

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

CE FLNG, LLC

FE DOCKET NO. 12-123-LNG

ORDER GRANTING LONG-TERM MULTI-CONTRACT AUTHORIZATION  
TO EXPORT LIQUEFIED NATURAL GAS BY VESSEL  
FROM THE PROPOSED CE FLNG LNG TERMINAL  
IN PLAQUEMINES PARISH, LOUISIANA,  
TO FREE TRADE AGREEMENT NATIONS

DOE/FE ORDER NO. 3193

NOVEMBER 21, 2012

## **I. DESCRIPTION OF REQUEST**

On September 21, 2012, CE FLNG, LLC (CE FLNG), 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)<sup>1</sup> for long-term, multi-contract authorization, to export up to 8 million metric tons per year (mtpa) of liquefied natural gas (LNG) from its proposed LNG Terminal in Plaquemines Parish, Louisiana, for a 30-year term. CE FLNG states the requested export amount is equivalent to approximately 1.07 billion cubic feet per (Bcf) per day (Bcf/d) of natural gas, which equals 391 Bcf per year (Bcf/y).<sup>2</sup> As relevant here, CE FLNG 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 the LNG via ocean-going carriers.<sup>3</sup> CE FLNG seeks authorization to export this LNG on its own behalf and also as agent for third parties. CE FLNG requests that this authorization commence on the earlier of the date of first export or 10 years from the date the authorization is issued (November 21, 2022).

## **II. BACKGROUND**

CE FLNG is a Delaware limited liability company with its principal place of business in Greensboro, Georgia. CE FLNG is a subsidiary of Cambridge Energy Holding, LLC, which is

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<sup>1</sup> 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.

<sup>2</sup> CE FLNG requests authorization to export up to 8 million metric tons per year of LNG, which, it states, is equivalent to approximately 1.07 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 391 Bcf/y of natural gas.

<sup>3</sup> 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, Panama, Peru, Republic of Korea, and Singapore. FTAs with Israel and Costa Rica do not require national treatment for trade in natural gas. The Application also seeks similar authority for exports to non-FTA nations. The non-FTA portion of the Application is not addressed in this Order.

owned by Cambridge Energy Group Limited. CE FLNG's affiliate, Cambridge Energy, LLC is a marketer of natural gas and currently has a two-year blanket authorization to import and export natural gas and LNG to and from Canada and Mexico, and import LNG from international sources under DOE/FE Order No. 2991.

CE FLNG states that it is currently developing plans to construct nearshore facilities in Plaquemines Parish, Louisiana to permit LNG to be loaded from storage tanks onto vessels to be berthed at the marine facility. CE FLNG states that the long-term multi-contract authorization sought in this application are necessary in order to permit CE FLNG to proceed to incur the substantial cost of developing the liquefaction and export project. CE FLNG states that construction and any modifications to the CE FLNG Terminal would be subject to Federal Energy Regulatory Commission (FERC) approval. CE FLNG states that it is finalizing the design of natural gas processing and liquefaction facilities to receive and liquefy domestic natural gas at the proposed CE FLNG LNG Terminal (Project). CE FLNG states that the Project facilities will consist of two floating liquefaction, storage and offloading (FLSO) units, each capable of producing up to 4 mtpa of LNG for a total capacity of 8 mtpa of LNG. CE FLNG states that the units will have an LNG storage capacity of 250,000 cubic meters. CE FLNG states the each FLSO unit will be capable of limited natural gas treatment, liquefaction, and capability to export LNG to off-taking LNG carriers utilizing ship-to-ship process. CE FLNG states that the Project facilities would permit natural gas to be received by pipeline at the CE FLNG Terminal, liquefied, and loaded from the FLSO unit's storage tanks onto LNG carriers berthed alongside. CE FLNG states that it will construct, own, and operate the terminal.

CE FLNG states that the source of natural gas supply will come from the interstate grid at different liquidity points. CE FLNG states that the pipeline infrastructure will be expanded and



extended to connect to the proposed CE FLNG Terminal allowing CE FLNG and its customers to purchase gas for export from any point in the U.S. interstate pipeline system. CE FLNG states that it anticipates that sources of natural gas will include Texas and Louisiana producing regions and the offshore gulf producing regions, with CE FLNG's primary source of natural gas coming from the Gulf of Mexico rather than from shale gas plays. CE FLNG requests that DOE/FE issue an order approving the application subject to completion by FERC of a satisfactory environmental review of the Project.

### **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 FTA portion of the instant Application falls within section 3(c), as amended, and therefore, DOE/FE is charged with granting the Application without modification or delay.<sup>4</sup>

(2) In light of DOE's statutory obligation to grant the FTA portion of the Application without modification or delay, there is no need for DOE/FE to review the other arguments posed by CE FLNG 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 CE FLNG's request for such a condition will be dismissed as regards the FTA portion of the Application.

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<sup>4</sup> 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, Panama, Peru, Republic of Korea, and Singapore.

(4) The balance of the export Application, which seeks authorization to export domestically produced LNG to non-FTA nations, will be reviewed pursuant to Section 3(a) of the NGA, as amended; DOE Delegation Order No. 00-002.00L (April 28, 2011); and DOE Redelegation Order No. 00-002-04E (April 29, 2011). In reviewing the non-FTA portion of the Application, DOE will consider any issues required by law or policy. DOE/FE will issue a Notice of Application seeking protests, motions to intervene, notices of intervention, and comments. A separate order shall be issued for the non-FTA portion of the Application once a public interest determination has been completed by DOE/FE.

(5) 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*,<sup>5</sup> 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 2913 apply here as well. Accordingly, the authorization granted

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<sup>5</sup> *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.

herein shall require that where CE FLNG proposes to export as agent for others, CE FLNG will register those companies in accordance with the procedures and requirements described herein.

DOE/FE reiterated its policy on Agency Rights procedures in *Gulf Coast LNG Export, LLC*.<sup>6</sup> In *Gulf Coast*, DOE/FE confirmed that in LNG export orders in which Agency Rights have been granted that it shall require registration materials filed for, or by, an LNG title-holder (Registrant) to include the same company identification information and long-term contract information of the Registrant as if the Registrant had filed an application to export LNG on its own behalf.

(6) 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.

(7) DOE/FE will require that CE FLNG file under seal with DOE/FE any relevant long-term commercial agreements between CE FLNG and a Registrant, including LTAs, once they have been executed. In addition, DOE/FE will require that CE FLNG will cause to be filed with DOE/FE any subsequent relevant long-term commercial agreements entered into by a Registrant, once they have been executed. 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 practicable" requirement of section 590.202(b). By way of example and without limitation, a "relevant long-term commercial agreement" would include an agreement with a

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<sup>6</sup> *Gulf Coast LNG Export, LLC (Gulf Coast)*, Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas By Vessel from the Proposed Brownsville Terminal to Free Trade Agreement Nations, DOE/FE Order No. 3163, FE Docket No. 12-05-LNG, October 16, 2012



minimum term of two years such as an LTA, an agreement to provide gas processing or liquefaction services at the CCL Project, a long-term sales contract involving natural gas or LNG stored or liquefied at the CCL Project, or an agreement to provide export services from the CCL Project.

(8) DOE/FE also will require CE FLNG to file any long-term contracts CE FLNG enters into providing for the long-term export of LNG on its own behalf from the CCL Project. 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 practicable” requirement of section 590.202(b).

(9) In addition, DOE/FE finds that section 590.202(c) requires that CE FLNG file, or cause to be filed, all long-term contracts associated with the long-term supply of natural gas to the CCL Project within 30 days of their execution that either CE FLNG or the Registrant enters into.

(10) DOE/FE recognizes that some information in CE FLNG’s or a Registrant’s long-term commercial agreements associated with the export of LNG, and long-term contracts associated with the long-term supply of natural gas to the CCL Project may be commercially sensitive. DOE will therefore require that (A) when CE FLNG files, or causes to be filed, such a long-term contract under seal, that it also file either: i) a copy of each long-term contract with commercially sensitive information redacted, or ii) a summary of all major provisions of the contract(s) including, but not limited to, the parties to each contract, contract term, quantity, any take or pay or equivalent provisions/conditions, destinations, re-sale provisions, and other relevant provisions; and (B) the filing must demonstrate why the redacted information should be exempted from public disclosure.

**ORDER**

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

A. CE FLNG is authorized to export domestically produced LNG by vessel from the proposed CE FLNG LNG Terminal in Plaquemines Parish, Louisiana, up to the equivalent of 391 Bcf/y of natural gas for a 30-year term, beginning on the earlier of the date of first export or 10 years from the date the authorization is issued (November 21, 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, Panama, 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. CE FLNG 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. CE FLNG shall file, or cause to be filed, with the Office of Natural Gas Regulatory Activities all executed long-term contracts associated with the long-term export of LNG on its own behalf or as agent for or on behalf of others, from the proposed CE FLNG LNG Terminal in Plaquemines Parish, Louisiana, including both a non-redacted copy filed under seal and either: i)



a redacted version of the contract, or ii) major provisions of the contract, for public posting, within 30 days of their execution. Applying the same procedures, CE FLNG shall file, or cause to be filed, with the Office of Natural Gas Regulatory Activities all executed long-term contracts associated with the long-term supply of natural gas to the proposed CE FLNG LNG Terminal in Plaquemines Parish, Louisiana, both un-redacted under seal, and either: i) a redacted version of the contract, or ii) major provisions of the contract, for public posting within 30 days of their execution. In these filings, CE FLNG shall show why the redacted or non-disclosed information should be exempted from public disclosure.

E. CE FLNG 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. 3193, issued November 21, 2012 in FE Docket No. 12-123-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 CE FLNG 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 CE FLNG is made aware of all such actual destination countries."

F. CE FLNG 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 CE FLNG with all information necessary to permit CE FLNG 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, of any long-term contracts, not previously filed with DOE/FE, described in Ordering paragraph (D) of this Order, including both a non-redacted copy for filing under seal and either: i) a redacted version of the contract, or ii) major provisions of the contract, for public posting.

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 the proposed CE FLNG LNG Terminal in Plaquemines Parish, Louisiana, CE FLNG shall provide written notification of the date that the first export of LNG authorized in Order Paragraph A above occurred.

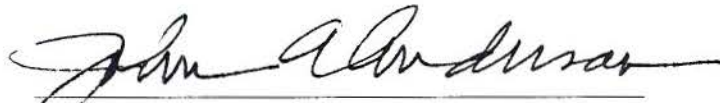
I. CE FLNG shall file with the Office of Natural Gas Regulatory Activities, on a semi-annual basis, written reports describing the progress of the proposed liquefaction facility project. The reports shall be filed on or by April 1 and October 1 of each year, and shall include information on the progress of the proposed CE FLNG LNG Terminal in Plaquemines Parish, Louisiana, 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, CE FLNG 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 30<sup>th</sup> 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](mailto:Yvonne.caudillo@hq.doe.gov) or [ngreports@hq.doe.gov](mailto:ngreports@hq.doe.gov), or may be faxed to Ms. Caudillo at (202) 586-6050.

Issued in Washington, D.C., on November 21, 2012.



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