

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

CNG HOLDING 1 LLC)
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DOCKET NO. 22-13-CNG

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

DOE/FECM ORDER NO. 5033

SEPTEMBER 7, 2023

I. DESCRIPTION OF REQUEST

On February 11, 2022, CNG HOLDING 1 LLC (CNG Holding) filed an Application¹ with the Department of Energy's (DOE) Office of Fossil Energy and Carbon Management under section 3 of the Natural Gas Act (NGA),² and supplemented the Application on June 21, 2023.³ CNG Holding requests long-term, multi-contract authorization to export domestically produced compressed natural gas (CNG) in a volume equivalent to 51.75 billion cubic feet (Bcf) per year (Bcf/yr), or 0.14 Bcf per day (Bcf/d), of natural gas.⁴

CNG Holding requests authorization to export the CNG by vessel from its proposed CNG compression and container loading facility (Facility), which it intends to construct, own, and operate, to be located in the Port of Plaquemines, Louisiana.⁵ CNG Holding requests authorization to export the CNG to any country with which the United States currently has, or in the future will have, a free trade agreement (FTA) requiring national treatment for trade in natural gas (FTA countries).⁶

CNG Holding requests this authorization for a 25-year term, commencing on the earlier of the date of first export or five years from the date the requested authorization is granted.⁷

¹ CNG Holding 1 LLC, Application of CNG Holding 1 LLC for Long-Term Authorization to Export Compressed Natural Gas to Free Trade Agreement Countries, Docket No. 22-13-CNG (Feb. 11, 2022) [hereinafter App.].

² 15 U.S.C. § 717b. The authority to regulate the imports and exports of natural gas, including compressed 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 CNG Holding 1 LLC, Supplement to February 11, 2022 Application for Authorization to Export Gas to FTA Nations, Docket No. 22-13-CNG (Jun. 21, 2023) [hereinafter CNG Holding Supp. to App.].

⁴ App. at 1, 3 & n.3.

⁵ *Id.* at 4.

⁶ *Id.* at 1, 3, 4; 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 *Id.* at 1, 3, 7. DOE notes that, effective January 12, 2021, long-term export authorizations contain authority to export the same approved volume of natural gas—including liquefied natural gas—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 Policy Statement, Including Short-Term Export Authority in Long-Term Authorizations for the Export of Natural Gas on a Non-Additive Basis, 86 Fed. Reg. 2243 (Jan. 12, 2021).

Additionally, CNG Holding requests authority to export the CNG on its own behalf and as agent for other entities that hold title to the CNG at the time of export.⁸

DOE notes that CNG, like liquefied natural gas (LNG), constitutes “natural gas” subject to section 3 of the NGA.⁹ Accordingly, pursuant to NGA section 3(c), 15 U.S.C. § 717b(c), this Order grants CNG Holding’s Application.

II. **BACKGROUND**

Applicant. CNG Holding is a Delaware limited liability company with its principal place of business in Houston, Texas.¹⁰ CNG Holding states that it is a special purpose entity owned by Nearshore Natural Gas, LLC (Nearshore), HBG Investment, LLC (HBG), and Capital Ventures Worldwide, S.A. (CVW). According to CNG Holding, Nearshore and HBG are Delaware limited liability companies, and CVW is a Panama company.¹¹

CNG Holding states that through their ownership interests in HBG, CVW, and Nearshore, one person holds an ownership interest of 10% or more—Pedro Santos, a lawful permanent resident of the United States, at 43% ownership of CNG Holding.¹² According to CNG Holding, it has a five-member Board of Managers. HBG and CVW appoint one member each, Nearshore appoints two members, and a mutually agreed upon fifth member serves as an independent manager.¹³

⁸ *Id.*

⁹ *See K N Energy, Inc.*, Order Denying Reh’g, 24 FERC ¶ 61,200, at 61,474 (Aug. 2, 1983) (“CNG is natural gas within the meaning of the Natural Gas Act. We see no legal basis ... for treating the subject sales of gas for resale in the form of CNG differently than similar sales of gas for resale in the form of liquefied natural gas, for example The Natural Gas Act contains no basis for such a distinction.”), *aff’g Kansas-Nebraska Natural Gas Co., Inc.*, Order Granting in Part and Denying in Part Petition for Declaratory Order and Denying Untimely Mots. to Intervene, 22 FERC ¶ 61,176 (Feb. 18, 1983), *cited in Emera CNG, LLC*, DOE/FE Order No. 3727, Docket No. 13-157-CNG, Final Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Compressed Natural Gas by Vessel from a Proposed CNG Compression and Loading Facility at the Port of Palm Beach, Florida, to Non-Free Trade Agreement Nations, at 12 n.32 (Oct. 19, 2015).

¹⁰ *Id.* at 5.

¹¹ *Id.* *See also* CNG Holding Supp. to App. at 1-2 & n.4.

¹² *See* App. at 5 n.6; *see also* CNG Holding Supp. to App. at 2.

¹³ App. at 5 n.6.

CNG Holding further adds that Nearshore is also an owner of Andalusian Energy, LLC (Andalusian), the developer of a similar CNG export project. DOE previously issued a long-term, multi-contract authorization to Andalusian, under NGA section 3.¹⁴

Proposed CNG Facility. CNG Holding states that it plans to construct the Facility on an approximately five-acre inland site within the Port of Plaquemines, in Plaquemines Parish, Louisiana.¹⁵ CNG Holding states that it has entered into a joint development agreement (JDA) with Louisiana 23 Development Company, the sole fee title owner of the inland site, for the purposes of owning, constructing and operating the Facility.¹⁶ In the supplement to the Application, CNG Holding adds that, pursuant to the terms of the JDA, CNG Holding and Louisiana 23 Development Company have finalized the joint development plans and ground lease for the inland site.¹⁷

According to CNG Holding, the proposed Facility is anticipated to include natural gas compression facilities with a production capacity of up to approximately 0.14 Bcf/d of natural gas, a truck loading facility, and an interconnect with an interstate natural gas pipeline which will likely source its natural gas from the Gulf Coast region.¹⁸ CNG Holding states that the Facility will be capable of storing CNG in the International Organization for Standardization (ISO) container fill piping in an amount equal to approximately 1.5 times the daily production capacity (approximately 0.23 Bcf/d).¹⁹ Additionally, CNG Holding states “[t]he Facility site also will be

¹⁴ *Id.* at 5; *see also Andalusian Energy, LLC*, DOE/FE Order No. 4616, Docket No. 20-73-CNG, Order Granting Long-Term Authorization to Export Compressed Natural Gas to Free Trade Agreement Nations (Nov. 2, 2020).

¹⁵ App. at 5.

¹⁶ *Id.* at 6. CNG Holding states that it has submitted a copy of the confidential joint development agreement to DOE under seal as Appendix C to its application.

¹⁷ CNG Holding Supp. to App. at 2; *see also* App. at 6.

¹⁸ App. at 6.

¹⁹ *Id.*

able to store up to three hundred (300) stacked CNG containers for a period of up to one (1) week.”²⁰

CNG Holding states the Facility will receive the natural gas by pipeline to be compressed and loaded into ISO containers.²¹ The ISO containers will be transported by truck to a nearby loading dock on the Mississippi River that is affiliated with the Port of Plaquemines. At the Port of Plaquemines, the ISO containers will be loaded onto ocean-going vessels and shipped to various destinations.²²

CNG Holding states that it expects to have the Facility completed approximately 24 months from the date that CNG Holding obtains the final regulatory approvals required for construction.²³

Source of Supply. CNG Holding states that the Facility intends to interconnect with an interstate natural gas pipeline to provide the Facility with the necessary feed gas.²⁴ CNG Holding notes that “[w]hile the specific supply source for the yet-to-be-chosen natural gas pipeline is not conclusively known, the pipeline will likely source its gas from the Gulf Coast region, and the selected pipeline will have multiple interconnections with other Gulf Coast pipelines.”²⁵ CNG Holding highlights the large number of natural gas supply areas and interconnected nature of the natural gas pipeline grid in the Gulf Coast region.²⁶ CNG Holding states that the Facility’s access to the national natural gas pipeline system will provide a variety of stable and economic supply options.²⁷

²⁰ *Id.*

²¹ *Id.*

²² *Id.* at 3, 6.

²³ *Id.* at 6.

²⁴ App. at 8; *see also* CNG Holding Supp. to App. at 2.

²⁵ CNG Holding Supp. to App. at 2.

²⁶ *See id.* at 2.

²⁷ *See* App. at 8.

Business Model. CNG Holding requests authorization to export CNG on its own behalf and as agent for other entities that hold title to the CNG at the time of export.²⁸ CNG Holding states that it anticipates selling CNG to FTA countries in export markets in the Caribbean and on the eastern coast of Central America and Mexico.²⁹

CNG Holding further states that it will file, or cause to be filed, all long-term commercial agreements, once executed, in accordance with DOE's established policy, and will comply with all DOE requirements for exporters and agents, including registration requirements.³⁰

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 CNG and 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. This Application falls within section 3(c), as amended, and therefore, DOE grants the requested authorization without modification or delay.³¹

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

²⁸ App. at 1, 3, 7.

²⁹ *Id.* at 5, 7.

³⁰ *Id.* at 7-8.

³¹ DOE further finds that the requirements 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 CNG, to countries with which the United States does not have an FTA requiring national treatment for trade in natural gas.

(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.

(4) CNG Holding requests authorization to export CNG on its own behalf and as agent for other entities that hold title to the CNG at the time of export. DOE previously addressed the issue of Agency Rights in DOE/FE Order No. 2913,³² 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*, which established that the title for all LNG authorized for export must be held by the authorization holder at the point of export.³³ 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 reiterated its policy on Agency Rights procedures in other authorizations, including *Cameron LNG, LLC*, DOE/FE Order No. 3680.³⁴ 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

³² *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).

³³ *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.

³⁴ *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).

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.³⁵

To ensure that the public interest is served, this authorization requires that, where CNG Holding proposes to export CNG 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.”³⁶ 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 CNG Holding file or cause to be filed with DOE any relevant long-term commercial agreements or contracts pursuant to which CNG Holding exports CNG 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” would include an agreement with a minimum term of two years.

(7) DOE also will require CNG Holding to file any long-term contracts CNG Holding enters into providing for the long-term export of CNG on its own behalf from the proposed Facility. DOE finds that the submission of these contracts within 30 days of their execution

³⁵ *Id.* at 8-9.

³⁶ 10 C.F.R. § 590.202(b).

using the procedures described below will be consistent with the “to the extent practicable” requirement of section 590.202(b).

(8) In addition, DOE finds that section 590.202(c) of DOE’s regulations³⁷ requires that CNG Holding file, or cause to be filed, all long-term contracts associated with the long-term supply of natural gas to the Facility, whether signed by CNG Holding or the Registrant, within 30 days of their execution.

(9) DOE recognizes that some information in CNG Holding’s or a Registrant’s long-term commercial agreements associated with the export of CNG, and/or long-term contracts associated with the long-term supply of natural gas to the Facility, may be commercially sensitive. DOE therefore will provide CNG Holding the option to file or cause to be filed either unredacted contracts, or in the alternative: (A) CNG Holding 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, destinations, 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.³⁸

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 CNG exported pursuant to the Order shall include an acknowledgement of these requirements.

³⁷ *Id.* § 590.202(c).

³⁸ *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. CNG HOLDING 1 LLC (CNG Holding) is authorized to export domestically produced CNG sourced from the proposed CNG compression and container loading facility (Facility), to be located within the Port of Plaquemines, Louisiana. CNG Holding is authorized to export this CNG in approved ISO containers on vessels in a volume equivalent to 51.75 Bcf/yr of natural gas for a 25-year term, commencing on the earlier of the date of first export or five years from the date the authorization is issued (September 7, 2028). CNG Holding is authorized to export this CNG on its own behalf and as agent for other entities that hold title to the CNG, pursuant to one or more contracts of any duration.³⁹

B. This CNG 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 CNG via ocean-going vessels. DOE identifies current FTA countries at <https://www.energy.gov/fecm/how-obtain-authorization-import-andor-export-natural-gas-and-lng>.

C. CNG Holding 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

³⁹ These contracts may include the export of commissioning volumes prior to the start of facility operations 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, 86 Fed. Reg. 2243 (Jan. 12, 2021).

the Treasury. Failure to comply with this requirement could result in rescission of this authorization and/or other civil or criminal remedies.

D. (i) CNG Holding 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 CNG from the Facility 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) CNG Holding 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 Facility. The non-redacted copies must be filed within 30 days of their execution and may be filed under seal, as described above.

E. CNG Holding is permitted to use its authorization to export CNG as agent for other CNG title-holders (Registrants), after registering those entities with DOE. Registration materials shall include an acknowledgement and agreement by the Registrant to supply CNG Holding with all information necessary to permit CNG Holding 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; (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. CNG Holding, or others for whom CNG Holding acts as agent, shall include the following provision in any agreement or other contract for the sale or transfer of CNG exported pursuant to this Order:

Customer or purchaser acknowledges and agrees that it will resell or transfer CNG purchased hereunder for delivery only to countries identified in Ordering Paragraph B of DOE/FECM Order No. 5033, issued September 7, 2023 in Docket No. 22-13-CNG, and/or to purchasers that have agreed in writing to limit their direct or indirect resale or transfer of such CNG to such countries. Customer or purchaser further commits to cause a report to be provided to CNG Holding 1 LLC that identifies the country (or countries) into which the CNG was actually delivered, and to include in any resale contract for such CNG the necessary conditions to ensure that CNG Holding 1 LLC is made aware of all such actual destination countries.

G. Within two weeks after the first export of domestically produced CNG from the proposed Facility occurs, CNG Holding shall provide written notification of the date of first export to DOE.

H. CNG Holding shall file with the Office of Regulation, Analysis, and Engagement, on a semi-annual basis, written reports describing the progress of the proposed Facility. 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 Facility, the date the Facility is expected to be operational, and the status of any long-term supply and export contracts associated with the long-term export of CNG.

I. With respect to any change in control of the authorization holder, CNG Holding must comply with DOE's Procedures for Change in Control Affecting Applications and

Authorizations to Import or Export Natural Gas.⁴⁰ 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 CNG Holding, 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.⁴¹

J. Monthly Reports: With respect to the exports authorized by this Order, CNG Holding 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 CNG 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 CNG in ISO containers by vessel 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>.

(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

⁴⁰ 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).

⁴¹ See *id.* at 65,542.

Form FE-746R reporting instructions available at: <https://www.energy.gov/fecm/regulation>.

Issued in Washington, D.C., on September 7, 2023.

Amy R. Sweeney
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Office of Resource Sustainability