

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY AND CARBON MANAGEMENT

GULFSTREAM LNG DEVELOPMENT, LLC

)
)
) DOCKET NO. 23-34-LNG

ORDER GRANTING LONG-TERM AUTHORIZATION
TO EXPORT LIQUEFIED NATURAL GAS TO
FREE TRADE AGREEMENT NATIONS

DOE/FECM ORDER NO. 5014

JUNE 26, 2023

I. DESCRIPTION OF REQUEST

On March 10, 2023, GULFSTREAM LNG DEVELOPMENT, LLC (Gulfstream LNG) filed an application (Application)¹ with the Office of Fossil Energy and Carbon Management (FECM) of the Department of Energy (DOE) under section 3 of the Natural Gas Act (NGA).² Gulfstream LNG requests long-term, multi-contract authorization to export domestically produced liquefied natural gas (LNG) in a volume equivalent to 237.5 billion cubic feet per year (Bcf/yr) of natural gas (0.65 Bcf per day (Bcf/d)).³ Gulfstream LNG seeks authorization to export the LNG by vessel from its proposed Gulfstream LNG Project (Project), to be located in Plaquemines Parish, Louisiana.⁴

Gulfstream LNG requests authorization to export this LNG to any country with which trade is not prohibited by U.S. law or policy.⁵ This includes both countries with which the United States currently has, or in the future enters into, a free trade agreement (FTA) requiring national treatment for trade in natural gas (FTA countries),⁶ and any other country with which trade is not prohibited by U.S. law or policy (non-FTA countries).⁷ Gulfstream LNG requests the FTA and non-FTA authorizations on a non-additive basis for a term to commence on the date of first export following the start of commercial operation of the

¹ Gulfstream LNG Development, LLC, Application for Long-Term Authorization to Export Liquefied Natural Gas to Free Trade Agreement and Non-Free Trade Agreement Nations, Docket No. 23-34-LNG (Mar. 10, 2023) [hereinafter Gulfstream LNG App.].

² 15 U.S.C. § 717b. The authority to regulate the imports and exports of natural gas, including liquefied natural gas, under section 3 of the NGA has been delegated to the Assistant Secretary for FECM in Redelegation Order No. S4-DEL-FE1-2023, issued on April 10, 2023.

³ Gulfstream LNG App. at 1.

⁴ *Id.* at 1, 3-4.

⁵ *Id.* at 1, 4, 15.

⁶ 15 U.S.C. § 717b(c). 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, Panama, Peru, Republic of Korea, and Singapore. FTAs with Israel and Costa Rica do not require national treatment for trade in natural gas.

⁷ 15 U.S.C. § 717b(a).

Project, and extending through December 31, 2050.⁸ Gulfstream LNG requests this authorization on its own behalf and as agent for other entities that may hold title to the LNG at the time of export.⁹

The portion of Gulfstream LNG's Application that seeks authorization to export domestically produced LNG to FTA countries is being reviewed pursuant to NGA section 3(c), 15 U.S.C. § 717b(c), and approved in this Order. The portion of the Application that seeks authorization to export domestically produced LNG to non-FTA countries will be reviewed pursuant to NGA section 3(a), 15 U.S.C. § 717b(a), and addressed in a separate order.¹⁰

II. **BACKGROUND**

Applicant. Gulfstream LNG is a Delaware limited liability company with its principal place of business in Houston, Texas. Gulfstream LNG states that the sole member of Gulfstream LNG is Dr. Vivek Chandra, a U.S. citizen.¹¹

According to Gulfstream LNG, Dr. Chandra previously founded Texas LNG LLC & Texas LNG Brownsville LLC (a LNG export project under development in south Texas) and has served in executive positions with various domestic and international energy entities. The Application provides additional details regarding Dr. Chandra's qualifications.¹²

⁸ Gulfstream LNG App. at 4-5. *See also* U.S. Dep't of Energy, Extending Natural Gas Export Authorizations to Non-Free Trade Agreement Countries Through the Year 2050; Notice of Final Policy Statement and Response to Comments, 85 Fed. Reg. 52,237 (Aug. 25, 2020). Additionally, DOE notes that, effective January 12, 2021, long-term export authorizations contain authority to export the same approved volume of LNG pursuant to transactions with terms of less than two years, including commissioning volumes, on a non-additive basis. *See* U.S. Dep't of Energy, Including Short-Term Export Authority in Long-Term Authorizations for the Export of Natural Gas on a Non-Additive Basis; Policy Statement, 86 Fed. Reg. 2243 (Jan. 12, 2021).

⁹ Gulfstream LNG App. at 1, 4.

¹⁰ *See* Gulfstream LNG Development, LLC, Application for Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations, 88 Fed. Reg. 23,023 (Apr. 14, 2023).

¹¹ Gulfstream LNG App. at 2.

¹² *See id.*

Proposed Gulfstream LNG Project. Gulfstream LNG states that the Project will be constructed and located on an approximately 500-acre parcel of land south of the town of Belle Chasse, Plaquemines Parish, Louisiana.¹³ According to Gulfstream LNG, the land is being developed by Louisiana 23 Development Company and Plaquemines Port, Harbor & Terminal District. Gulfstream LNG states that it has executed a Ground Lease and Joint Development Agreement (Agreement) for the Project site with Louisiana 23 Development Company.¹⁴

Gulfstream LNG states that the proposed Project will consist of natural gas treatment units, liquefaction units, compression, and storage facilities to store and deliver LNG to ocean-going vessels.¹⁵ Additionally, the proposed Project will include a control room, flare, marine facilities, and other ancillary systems.¹⁶ Gulfstream LNG states that, “[b]ased on expected operations, the Project will have capacity of approximately 237.5 Bcf/year, equivalent to 650 MMcf/day.”¹⁷

Gulfstream LNG states that the current business model, subject to modification, is for Gulfstream LNG to be both (1) a toll processor of natural gas into LNG and associated extracted natural gas liquids, without taking ownership of the feed gas or the produced LNG; and (2) a seller of LNG and associated extracted natural gas liquids at the facility gates/marine port, taking ownership of the feed gas prior to processing.¹⁸

¹³ *See id.* at 4.

¹⁴ *Id.* Gulfstream LNG provides a map and site plan for the Project as Appendix B to the Application, and states that it has submitted a copy of the confidential Agreement to DOE under seal.

¹⁵ *Id.* at 3.

¹⁶ *Id.*

¹⁷ Gulfstream LNG App. at 3.

¹⁸ *See id.* at 4.

Gulfstream LNG states that it expects to have the Project “constructed and available to commence exporting LNG within three and one-half years of receiving all required authorizations.”¹⁹

Source of Supply. Gulfstream LNG states that the Project will connect to existing natural gas pipeline systems operated by High Point Gas Transmission, LLC, Gulf South Pipeline Company, LLC and/or other pipeline systems in the area.²⁰ Gulfstream LNG further states that these pipelines are expected to supply the Project with both feed gas for liquefaction and natural gas required to fuel any of its gas-fired facilities at the Project.²¹ According to Gulfstream LNG, the Project will have access to a diverse and reliable supply of natural gas.²² Specifically, Gulfstream LNG anticipates that sources of natural gas will include supplies from various producing regions, including the Permian, Haynesville, Eagle Ford, Barnett, and Marcellus shale plays.²³

Business Model. Gulfstream LNG requests authorization to export LNG on its own behalf and as agent for other entities that hold title to the LNG at the time of export.²⁴ Gulfstream LNG states that it will comply with all DOE requirements for exporters and agents, including registration requirements.²⁵

Gulfstream LNG states that it has not yet entered into long-term natural gas supply or LNG export contracts for the requested exports.²⁶ Gulfstream LNG further states that it will

¹⁹ *Id.*

²⁰ *Id.* at 3.

²¹ *Id.*

²² *Id.* at 3-4.

²³ Gulfstream LNG App. at 4.

²⁴ *Id.* at 1, 4.

²⁵ *Id.* at 5.

²⁶ *Id.*

file, or cause to be filed, all long-term commercial agreements, once executed, in accordance with DOE's established policy and precedent.²⁷

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 requesting authority for (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/or (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 Gulfstream LNG's Application falls within section 3(c), as amended, and therefore, DOE grants the requested FTA authorization without modification or delay.²⁸

(2) In light of DOE's statutory obligation to grant the FTA portion of this Application without modification or delay, there is no need for DOE to review other arguments asserted by Gulfstream LNG in support of the Application. The instant grant of authority should not be read to indicate DOE's views on those arguments or on Gulfstream LNG's request for non-FTA export authorization.

(3) The countries with which the United States has a 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.

²⁷ *Id.*

²⁸ DOE further finds that the requirement for public notice of applications and other hearing-type procedures in 10 C.F.R. Part 590 are applicable only to applications seeking to export natural gas, including LNG, to non-FTA countries.

(4) Gulfstream LNG requests authorization to export LNG on its own behalf and as agent for other entities that hold title to the LNG at the time of export. DOE previously addressed the issue of Agency Rights in DOE/FE Order No. 2913,²⁹ which granted Freeport LNG Expansion, L.P., *et al.* (collectively, FLEX) authority to export LNG to FTA countries. In that order, DOE approved a proposal by FLEX to register each LNG title holder for whom FLEX sought to export LNG as agent. DOE found that this proposal was an acceptable alternative to the non-binding policy adopted by DOE in *The Dow Chemical Company*,³⁰ which established that the title for all LNG authorized for export must be held by the authorization holder at the point of export. DOE finds that the same policy considerations that supported DOE's acceptance of the alternative registration proposal in DOE/FE Order No. 2913 apply here as well.

DOE has reiterated its policy on Agency Rights procedures in other authorizations, including *Cameron LNG, LLC*, DOE/FE Order No. 3680.³¹ In that order, DOE determined that, in LNG export orders in which Agency Rights have been granted, DOE 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.³²

²⁹ *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No 2913, Docket No. 10-160-LNG, Order Granting Long-Term Authorization to Export Liquefied Natural Gas from Freeport LNG Terminal to Free Trade Nations (Feb. 10, 2011).

³⁰ *The Dow Chemical Co.*, DOE/FE Order No. 2859, Docket No. 10-57-LNG, Order Granting Blanket Authorization to Export Liquefied Natural Gas, at 7-8 (Oct. 5, 2010), discussed in *Freeport LNG*, DOE/FE Order No. 2913, at 7-8.

³¹ *Cameron LNG, LLC*, DOE/FE Order No. 3680, Docket No. 15-36-LNG, Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas By Vessel from the Cameron LNG Terminal in Cameron and Calcasieu Parishes, Louisiana, to Free Trade Agreement Nations (July 10, 2015).

³² *Id.* at 8-9.

To ensure that the public interest is served, this authorization requires that, where Gulfstream LNG proposes to export LNG as agent, it must register the Registrants with DOE 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.”³³ Additionally, DOE regulations at 10 C.F.R. § 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 C.F.R. § 1004.11.

(6) DOE will require that Gulfstream LNG file or cause to be filed with DOE any relevant long-term commercial agreements or contracts pursuant to which Gulfstream LNG exports LNG as agent for a Registrant once those agreements or contracts have been executed. DOE finds that the submission of all such agreements or 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” includes an agreement with a minimum term of two years.

(7) DOE also will require Gulfstream LNG to file any long-term contracts Gulfstream LNG enters into providing for the long-term export of LNG on its own behalf from the proposed Gulfstream LNG Project. DOE 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).

³³ 10 C.F.R. § 590.202(b).

(8) In addition, DOE finds that section 590.202(c) of DOE's regulations³⁴ requires that Gulfstream LNG file, or cause to be filed, all long-term contracts associated with the long-term supply of natural gas to the Gulfstream LNG Project, whether signed by Gulfstream LNG or the Registrant, within 30 days of their execution.

(9) DOE recognizes that some information in Gulfstream LNG's or a Registrant's long-term commercial agreements associated with the export of LNG, and/or long-term contracts associated with the long-term supply of natural gas to the Project, may be commercially sensitive. DOE therefore will provide Gulfstream LNG the option to file or cause to be filed either unredacted contracts, or in the alternative: (A) Gulfstream LNG may file, or cause to be filed, long-term contracts under seal, but it also will file for public posting, within 30 days of the contract execution date, 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, destination, re-sale provisions, and other relevant provisions; and (B) the filing must demonstrate why the redacted or non-disclosed information should be exempted from public disclosure.³⁵

To ensure that DOE destination and reporting requirements included in the Order are conveyed to subsequent title holders, DOE will include as a condition of this authorization that future contracts for the sale or transfer of LNG exported pursuant to the Order shall include an acknowledgement of these requirements.

³⁴ *Id.* § 590.202(c).

³⁵ *Id.* § 590.202(e) (allowing confidential treatment of information in accordance with 10 C.F.R. § 1004.11).

ORDER

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

A. GULFSTREAM LNG DEVELOPMENT, LLC (Gulfstream LNG) is authorized to export domestically produced LNG by vessel from the proposed Gulfstream LNG Project, to be located in Plaquemines Parish, Louisiana. The volume authorized in this Order is equivalent to 237.5 Bcf/yr of natural gas for a term to commence on the date of first export following the start of commercial operation of the Project, and to extend through December 31, 2050. Gulfstream LNG is authorized to export this LNG on its own behalf and as agent for other entities that hold title to the LNG, pursuant to one or more contracts of any duration.³⁶

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 with which 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 LNG via ocean-going vessels. DOE identifies FTA countries at:

[https://www.energy.gov/fecm/how-obtain-authorization-import-andor-export-natural-gas-and-lng](https://www.energy.gov/fecm/how-obtain-authorization-import-andor-export-natural-gas-and-<u>lng</u>)

C. Gulfstream LNG 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

³⁶ See U.S. Dep't of Energy, Including Short-Term Export Authority in Long-Term Authorizations for the Export of Natural Gas on a Non-Additive Basis; Policy Statement, 86 Fed. Reg. 2243 (Jan. 12, 2021).

Department of the Treasury and the Federal Energy Regulatory Commission (FERC). Failure to comply with this requirement could result in rescission of this authorization and/or other civil or criminal remedies.

D. (i) Gulfstream LNG shall file, or cause others to file, with the U.S. Department of Energy, Office of Fossil Energy and Carbon Management, Office of Resource Sustainability, Office of Regulation, Analysis, and Engagement (FE-34) a non-redacted copy of all executed long-term contracts associated with the long-term export of LNG from the Project on its own behalf or as agent for other entities. The non-redacted copies must be filed within 30 days of their execution and may be filed under seal, as described above.

(ii) Gulfstream LNG shall file, or cause others to file, with the Office of Regulation, Analysis, and Engagement a non-redacted copy of all executed long-term contracts associated with the long-term supply of natural gas to the Project. The non-redacted copies must be filed within 30 days of their execution and may be filed under seal, as described above.

E. Gulfstream LNG is permitted to use its authorization to export LNG as agent for other LNG title-holders (Registrants), after registering those entities with DOE. Registration materials shall include an acknowledgement and agreement by the Registrant to supply Gulfstream LNG with all information necessary to permit Gulfstream LNG to register that person or entity with DOE, including: (1) the Registrant's agreement to comply with this Order and all applicable requirements of DOE's regulations at 10 C.F.R. 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; and (4) within 30 days of execution, a copy of any long-term contracts not previously filed with DOE, described in Ordering Paragraph D of this Order.

Any change in the registration materials—including changes in company name, contact information, length of the long-term contract, termination of the long-term contract, or other relevant modification—shall be filed with DOE within 30 days of such change(s).

F. Gulfstream LNG, or others for whom Gulfstream LNG acts as agent, shall include the following provision in any agreement or other 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/FECM Order No. 5014, issued June 26, 2023, in Docket No. 23-34-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 Gulfstream LNG Development, LLC that identifies the country (or countries) into which the LNG was actually delivered, and to include in any resale contract for such LNG the necessary conditions to ensure that Gulfstream LNG Development, LLC is made aware of all such actual destination countries.

G. Within two weeks after the first export of domestically produced LNG from the Project occurs, Gulfstream LNG shall provide written notification of the date of first export to DOE.

H. Gulfstream LNG shall file with the Office of Regulation, Analysis, and Engagement, on a semi-annual basis, written reports describing the progress of the proposed Gulfstream LNG 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 Project, the date the Project is

expected to be operational, and the status of any long-term supply and export contracts associated with the long-term export of LNG.

I. With respect to any change in control of the authorization holder, Gulfstream LNG must comply with DOE Procedures for Change in Control Affecting Applications and Authorizations to Import or Export Natural Gas.³⁷ For purposes of this Ordering Paragraph, a “change in control” shall include any change, directly or indirectly, of the power to direct the management or policies of Gulfstream LNG, whether such power is exercised through one or more intermediary companies or pursuant to an agreement, written or oral, and whether such power is established through ownership or voting of securities, or common directors, officers, or stockholders, or voting trusts, holding trusts, or debt holdings, or contract, or any other direct or indirect means.³⁸

J. Monthly Reports: With respect to the LNG exports authorized by this Order, Gulfstream LNG shall file with the Office of Regulation, Analysis, and Engagement, within 30 days following the last day of each calendar month, a report on Form FE-746R 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 have occurred, the report must provide the information specified for each applicable activity and mode of transportation, as set forth in the Guidelines for Filing Monthly Reports. These Guidelines are available at: <https://www.energy.gov/fecm/guidelines-filing-monthly-reports>.

³⁷ See U.S. Dep’t of Energy, Procedures for Changes in Control Affecting Applications and Authorizations to Import or Export Natural Gas, 79 Fed. Reg. 65,541 (Nov. 5, 2014).

³⁸ See *id.* at 65,542.

(Approved by the Office of Management and Budget under OMB Control No. 1901-0294)

K. All monthly report filings on Form FE-746R shall be made to the Office of Regulation, Analysis, and Engagement according to the methods of submission listed on the Form FE-746R reporting instructions available at: <https://www.energy.gov/fecm/regulation>.

Issued in Washington, D.C., on June 26, 2023.

Amy R. Sweeney
Director, Office of Regulation, Analysis, and Engagement
Office of Resource Sustainability