



Department of Energy  
Washington, DC 20585

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**Via Email and Certified Mail**

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**RE: Notice of Dismissal of Pending Application**  
**Docket No. 13-116-LNG**

Dear Mr. Kunian:

On August 23, 2013, Eos LNG LLC (Eos) submitted an application (Application)<sup>1</sup> to the Department of Energy's (DOE) Office of Fossil Energy (now the Office of Fossil Energy and Carbon Management)<sup>2</sup> requesting long-term authorization to export liquefied natural gas (LNG) to non-free trade agreement (non-FTA) countries under section 3(a) of the Natural Gas Act (NGA).<sup>3</sup> As explained below, DOE is dismissing the pending non-FTA Application without prejudice to Eos filing a new application in the future.

**I. Background**

In the Application, Eos requests authority to export domestically produced LNG by vessel from the proposed Eos LNG Terminal (Project), to be located at the Port of Brownsville in Brownsville, Texas. Eos seeks to export the LNG in a volume equivalent to approximately 584 billion cubic feet (Bcf) per year (Bcf/yr) of natural gas, or 1.6 Bcf per day (Bcf/d), to non-FTA countries, pursuant to NGA section 3(a).<sup>4</sup>

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<sup>1</sup> Eos LNG LLC, Application for Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Countries, Docket No. 13-116-LNG (Aug. 23, 2013) [hereinafter App.].

<sup>2</sup> On July 4, 2021, DOE's Office of Fossil Energy (FE) changed its name to the Office of Fossil Energy and Carbon Management (FECM).

<sup>3</sup> 15 U.S.C. § 717b(a).

<sup>4</sup> *Id.* In DOE/FE Order No. 3364 issued in Docket No. 13-115-LNG, Eos is currently authorized to export LNG to FTA countries on a non-additive basis, pursuant to NGA section 3(c), 15 U.S.C. § 717b(c). See *Eos LNG LLC*, DOE/FE Order No. 3364, Docket No. 13-115-LNG, Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel From the Port of Brownsville, Texas to Free Trade Agreement Nations (Nov. 26, 2013) (authorizing exports of LNG to FTA countries in a volume equivalent to 584 Bcf/yr of natural gas).

On December 11, 2013, DOE published a notice of the Application in the *Federal Register*.<sup>5</sup> In response to the notice, DOE received a Motion to Intervene, Protest and Comments filed by Sierra Club; and a Motion to Intervene filed by the American Petroleum Institute.<sup>6</sup>

Under NGA section 3(a), DOE conducts an informal adjudication and will grant a non-FTA application unless DOE “finds that the proposed exportation ... will not be consistent with the public interest.”<sup>7</sup> Before reaching a final decision on a non-FTA application, DOE also must comply with the National Environmental Policy Act (NEPA).<sup>8</sup> Here, the Federal Energy Regulatory Commission (FERC) is responsible for permitting Eos’s proposed Project and would serve as the lead agency in the NEPA review process, while DOE would serve as a cooperating agency.<sup>9</sup>

## II. Current Status

Eos’s non-FTA Application has now been pending for more than 11 years. During this time, Eos has not submitted any updates to DOE demonstrating concrete action to develop the proposed Project or otherwise to advance the Application. In particular, Eos has not yet initiated a pre-filing application process with FERC.<sup>10</sup> Thus, due to Eos’s inaction, FERC is not reviewing (and has never reviewed) the proposed Project upon which the pending Application is based.

Since 2014, Eos has filed its semi-annual reports in Docket No. 13-115-LNG, as required by its FTA authorization.<sup>11</sup> In its most recent semi-annual report, filed in October 2024, Eos states that “[t]he project is still in pre-development” (exactly as it has said in past semi-annual reports).<sup>12</sup>

## III. Dismissal of Application Without Prejudice

In the more than 11 years since Eos filed its Application, while both the U.S. natural gas market and DOE’s authorization of LNG exports to non-FTA countries under NGA section 3(a) have

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<sup>5</sup> Eos LNG LLC, Application for Long-Term Authorization To Export Liquefied Natural Gas Produced From Domestic Natural Gas Resources to Non-Free Trade Agreement Countries for a 25-Year Period; Notice of Application, 78 Fed. Reg. 75,337 (Dec. 11, 2013).

<sup>6</sup> See Docket No. 13-116-LNG, [https://fossil.energy.gov/ng\\_regulation/applications-2013-eoslngllc-fedk-13-116-lng](https://fossil.energy.gov/ng_regulation/applications-2013-eoslngllc-fedk-13-116-lng).

<sup>7</sup> 15 U.S.C. § 717b(a).

<sup>8</sup> 42 U.S.C. § 4321 *et seq.*

<sup>9</sup> DOE’s authorization is solely with respect to the requested export of LNG and does not extend to authorization over the siting, construction, and operation of the proposed Project. See, e.g., *Sierra Club v. Fed. Energy Regul. Comm’n*, 827 F.3d 36, 40 (D.C. Cir. 2016).

<sup>10</sup> See, e.g., 18 C.F.R. § 157.21.

<sup>11</sup> See *supra* note 4.

<sup>12</sup> Eos LNG LLC, Semi-Annual Report (Period Ending Oct. 1, 2024), Docket No. 13-115-LNG, at 1 (Oct. 30, 2024), <https://www.energy.gov/fecm/articles/semi-annual-reports-eos-lng-fta-fe-dkt-no-13-115-lng-order-3364> (follow link).

evolved considerably,<sup>13</sup> Eos’s pending non-FTA Application has remained stagnant with the proposed Project in the “pre-development” stage. Indeed, Eos has not submitted any filings or other updates in this proceeding since its Application in August 2013. Thus, based on the information in this proceeding and in the semi-annual reports submitted in Eos’s FTA docket (Docket No. 13-115-LNG), we find that Eos has not made any identifiable progress with respect to its proposed Project, most notably in engaging with FERC to commence a pre-filing process.

For all of these reasons, we conclude that Eos’s Application fails to provide a sufficient basis for DOE’s review under either NGA section 3(a) or NEPA. DOE thus finds it necessary and appropriate to dismiss the Application, effective immediately, without prejudice to Eos filing a new application requesting non-FTA export authorization from DOE in the future.<sup>14</sup>

This dismissal does not affect Eos’s existing FTA authorization in Docket No. 13-115-LNG, DOE/FE Order No. 3364, which remains active.<sup>15</sup>

Sincerely,

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

cc: Service List, Docket No. 13-116-LNG

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<sup>13</sup> For example, as of August 2013, when Eos filed its Application, DOE had issued only one final long-term non-FTA export authorization (to Sabine Pass Liquefaction, LLC) in a volume equivalent to 2.2 Bcf/d of natural gas. Since that time, DOE has issued more than 40 final non-FTA authorizations, with the cumulative volume of approved export authorizations now totaling approximately 49.0 Bcf/d sourced from both the lower-48 states and Alaska. *See, e.g., Sierra Club, et al., Order Denying Petition for Rulemaking on Exports of Liquefied Natural Gas*, at 13, 12-15, 20-22 (July 18, 2023) (stating that, in 2013, DOE’s LNG export regulatory program “was still relatively new” and discussing significant developments in the program over the last decade).

<sup>14</sup> *See* 15 U.S.C. § 717o; *see also, e.g., Fourchon LNG LLC, DOE/FECM Order No. 4162-A, Docket No. 17-105-LNG, Order Vacating Long-Term Authorization to Export Liquefied Natural Gas to Free Trade Agreement Nations, and Dismissing Pending Application* (May 31, 2024) (dismissing non-FTA portion of pending application due to applicant’s failure to inform DOE of FERC termination notice, as well as lack of progress).

<sup>15</sup> *See supra* note 4.