

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

SABINE PASS LIQUEFACTION, LLC)
) FE DOCKET NO. 10-85-LNG
)

ORDER GRANTING LONG-TERM AUTHORIZATION TO
EXPORT LIQUEFIED NATURAL GAS FROM
SABINE PASS LNG TERMINAL TO FREE TRADE NATIONS

DOE/FE ORDER NO. 2833

SEPTEMBER 7, 2010

I. DESCRIPTION OF REQUEST

On August 11, 2010, Sabine Pass Liquefaction, LLC (Sabine Pass) filed an application with the Office of Fossil Energy 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) by vessel from the Sabine Pass LNG Terminal, an existing LNG import facility in Cameron Parish, Louisiana, up to the equivalent of 16 million tons per annum (mtpa) (approximately 803 billion cubic feet (Bcf) per year) for a 30-year term. Sabine Pass requests that this authorization commence on the date of first export, with such first export to occur no later than ten years from the date that the authorization is issued (September 7, 2020). Sabine Pass seeks to export this LNG to any nation that currently has or develops the capacity to import LNG and with which the United States currently has, or in the future enters into, a Free Trade Agreement (FTA) requiring the national treatment for trade in natural gas and LNG.² Sabine Pass requests this authorization for itself and in order to act as agent for third parties.

II. BACKGROUND

Sabine Pass, which has its principal place of business in Houston, Texas, is an indirect subsidiary of Cheniere Energy, Inc.

Sabine Pass states that this application for export authorization is the first phase of a two-phased export authorization request. Sabine Pass states it will file a separate second phase

¹ 15 U.S.C. § 717b. This authority is delegated to the Assistant Secretary for Fossil Energy pursuant to Redelegation Order No. 00-002.04D (November 6, 2007).

² Currently the United States has FTAs with the following countries: Australia, Bahrain, Costa Rica, Singapore, Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, Chile, Morocco, Canada, Mexico, Oman, Peru, Singapore, Israel, and Jordan. Sabine pass requests that the authorization it is seeking also include any countries with which the United States may in the future enter into FTAs requiring the national treatment for trade in natural gas and LNG.

application with DOE for authorization to export LNG to those countries with which a FTA is not in effect and to which export of LNG by vessel is not prohibited by U.S. law or policy, in the near future.

Sabine Pass is seeking a two-phased export authorization in conjunction with its development of the Sabine Pass Liquefaction Project (Project). Sabine Pass asserts the Project, currently under review by the Federal Energy Regulatory Commission,³ is being developed to enable Sabine Pass to liquefy domestic supplies of natural gas for export to foreign markets. Sabine Pass states natural gas will be liquefied and stored in the existing LNG storage tanks at the site, and further that LNG will be exported from the Sabine Pass LNG Terminal via LNG carriers that will arrive at the site by marine transit through the Sabine Pass Channel. Sabine Pass states this enhanced facility will be operated as a bidirectional terminal and will have the capability both to liquefy natural gas for export, and to import and regasify LNG, simultaneously. Sabine Pass states this dual capability will not result in an increase in the number of ship transits⁴ since the total amount of LNG processed either by liquefying natural gas or vaporizing LNG will not exceed an average of 4.0 Bcf per day.

Sabine Pass proposes to file the long-term export contracts that are the subject of the application following execution of such agreements, which has yet to occur.⁵ Sabine Pass states

³ On August 4, 2010, the Director of the Office of Energy Projects of the Federal Energy Regulatory Commission (Commission) issued a letter order in Docket No. PF10-24-000 granting Sabine Pass' request to commence the Commission's mandatory National Environmental Policy Act pre-filing review process for the Sabine Pass Liquefaction Project. The potential environmental impact of the Sabine Pass Liquefaction Project will be reviewed by the Commission in conjunction with this proceeding.

⁴ Sabine Pass states the Sabine Pass LNG terminal is capable of unloading approximately 400 ships per year, or an average of just over one ship every day.

⁵ Sabine Pass states the terms of the individual contracts, including, but not limited to, commencement and termination dates, pricing, volumes, and export destinations will vary and be determined by market conditions. Sabine Pass states in this regard, in certain instances, the country of destination may not be specified in the contract itself in order to allow maximum commercial flexibility. Sabine Pass asserts, however, in such instances, the

that the gas supply underlying these long-term contracts will be delivered to the Sabine Pass LNG Terminal from the interstate grid at different liquidity points. Sabine Pass states that natural gas could be sourced from any point in the U.S. interstate pipeline system, but the most likely sources of natural gas will be the historically prolific South, East, and Gulf Coast Texas onshore gas fields, the gas fields in the Permian, Anadarko, and Hugoton basins, and the unconventional gas fields in the Barnett, Haynesville, Eagle Ford, Fayetteville, Woodford, and Bossier basins. Sabine Pass states this supply can be sourced in large volumes in the spot markets or pursuant to long-term arrangements, for the account of Sabine Pass or third party customers.⁶

Sabine Pass states that granting the requested long-term, multi-contract export authorization is consistent with the pro-export stance of the current Administration in the March 11, 2010, Executive Order establishing a National Export Initiative to reduce barriers to trade and promote US exports.⁷ Sabine Pass also states that because the application seeks authorization to export LNG to countries with which the United States has an FTA providing for the national treatment of trade in natural gas, section 3 of the NGA, as amended in 1992, requires that the proposed export be deemed in the public interest and the application must be granted without modification or delay.

contract will explicitly provide that such export destination will be within the scope of the export authorization granted to Sabine Pass by DOE, and that the destination countries will be reported to DOE in the monthly reports filed by Sabine Pass.

⁶ Sabine Pass notes that 10 CFR 590.202(b) requests information, “to the extent applicable” concerning the source and security of the natural gas supply to be exported, among other things. Further, Sabine Pass states that as supply contracts have not been entered into, more specific supply information behind what is provided herein is not available, and that the same is true for the other transaction specific information which, as detailed in Section 590.202(b), must be provided “to the extent practicable.” Accordingly, Sabine Pass requests waiver of such requirements as set forth in Section 590.202, to the extent DOE deems them applicable.

⁷ Citing to Executive Order – National Export Initiative (March 11, 2010), at <http://www.whitehouse.gov/the-press-office/executive-order-national-export-initiative>.

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 free trade agreement 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, FE is charged with granting the application without delay or modification.⁸

(2) The countries with which the United States has an FTA calling for “national treatment for trade in natural gas” include Australia, Bahrain, Singapore, Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, Chile, Morocco, Canada, Mexico, Oman, Peru, Singapore, and Jordan; but, contrary to the application, do not include Costa Rica⁹ and Israel.¹⁰

(3) In light of DOE’s statutory obligation to grant the application without delay or modification, there is no need for DOE to review the other arguments posed by Sabine Pass in support of the application. The instant grant of authority should not be read to indicate DOE’s views on those arguments.

(4) As described above, Sabine Pass also seeks waiver of section 590.202(b) of DOE’s regulations on the grounds that transaction specific information is not available essentially because neither supply contracts nor long-term export contracts have been executed. Sabine Pass

⁸ DOE further finds that the requirement for granting the application without delay or modification overrides regulatory requirements for public notice and other hearing-type procedures in 10 CFR Part 590.

⁹ Pursuant to Annex 3.2 of the Dominican Republic-Central America Free Trade Agreement (CAFTA-DR), Article 3.2 of the CAFTA-DR, which provides for national treatment, shall not apply to certain controls by Costa Rica on the exports of hydrocarbons.

¹⁰ Under the Israel FTA, the parties “affirm their respective rights and obligations under existing bilateral and multilateral agreements, including . . . the GATT [General Agreement on Tariffs and Trade].”

states that it will supply such contract specific information, as required by DOE's regulations, if and when such contracts are executed. I find that this commitment conforms to the regulation which calls upon applicants to supply transaction specific information "when practicable." Accordingly, there is no need for a waiver of the regulations and the waiver request will be dismissed.

ORDER

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

A. Sabine Pass is authorized to export domestically produced LNG by vessel from the Sabine Pass LNG Terminal up to the equivalent of 16 million tons per annum (mtpa) (approximately 803 billion cubic feet (Bcf) per year) for a 30-year term, beginning on the earlier date of first export, or September 7, 2020, pursuant to one or more long-term export contracts (greater than two years) with third parties with terms up to 30 years executed by September 7, 2020.

B. This LNG may be exported to Australia, Bahrain, Singapore, Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, Chile, Morocco, Canada, Mexico, Oman, Peru, Singapore, and Jordan, and to any nation which DOE subsequently identifies publicly (currently at http://www.fossil.energy.gov/programs/gasregulation/authorizations/How_to_Obtain_Authorizations.html) as having entered into a free trade agreement providing for national treatment for trade in natural gas, provided that the destination nation has the capacity to import LNG.

C. Sabine Pass shall ensure that all transactions authorized by this order are permitted and lawful under United States 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. Sabine Pass 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 Sabine Pass LNG Terminal within 30 days of their execution. Sabine Pass 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 Sabine Pass LNG Terminal with the intent to process this natural gas into LNG for export within 30 days of their execution.

E. Sabine Pass 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 April 1 and October 1 of each year, and shall include information on the progress of the Sabine Pass LNG Terminal liquefaction facility, and the status of the long-term contracts associated with the long-term export of LNG and any long-term supply contracts.

F. Within two weeks after the first export of LNG sourced from domestically produced natural gas occurs, Sabine Pass shall provide written notification of the date that the first export of LNG authorized in Order Paragraph A above occurred.

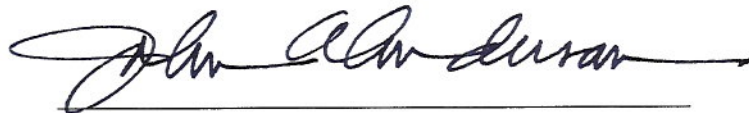
G. **Monthly Reports:** With respect to the export of LNG authorized by this Order, Sabine Pass shall file with the Office of Natural Gas Regulatory Activities, within 30 days following the last day of each calendar month, a report indicating whether exports of LNG have

been made. 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 name of the LNG tanker; (3) the date of departure from the U.S. export terminal; (4) the country of destination; (5) the name of the supplier/seller; (6) the volume in thousand cubic feet (Mcf); (7) the delivered price per million British thermal units (MMBtu); (8) the duration of the supply agreement (indicate spot sales); and (9) the name(s) of the purchaser(s).

H. The first monthly report required by this Order is due not later than October 30, 2010, and should cover the reporting period from September 7, 2010, through September 30, 2010.

I. 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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