

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

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CHEVRON U.S.A. INC. )  
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FE DOCKET NO. 19-28-LNG

ORDER GRANTING BLANKET AUTHORIZATION  
TO EXPORT PREVIOUSLY IMPORTED  
LIQUEFIED NATURAL GAS BY VESSEL  
TO FREE TRADE AGREEMENT AND  
NON-FREE TRADE AGREEMENT COUNTRIES

DOE/FE ORDER NO. 4396

JUNE 11, 2019

## I. INTRODUCTION

On March 5, 2019, Chevron U.S.A. Inc. (Chevron) filed an application (Application)<sup>1</sup> with the Office of Fossil Energy (FE) of the Department of Energy (DOE), under section 3 of the Natural Gas Act (NGA).<sup>2</sup> Chevron requests authorization to export liquefied natural gas (LNG) previously imported into the United States from foreign sources on a short-term or spot market basis. Chevron seeks to export the LNG in a volume equivalent to approximately 72 billion cubic feet (Bcf) of natural gas on a cumulative basis for a two-year period beginning on the date this Order is issued.<sup>3</sup>

Chevron seeks to export this LNG by vessel from the Sabine Pass LNG Terminal, owned by Sabine Pass LNG, L.P. and located in Cameron Parish, Louisiana, to any country with the capacity to import LNG via ocean-going carrier and with which trade is not prohibited by U.S. law or policy. This includes 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, and with which trade is not prohibited by U.S. law or policy (FTA countries);<sup>4</sup> and any other country with which trade is not prohibited by U.S. law or policy (non-FTA countries).<sup>5</sup> Chevron

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<sup>1</sup> *Chevron U.S.A. Inc.*, Application for Blanket Authorization to Export Liquefied Natural Gas on a Short-Term Basis, FE Docket No. 19-28-LNG (Mar. 5, 2019) [hereinafter App.].

<sup>2</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. 00-006.02, issued on November 17, 2014.

<sup>3</sup> App. at 1. Chevron's prior blanket authorization to export LNG previously imported from foreign sources, granted in DOE/FE Order No. 4007 on March 28, 2017, expired on March 27, 2019. See *Chevron U.S.A. Inc.*, DOE/FE Order No. 4007, FE Docket No. 16-141-LNG, Order Granting Blanket Authorization to Export Previously Imported Liquefied Natural Gas by Vessel (Mar. 28, 2017). According to Chevron, no export activity has occurred following the expiration of that order, and therefore Chevron requests that this authorization be effective on the date it is issued. See Email from Lisa DiNorscia of Chevron Supply and Trading to DOE/FE (June 5, 2019).

<sup>4</sup> 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.

<sup>5</sup> *Id.* § 717b(a).

states that it does not seek authorization to export any domestically produced natural gas or LNG.<sup>6</sup>

In this Order, DOE/FE grants Chevron's Application and authorizes the export of previously imported LNG in a volume equivalent to approximately 72 Bcf on a cumulative basis over the requested two-year period. Specifically, DOE/FE grants the FTA portion of the Application under NGA section § 3(c), 15 U.S.C. § 717b(c). Section 3(c) was amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486) to require that FTA applications "shall be deemed to be consistent with the public interest" and granted "without modification or delay."<sup>7</sup> The FTA portion of the Application falls within NGA section 3(c) and, therefore, DOE/FE approves the requested FTA authorization without modification or delay. Accordingly, none of the public interest analysis discussed below applies to the FTA authorization. As to the non-FTA portion of the Application, DOE/FE has reviewed the record in this proceeding under NGA section 3(a), 15 U.S.C. § 717b(a), and likewise grants that requested authorization, as set forth below.

## **II. BACKGROUND**

**Applicant.** Chevron is a Pennsylvania corporation with its principal place of business in San Ramon, California.

**Procedural History.** As noted above, DOE/FE previously issued Order No. 4007, authorizing Chevron to export LNG previously imported from foreign sources in a volume equivalent to approximately 72 Bcf of natural gas on a cumulative basis over a two-year period commencing on March 28, 2017, and extending through March 27, 2019.<sup>8</sup> Chevron was

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<sup>6</sup> App. at 3.

<sup>7</sup> 15 U.S.C. § 717b(c).

<sup>8</sup> See *supra* note 3.

authorized to export this LNG by vessel from the Sabine Pass LNG Terminal to both FTA and non-FTA countries.<sup>9</sup>

Additionally, on July 20, 2018, DOE/FE issued Order No. 4208, in which it authorized Chevron to import LNG from various international sources by vessel in a total volume equivalent to approximately 800 Bcf of natural gas for a two-year term commencing on August 1, 2018, and extending through July 31, 2020.<sup>10</sup> Under the terms of that authorization, Chevron may import the LNG at any LNG receiving facility in the United States and its territories.<sup>11</sup>

In this proceeding, Chevron filed its Application on March 5, 2019. On April 10, 2019, DOE/FE published a Notice of Application in the *Federal Register* for the non-FTA portion of the Application.<sup>12</sup> Comments, protests, and motions or notices to intervene on the Application were due on May 10, 2019. DOE/FE received no filings in response to the Notice of Application, and therefore the non-FTA portion of the Application is uncontested.

### **III. DESCRIPTION OF REQUEST**

Chevron requests authorization to export LNG previously imported into the United States from foreign sources in a volume equivalent to approximately 72 Bcf of natural gas on a cumulative basis to both FTA and non-FTA countries. Chevron requests this authorization for a two-year period beginning on the date this Order is issued.<sup>13</sup>

Chevron states that it has contracted with Sabine Pass LNG, L.P. for 1.0 Bcf per day of long-term terminal capacity at the Sabine Pass LNG Terminal.<sup>14</sup> According to Chevron, the

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<sup>9</sup> *Id.*

<sup>10</sup> *Chevron U.S.A. Inc.*, DOE/FE Order No. 4208, FE Docket No. 18-74-LNG, Order Granting Blanket Authorization to Import Liquefied Natural Gas from Various International Sources by Vessel (July 20, 2018).

<sup>11</sup> *Id.*

<sup>12</sup> *Chevron U.S.A. Inc.*, Application for Blanket Authorization to Export Previously Imported Liquefied Natural Gas on a Short-Term Basis, 84 Fed. Reg. 14,356 (Apr. 10, 2019).

<sup>13</sup> *See supra* note 3.

<sup>14</sup> App. at 1-2.

previously imported LNG either will be exported from the Terminal or re-gasified for sale in the domestic markets, contingent on prevailing market conditions.<sup>15</sup> Chevron further states that no modifications to the Sabine Pass LNG Terminal will be required to accommodate the proposed exports.<sup>16</sup>

#### **IV. APPLICANT'S PUBLIC INTEREST ANALYSIS FOR NON-FTA AUTHORIZATION**

Chevron maintains that its requested authorization is consistent with NGA section 3(a) and DOE/FE's policy. Chevron asserts that the volume of previously imported LNG that it proposes to export is not necessary to meet domestic needs. Chevron points to DOE/FE's recent blanket authorizations to export previously imported LNG—including Chevron's prior order (DOE/FE Order No. 4007) and DOE/FE Order No. 4197 issued to Sabine Pass Liquefaction, LLC<sup>17</sup>—and suggests that DOE/FE's findings in those orders should apply to its request.<sup>18</sup>

Citing its prior order, Chevron notes that DOE/FE took administrative notice of the U.S. Energy Information Administration's (EIA) *Annual Energy Outlook 2017* in finding that the volume of foreign-sourced LNG was not needed to meet domestic demand.<sup>19</sup> Chevron also points to EIA's *Annual Energy Outlook 2019* (AEO 2019), which shows projected annual domestic dry natural gas production in 2022 well in excess of total natural gas consumption in

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<sup>15</sup> *Id.* at 3.

<sup>16</sup> *Id.* at 6.

<sup>17</sup> *Id.* at 3 (citing *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 4197, FE Docket No. 18-35-LNG, Order Granting Blanket Authorization to Export Previously Imported Liquefied Natural Gas by Vessel to Free Trade Agreement and Non-Free Trade Agreement Countries (June 4, 2018)).

<sup>18</sup> *Id.* at 3-4.

<sup>19</sup> See App. at 4-5 (citing U.S. Energy Info. Admin., *Annual Energy Outlook 2017* (Jan 5, 2017), available at: [https://www.eia.gov/outlooks/aeo/pdf/0383\(2017\).pdf](https://www.eia.gov/outlooks/aeo/pdf/0383(2017).pdf)).

the same year.<sup>20</sup> Chevron asserts that, given the current conditions of the domestic natural gas markets, its proposed exports will not be inconsistent with the public interest.<sup>21</sup>

Next, Chevron asserts that granting its requested non-FTA authorization would provide market flexibility.<sup>22</sup> According to Chevron, the requested authorization would provide it with the ability to purchase spot-market cargoes for import into the United States, with the possibility of re-exporting the imported LNG.<sup>23</sup>

## V. DISCUSSION AND CONCLUSIONS FOR NON-FTA AUTHORIZATION

### A. Standard of Review

Section 3(a) of the NGA sets forth the applicable standard for DOE/FE's review of the requested non-FTA authorization. Section 3(a) provides:

[N]o person shall export any natural gas from the United States to a foreign country or import any natural gas from a foreign country without first having secured an order of the [Secretary of Energy] authorizing it to do so. The [Secretary] shall issue such order upon application, unless after opportunity for hearing, [he] finds that the proposed exportation or importation will not be consistent with the public interest. The [Secretary] may by [the Secretary's] order grant such application, in whole or part, with such modification and upon such terms and conditions as the [Secretary] may find necessary or appropriate.<sup>24</sup>

This provision creates a rebuttable presumption that a proposed export of natural gas is in the public interest.<sup>25</sup> DOE/FE must grant such an application unless the presumption is overcome by an affirmative showing of inconsistency with the public interest.<sup>26</sup>

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<sup>20</sup> *Id.* at 5 (citing U.S. Energy Info. Admin., *Annual Energy Outlook 2019* (Jan. 24, 2019), available at: <https://www.eia.gov/outlooks/aeo/data/browser/#/?id=13-AEO2019&cases=ref2019&sourcekey=0> [hereinafter AEO 2019]).

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> 15 U.S.C. § 717b(a).

<sup>25</sup> *See, e.g., Sierra Club v. U.S. Dep't of Energy*, 867 F.3d 189, 203 (D.C. Cir. 2017) (citations omitted).

<sup>26</sup> *See id.*

In evaluating an export application under this standard, DOE/FE applies the principles described in DOE Delegation Order No. 0204-111—which focuses primarily on domestic need for the natural gas to be exported, as described in the Secretary’s natural gas policy guidelines<sup>27</sup>—and any other matters determined to be appropriate to a determination of the public interest. In addition, the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed decisions.

### **B. Domestic Need**

Chevron’s Application involves a request for authorization to export LNG that was previously imported into the United States from foreign sources. Exporting this proposed volume of LNG will not reduce the availability of domestically produced natural gas. On the other hand, exporting previously imported LNG could affect the domestic natural gas market because, for the requested two-year period, the proposed exports will reduce the volume of natural gas potentially available for consumption within the United States.

DOE/FE has issued numerous blanket authorizations to export previously imported LNG in other proceedings.<sup>28</sup> These orders were based, in part, on authoritative data indicating that United States consumers have access to substantial quantities of natural gas sufficient to meet domestic demand from other competitively-priced sources. DOE takes administrative notice of the most recent analysis prepared by EIA in AEO 2019, cited by Chevron. AEO 2019 projects

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<sup>27</sup> New Policy Guidelines and Delegations Order Relating to Regulation of Imported Natural Gas, 49 Fed. Reg. 6684 (Feb. 22, 1984).

<sup>28</sup> *See supra* at 5.

annual domestic dry natural gas production in 2020 of 33.55 Tcf, with total natural gas consumption projected to be 30.26 Tcf in the same year.<sup>29</sup>

Inasmuch as domestic natural gas production levels are projected to reach an amount that well exceeds the amount of natural gas proposed for short-term export in Chevron's Application, we find that United States consumers will continue to have access to substantial quantities of natural gas sufficient to meet domestic demand from multiple other sources at competitive prices without drawing on the LNG that Chevron seeks to export.

### **C. Other Public Interest Factors**

Domestic need is the only explicit public interest consideration identified by DOE in Delegation Order No. 0204-111. However, consistent with DOE's natural gas policy guidelines and DOE/FE precedent, DOE/FE considers the potential effects of proposed exports on other aspects of the public interest, including environmental factors (discussed below).

### **D. Environmental Review**

NEPA requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. As noted above, Chevron states that its proposed exports would require no new construction or modifications to the Sabine Pass LNG Terminal.<sup>30</sup> Under these circumstances, DOE's NEPA procedures provide for a categorical exclusion for which neither an environmental assessment (EA) nor an environmental impact statement (EIS) is required—specifically, categorical exclusion B5.7 (10 C.F.R. Part 1021, Subpart D, Appendix B5).<sup>31</sup>

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<sup>29</sup> See U.S. Energy Information Admin., *Annual Energy Outlook 2019 Reference Case*, Table 13: Natural Gas Supply, Disposition, and Prices, available at: <https://www.eia.gov/outlooks/aeo/data/browser/#/?id=13-AEO2019&cases=ref2019&sourcekey=0>.

<sup>30</sup> App. at 6.

<sup>31</sup> See 10 C.F.R. § 1021.410, Appendix B to Subpart D of Part 1021, Categorical Exclusion B5.7 (“Approvals or disapprovals of new authorizations or amendments of existing authorizations to import or export natural gas under section 3 of the Natural Gas Act that involve minor operational changes (such as changes in natural gas throughput, transportation, and storage operations) but not new construction.”).



Accordingly, DOE is concurrently issuing a categorical exclusion, dated June 11, 2019, finding that Chevron's proposed exports are categorically excluded from further NEPA review.<sup>32</sup>

### **E. Conclusion**

Upon review of the record, DOE/FE finds that a grant of the uncontested non-FTA portion of Chevron's Application is not inconsistent with the public interest. In particular, the record shows that there is a sufficient supply of natural gas to satisfy domestic demand from multiple other sources at competitive prices without drawing on Chevron's proposed exports during the two-year authorization period. Further, the proposed exports qualify for a categorical exclusion under NEPA, such that no EA or EIS will be required. DOE/FE therefore grants Chevron's Application, as set forth below.

## **VI. 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 the export of natural gas, including LNG, to a nation with which there is in effect an FTA requiring national treatment for trade in natural gas shall be deemed consistent with the public interest and granted without modification or delay.<sup>33</sup> The FTA portion of Chevron's Application falls within section 3(c), as amended, and therefore, DOE/FE grants the requested authorization without modification or delay.<sup>34</sup>

(2) With respect to the non-FTA portion of the Application, and after due consideration based on all facts and evidence of record, DOE/FE finds that a grant of the export

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<sup>32</sup> U.S. Dep't of Energy Categorical Exclusion Determination, Chevron U.S.A. Inc., FE Docket No. 19-28-LNG (June 11, 2019).

<sup>33</sup> 15 U.S.C. § 717b(c).

<sup>34</sup> 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.

application is not inconsistent with the public interest under NGA section (a), 15 U.S.C. § 717b(a).

### **ORDER**

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

A. Chevron U.S.A. Inc. (Chevron) is authorized to export LNG previously imported from foreign sources in a volume equivalent to 72 Bcf of natural gas pursuant to transactions that have terms of no longer than two years. This authorization shall be effective for a two-year term beginning on June 11, 2019, and extending through June 10, 2021.

B. This LNG may be exported by vessel from the Sabine Pass LNG Terminal to any country with the capacity to import ocean-going LNG carriers and with which trade is not prohibited by U.S. law or policy.

C. Chevron 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 and the Federal Energy Regulatory Commission. Failure to comply with this requirement could result in rescission of this authorization and/or other civil or criminal remedies.

D. Chevron 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 only to countries identified in Ordering Paragraph B of DOE/FE Order No. 4396, issued June 11, 2019, in FE Docket No. 19-28-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 Chevron U.S.A. Inc. that identifies the country (or countries) into which the exported LNG was actually delivered, and to include in any resale contract for such LNG the necessary

conditions to insure that Chevron U.S.A. Inc. is made aware of all such actual destination countries.

**E. Monthly Reports:** With respect to the export of LNG authorized by this Order, Chevron shall file with the Office of Regulation, Analysis, and Engagement, within 30 days following the last day of each calendar month, a report indicating whether exports of LNG have been made. Monthly reports must be filed whether or not initial deliveries have begun. If no exports have been made, 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 (or countries) into which the LNG is actually delivered; (6) the name of the supplier/seller; (7) the volume in thousand cubic feet (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)

F. The first monthly report required by this Order is due not later than July 31, 2019, and should cover the reporting period from June 11, 2019, through June 30, 2019.

G. All monthly report filings on Form FE-746R shall be made to the U.S. Department of Energy (FE-34), Office of Fossil Energy, 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/fe/services/natural-gas-regulation>.

Issued in Washington, D.C., on June 11, 2019.

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