

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

SABINE PASS LIQUEFACTION, LLC

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FE DOCKET NO. 10-111-LNG

PROCEDURAL ORDER

DECEMBER 17, 2010

BACKGROUND

On September 7, 2010, Sabine Pass Liquefaction, LLC (Sabine Pass) filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE) under section 3 of the Natural Gas Act (NGA), 15 U.S.C. 717b, for long-term, multi-contract authorization to export up to the equivalent of 16 million tons per annum (mtpa) of domestically produced liquefied natural gas (LNG) by vessel from the Sabine Pass LNG Terminal for a 20-year term. Sabine Pass seeks to export this LNG to countries other than those that have negotiated free trade agreements (FTAs) with the United States,¹ and with which trade is not prohibited by U.S. law or policy.

Insofar as the application seeks authorization for LNG exports to World Trade Organization (WTO) Countries, Sabine Pass specifically requested that FE conduct its review under the standards set forth in section 3(c) of the NGA, 15 U.S.C. 717b(c) instead of section 3(a) of the NGA, 15 U.S.C. 717b(a). Sabine Pass further requested that, given the alleged requirement in section 3(c) that the application be granted without delay or modification, that FE issue an order granting its request for exports to WTO Countries by September 22, 2010. Sabine Pass requests that this authorization commence on the date of first export to occur no later than ten years from the date the authorization is issued.

DOE/FE issued a notice of application (NOA) on October 12, 2010 (75 FR 62512).

On October 21, 2010, DOE/FE issued an Opinion and Order, in which FE rejected the argument made by Sabine Pass to review the application for exports to WTO Countries under the section 3(c) standards of review, for the reasons set forth in the Opinion and Order. FE further

¹ Pursuant to DOE/FE Order No. 2833 issued August 11, 2010, Sabine Pass currently is authorized to export domestically produced LNG by vessel from the Sabine Pass LNG Terminal up to the equivalent of 16 mtpa to countries with which the United State has FTAs requiring national treatment for trade in natural gas for a period of 30 years beginning on the earlier date of first export, or September 7, 2020.

found that the instant application is appropriately reviewed under the standards for applications to export natural gas set forth in section 3(a) of the NGA.

Pursuant to the NOA, FE received numerous timely filed comments and motions to intervene by December 13, 2010, using the procedures identified in the NOA and filing procedures in 10 CFR 590.103.

In addition, FE received several comments filed electronically by December 13, 2010, using an alternative electronic method of filing not specifically identified in either the NOA or the filing procedures in 10 CFR 590.103.

INTERVENTIONS AND COMMENTS

FE received the following comments and interventions following publication of the NOA:

(1) A letter from Stephen Moret, Secretary for the State of Louisiana, Louisiana Economic Development, filed on October 22, 2010, in support of approving the application.

(2) A letter from Chris John, President, Louisiana Mid-Continent Oil and Gas Association, filed on November 29, 2010, in support of approving the application.

(3) A Motion for Leave to Intervene, filed by Shell US Gas and Power, LLC, on December 3, 2010, stating that the application, if granted, could affect Shell's business interests, but not taking a position on the Sabine Pass application.

(4) A Motion to Intervene, filed by Macquarie Energy LLC, on December 10, 2010, stating that as an importer of LNG, marketer of natural gas and holder of LNG terminal capacity, it has a substantial interest in this proceeding, and that its interests cannot be represented by other parties.

(5) A Motion to Intervene filed by Freeport LNG Development, L.P. (Freeport), on December 13, 2010, stating that Freeport and its affiliates own an LNG terminal facility and hold various LNG import and export authorizations, and that they have a direct interest in the outcome of this proceeding.

(6) A Motion to Intervene, filed by Marathon Oil Company (Marathon), on December 13, 2010, stating that as a major producer and marketer of natural gas and LNG in the United States, Marathon has a direct, substantial, and immediate interest in this proceeding and that no other party can adequately represent Marathon's interests.

(7) A letter from Randy Eresman, President and Chief Executive Officer of Encana Corporation, filed December 13, 2010, in support of approving the LNG export application.

(8) A Motion to Intervene, filed by Paul Cicio, President, Industrial Energy Consumers of America (IECA), on December 13, 2010, in opposition of the LNG export authorization. The IECA motion to intervene also states that IECA represents the interests of leading manufacturing companies, for which the availability, use and cost of energy, power, or feedstock play a significant role in their ability to compete in domestic and world markets.

(9) A letter from Kenneth D. McClintock, Secretary of State of the Government of Puerto Rico, to the Secretary of Energy, Steven Chu, in support of approving the LNG export application. This letter was sent electronically to the Secretary on December 13, 2010, and forwarded to DOE/FE from the Office of the Secretary.

(10) A letter from James C. Johnson, Senior Vice President – Marketing, of Chesapeake Energy Corporation, filed on December 13, 2010, in support of approving the LNG export application.

(11) A joint letter from U.S. Senators, James Inhofe and Mary Landrieu, and U.S. Representatives, Dan Boren and Charles Boustany, along with other Members of Congress, addressed to the President of the United States, in support of approving the LNG export application. This letter of support was sent electronically to DOE/FE on December 13, 2010, by a staff member of one of the signatories on the letter.

DECISION

1. Upon review, I find that acceptance of the above letters, comments, and motions to intervene for filing will not unduly or unfairly prejudice the rights of other persons, and the pleadings will be made part of the record of these proceedings. Insofar as certain of the listed filings were made by electronic means not specifically sanctioned by DOE regulations at 10 CFR Part 590, I further find that acceptance of these electronic submissions will be consistent with the intent of The E-Government Act of 2002, Public Law 107-347 and will not unduly or unfairly prejudice the rights of other persons.

2. Under 10 CFR 590.303(e) and 590.304(f) of DOE's procedural rules, answers to motions to intervene and to protests must be filed within 15 days after the motion to intervene or protest is filed (in this case, by December 28, 2010) "unless a later date is permitted ... for good cause shown." *Also see*, 10 CFR 590.105(b). In order to afford all parties an adequate opportunity to respond to the pleadings which are being accepted for filing pursuant to this order, I will allow parties 15 days from the date of this order in which to submit their responsive pleadings, or the next business day if the 15th day is a Saturday, Sunday, or holiday.

ORDER

Pursuant to section 3 of the NGA, and 10 CFR Part 590, and for the reasons set forth above, it is ordered that the above letters, comments, and motions to intervene are accepted for filing in this docket. It is further ordered that responsive pleadings must be filed within 15 days, or the next business day if the 15th day is a Saturday, Sunday, or holiday, after the date of this order (January 3, 2011).

Issued in Washington, D.C., on December 17, 2010.

A handwritten signature in black ink, appearing to read "John A. Anderson", written over a horizontal line.

John A. Anderson
Manager, Natural Gas Regulatory Activities
Office of Oil and Gas Global Security and Supply
Office of Fossil Energy