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.⁷

(2) In light of DOE's statutory obligation to grant the Application without modification or delay, there is no need for DOE to review the other arguments posed by GPP in support of the Application. The instant grant of authority should not be read to indicate DOE's views on those arguments. For the same reason, this grant of authority will not be conditioned on completion of FERC's environmental review and GPP's request for such a condition will be dismissed.

(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.

⁷ 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.

(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*,⁸ 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 require that where GPP proposes to export as agent for others, GPP will register those companies in accordance with the procedures and requirements described herein.

(5) Section 590.202(b) of DOE's regulations requires applicants to supply transaction specific factual information "to the extent practicable." Additionally, DOE regulations at 10 CFR part 590.202(e) allow confidential treatment of the information supplied in support of or in opposition to an application if the submitting party requests such treatment, shows why the information should be exempted from public disclosure, and DOE determines it will be afforded confidential treatment in accordance with 10 CFR 1004.11.

(6) In the Application, GPP states it will file, under seal, with DOE/FE any relevant long-term commercial agreements it enters into with LNG title holders on behalf of which it will export LNG. DOE/FE finds that the submission of these contracts within 30 days of their execution using the procedures described below will be consistent with the "to the extent

⁸ *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.

practicable” requirement of section 590.202(b). In addition, DOE/FE will require GPP to file any other long-term contracts GPP enters into associated with the long-term export of LNG.

(7) In addition, DOE/FE finds that section 590.202(b) also requires that GPP file all long-term contracts associated with the long-term supply of natural gas to the Golden Pass Terminal within 30 days of their execution.

(8) DOE/FE recognizes that some information in GPP’s long-term commercial agreements with LNG title holders on behalf of which it will export LNG and in GPP’s long-term contracts associated with the long-term supply of natural gas to the Golden Pass Terminal may be commercially sensitive. DOE will therefore require that when GPP files such a long-term contract under seal, that it also files a long-term contract with commercially sensitive information redacted and show why the redacted information should be exempted from public disclosure.

ORDER

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

A. GPP is authorized to export domestically produced LNG by vessel from the Golden Pass Terminal in Sabine Pass, Texas, up to the equivalent of 740 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 the authorization is issued (September 27, 2022), pursuant to one or more long-term contracts 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. GPP 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. This grant of authority will not be conditioned on completion of FERC's environmental review and GPP's request for such a condition is dismissed.

E. GPP shall file with the Office of Natural Gas Regulatory Activities all executed long-term contracts associated with the long-term export of LNG from the Golden Pass Terminal, including both a non-redacted copy filed under seal and a redacted version of the contract for public release, within 30 days of their execution. Applying the same procedures, GPP 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 Golden Pass Terminal, both un-redacted under seal and a redacted version of the contract, for public posting within 30 days of their execution. In these filings, GPP shall show why the redacted information should be exempted from public disclosure.

F. GPP 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. 3147, issued September 27, 2012, in FE Docket No. 12-88-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 Golden Pass Products 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 Golden Pass Products LLC is made aware of all such actual destination countries."

G. GPP is permitted to use its authorization in order to export LNG on its own behalf or 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 GPP with all information necessary to permit GPP 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 the Golden Pass Terminal with the intent to process this natural gas into LNG for export pursuant to this authorization.

H. 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).

I. Within two weeks after the first export of domestically produced LNG occurs from the GPP liquefaction facility, GPP shall provide written notification of the date that the first export of LNG authorized in Order Paragraph A above occurred.

J. GPP shall file with the Office of Natural Gas Regulatory Activities, on a semi-annual basis, written reports describing the progress of the planned 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 Golden Pass Terminal liquefaction facility, 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. The first such report shall be filed April 1, 2013.

K. Monthly Reports: With respect to LNG exports authorized by this Order, GPP 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)

L. 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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