

RECEIVED

By Docket Room at 04:12pm, 9/27/19

**UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY**

In the Matter of:

SABINE PASS LIQUEFACTION, LLC

)
)
)
)

FE Docket No. 19-125-LNG

**APPLICATION OF SABINE PASS LIQUEFACTION, LLC
FOR LONG-TERM AUTHORIZATION
TO EXPORT LIQUEFIED NATURAL GAS
TO FREE TRADE AGREEMENT AND NON-FREE TRADE AGREEMENT NATIONS**

Pursuant to Section 3 of the Natural Gas Act (“NGA”)¹ and Part 590 of the Department of Energy’s (“DOE”) regulations,² Sabine Pass Liquefaction, LLC (“SPL”) hereby requests that DOE, Office of Fossil Energy (“DOE/FE”) grant long-term multi-contract authorization for SPL to engage in exports of domestically produced liquefied natural gas (“LNG”) to (i) any nation that currently has or in the future develops the capacity to import LNG and with which the United States currently has, or in the future enters into, a free trade agreement (“FTA”) requiring the national treatment for trade in natural gas and LNG (“FTA Nations”) and (ii) any nation with which the United States does not now or in the future have an FTA requiring the national treatment for trade in natural gas that has, or in the future develops, the capacity to import LNG and with which

¹ 15 U.S.C. § 717b (2012).

² 10 C.F.R. Part 590 (2019).

trade is not prohibited by U.S. law or policy (“Non-FTA Nations”).³ Through this application, SPL seeks to export additional volumes of LNG from the Sabine Pass Liquefaction Project (Trains 1 through 4) (“Liquefaction Project”) and the Liquefaction Expansion Project (Trains 5 and 6) (“Expansion Project,” and together with the Liquefaction Project, “Project”) in an amount up to the equivalent of approximately 152.64 Bcf/y of natural gas, for a total Project export of 1,661.94 Bcf/y.⁴ SPL is seeking such authorization for (i) a 25-year period for exports to FTA Nations and (ii) a 20-year period for exports to Non-FTA Nations, each commencing on the date of first

³ SPL is currently authorized to export up to the equivalent of 1,509.3 billion standard cubic feet (“Bcf”) per year (“Bcf/y”) of natural gas to FTA and Non-FTA Nations. *Sabine Pass Liquefaction, LLC*, Opinion and Order Conditionally Granting Long-Term Authorization to Export Liquefied Natural Gas from Sabine Pass LNG Terminal to Non-Free Trade Agreement Nations, DOE/FE Order No. 2961, FE Docket No. 10-111-LNG (May 20, 2011); *Sabine Pass Liquefaction, LLC*, Order Granting Long-Term Authorization to Export Liquefied Natural Gas from Sabine Pass LNG Terminal to Free Trade Nations, DOE/FE Order No. 2833, FE Docket No. 10-85-LNG (Sept. 7, 2010); *Sabine Pass Liquefaction, LLC*, Final Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas from Sabine Pass LNG Terminal to Non-Free Trade Agreement Nations, DOE/FE Order No. 2961-A, FE Docket No. 10-111-LNG (Aug. 7, 2012), Errata (Sept 4, 2012); *Sabine Pass Liquefaction, LLC*, Opinion and Order Denying Request for Rehearing of Order Denying Motion for Late Intervention, Dismissing Request for Rehearing of Order No. 2961-A, and Dismissing Motion for Stay Pendente Lite, DOE/FE Order No. 2961-B, FE Docket No. 10-111-LNG (Jan. 25, 2013); *Sabine Pass Liquefaction, LLC*, Order Granting Authorization to Export Liquefied Natural Gas by Vessel Pursuant to Long-Term Contract with Total Gas & Power North America, Inc. from the Sabine Pass LNG Terminal to Free Trade Agreement Nations, DOE/FE Order No. 3306, FE Docket No. 13-30-LNG (July 11, 2013); *Sabine Pass Liquefaction, LLC*, Order Granting Authorization to Export Liquefied Natural Gas by Vessel Pursuant to the Long-Term Contract with Centrica plc from the Sabine Pass LNG Terminal to Free Trade Agreement Nations, DOE/FE Order No. 3307, FE Docket No. 13-42-LNG (July 12, 2013); *Sabine Pass Liquefaction, LLC*, Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Sabine Pass LNG Terminal to Free Trade Agreement Nations, DOE/FE Order No. 3384, FE Docket No. 13-121-LNG (Jan. 22, 2014); *Sabine Pass Liquefaction, LLC*, Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Sabine Pass LNG Terminal in Cameron Parish, Louisiana, to Free Trade Agreement Nations, DOE/FE Order No. 3595, FE Docket No. 14-92-LNG (Feb. 12, 2015); *Sabine Pass Liquefaction, LLC*, Final Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Sabine Pass LNG Terminal Located in Cameron Parish, Louisiana, to Non-Free Trade Agreement Nations, DOE/FE Order No. 3669, FE Docket Nos. 13-30-LNG, 13-42-LNG & 13-121-LNG (June 26, 2015); *Sabine Pass Liquefaction, LLC*, Final Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Sabine Pass LNG Terminal Located in Cameron Parish, Louisiana, to Non-Free Trade Agreement Nations, DOE/FE Order No. 3792, FE Docket No. 15-63-LNG (Mar. 11, 2016); *Sabine Pass Liquefaction, LLC*, Order Granting Withdrawal of Filing and Request for Clarification, DOE/FE Order Nos. 3306-A, 3307-A, 3384-A, & 3669-B, FE Docket Nos. 13-30-LNG, 13-42-LNG & 13-121-LNG (Oct. 31, 2017).

⁴ The instant application is proposed for the purpose of aligning the volumes authorized for export to FTA and Non-FTA Nations with the liquefaction production capacity of the Project.

commercial export from the Project of the volumes contemplated herein. In support of the instant application (“Application”), SPL provides as follows:

10 C.F.R. § 590.202(a):

1. Exact legal name of applicant:

The exact legal name of the applicant is Sabine Pass Liquefaction, LLC. SPL has its principal place of business in Houston, Texas.

2. Service list contacts:

All correspondence and communications concerning this Application, including all service of pleadings and notices, should be directed to the following persons:⁵

Karri Mahmoud
Cheniere Energy, Inc.
700 Milam Street, Suite 1900
Houston, TX 77002
Telephone: (713) 375-5000
Email: Karri.Mahmoud@cheniere.com

Janna Romaine Chesno
Cheniere Energy, Inc.
701 8th Street NW, Suite 810
Washington, DC 20001
Telephone: (202) 442-3064
Email: Janna.Chesno@cheniere.com

Taylor Johnson
Cheniere Energy, Inc.
700 Milam Street, Suite 1900
Houston, TX 77002
Telephone: (713) 375-5000
Email: Taylor.Johnson@cheniere.com

Lisa M. Tonery
Mariah T. Johnston
Orrick, Herrington & Sutcliffe LLP
51 West 52nd Street
New York, N.Y. 10019-6142
Telephone: (212) 506-3710
Email: ltonery@orrick.com
Email: mjohnston@orrick.com

3. Statement of action sought from DOE/FE:

SPL hereby requests that DOE/FE grant long-term, multi-contract authorization for SPL to export an additional 152.64 Bcf/y of natural gas in the form of LNG from the Project to FTA and Non-FTA Nations. SPL is herein seeking the issuance by DOE/FE of authorization to export LNG

⁵ SPL requests waiver of Section 590.202(a) of DOE’s regulations, 10 C.F.R. § 590.202(a) (2019), to the extent necessary to include counsel on the official service list in this proceeding.

for (i) a 25-year period for exports to FTA Nations and (ii) a 20-year period for exports to Non-FTA Nations, each commencing on the date of first commercial export from the Project of the volumes contemplated herein.

SPL is requesting this authorization both on its own behalf and as agent for other parties who will hold title to the LNG at the time of export. SPL will comply with all DOE/FE requirements for exporters and agents, including the registration requirements as first established in DOE/FE Order No. 2913⁶ and recently set forth in DOE/FE Order No. 4374.⁷ In this regard, SPL, when acting as agent, will register with DOE/FE each LNG title holder for whom it seeks to export as agent, and will provide DOE/FE with a written statement by the title holder acknowledging and agreeing to (i) comply with all requirements in SPL's long-term export authorization; and (ii) include those requirements in any subsequent purchase or sale agreement entered into by the title holder. SPL also will file—or cause to be filed—any relevant long-term commercial agreements that it enters into with the LNG title holders on whose behalf the exports are performed.

⁶ *Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC, Order Granting Long-Term Authorization to Export Liquefied Natural Gas from Freeport LNG Terminal to Free Trade Nations*, DOE/FE Order No. 2913, FE Docket No. 10-160-LNG, at 9-10 (Feb. 10, 2011).

⁷ *Freeport LNG Expansion, L.P. and FLNG Liquefaction 4, LLC, Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations*, DOE/FE Order No. 4374, FE Docket No. 18-26-LNG, at 54-55 (May 28, 2019).

DOE/FE may fulfill its requirements under the National Environmental Policy Act (“NEPA”)⁸ through a categorical exclusion.⁹ A categorical exclusion is appropriate for the instant Application because, as detailed below, the authorization requested does not involve any new construction or modifications to authorized facilities.¹⁰ Further, SPL respectfully requests that the DOE/FE issue the Authorization as requested herein by May 1, 2020.

4. Justification for the action sought from DOE/FE, including why such action is not inconsistent with the public interest:

Granting the authorization requested herein is justified pursuant to Section 3 of the NGA. SPL’s request for authorization to export LNG to FTA Nations must be reviewed under Section 3(c) of the NGA. Pursuant to Section 3(c), applications for authorization to export natural gas and LNG to nations with which the United States has an FTA requiring the national treatment for trade in natural gas and LNG are deemed to be in the public interest and must be granted without modification or delay.¹¹ DOE/FE consistently has found that, in light of its statutory obligation,

⁸ 42 U.S.C. §§ 4321 *et seq.* (2012).

⁹ Categorical exclusions apply to categories of actions the implementing agency has determined are not expected to have individually or cumulatively significant environmental impacts. 40 C.F.R. § 1508.4 (2019). DOE’s regulations set forth a categorical exclusion for “[a]pprovals or disapprovals of new authorizations or amendments of existing authorizations to import or export natural gas under Section 3 of the NGA that involve minor operational changes (such as changes in natural gas throughput, transportation, and storage operations) but not new construction.” 10 C.F.R. Part 1021, Subpart D, Appendix B, B5.7 (*Import or export of natural gas, with operational changes*) (2019).

¹⁰ Notably, unlike the DOE regulations, which provide for a categorical exclusion in cases, as here, that involve no new construction, the Federal Energy Regulatory Commission’s (“FERC”) regulations implementing NEPA provide no such categorical exclusion for Section 3 facilities. 18 C.F.R. § 380.4 (2019).

¹¹ 15 U.S.C. § 717b(c).

there is no need for it to engage in an analysis of factors affecting the public interest in acting on such applications.

SPL's request for authorization to export LNG to Non-FTA Nations must be reviewed under Section 3(a) of the NGA, which provides that DOE/FE is required to authorize exports to a foreign country unless there is a finding that such exports "will not be consistent with the public interest."¹² Section 3(a) of the NGA states in relevant part:

(a) Mandatory authorization order

After six months from June 21, 1938, no 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 Commission authorizing it to do so. The Commission shall issue such order upon application, unless, after opportunity for hearing, it finds that the proposed exportation or importation will not be consistent with the public interest.¹³

Section 3(a) thus creates a presumption in favor of approval of an application for non-FTA authorization, which opponents bear the burden of overcoming. Moreover, there is ample evidence in the public record that exports of LNG, such as those requested by SPL in this Application, are in the public interest.

In this regard, in granting SPL's requests for export authorization to Non-FTA Nations in Order Nos. 2961-A and 3669,¹⁴ DOE/FE pointed to market studies, and other evidence and comments SPL submitted in that proceeding, demonstrating the substantial economic and public benefits that are likely to follow from exports of natural gas as LNG. That same rationale is equally applicable here, and SPL incorporates herein by reference the substantial record that it developed demonstrating the public interest benefits of exports in FE Docket Nos. 10-111-LNG, 13-30-LNG,

¹² 15 U.S.C. § 717b(a).

¹³ *Id.*

¹⁴ *See supra* note 3.

13-42-LNG, 13-121-LNG, and 15-63-LNG.¹⁵ Additionally, SPL makes reference to the studies commissioned by DOE and discussed in Appendix A hereto.¹⁶ Finally, and as provided more fully in Appendix A hereto, the domestic supply of natural gas exceeds domestic demand.

10 C.F.R. § 590.202(b):

1. Scope of the project, including volumes of natural gas involved, dates of commencement and completion of proposed export and facilities to be utilized or constructed:

SPL herein requests authorization to export LNG in an amount up to the equivalent of an additional approximately 152.64 Bcf/y of natural gas from the Project to FTA and Non-FTA Nations. Trains 1 through 5 of the Project currently are in service. Train 6 is currently under construction and is expected to enter service in the first half of 2023.¹⁷

Sabine Pass is simultaneously seeking authorization from FERC to increase the authorized LNG production capacity of the Sabine Pass LNG Terminal to 1,661.94 Bcf/y, which is the

¹⁵ See e.g. *Sabine Pass Liquefaction, LLC, Application for Long-Term Authorization to Export Liquefied Natural Gas*, FE Docket No. 10-111-LNG, at 33–67 (Sept. 7, 2010) (discussing how the Liquefaction Project would provide a market solution for further deliberate development of emerging sources of domestic natural gas, result in benefits to the public, and otherwise be in the public interest) [hereinafter *Sabine 2010 Application*]; see also *Sabine Pass Liquefaction, LLC, Application for Long-Term Authorization to Export Liquefied Natural Gas*, FE Docket No. 13-30-LNG, (Feb. 27, 2013); *Sabine Pass Liquefaction, LLC, Application for Long-Term Authorization to Export Liquefied Natural Gas*, FE Docket No. 13-42-LNG, (Apr. 2, 2013); *Sabine Pass Liquefaction, LLC, Application for Long-Term Authorization to Export Liquefied Natural Gas*, FE Docket No. 13-121-LNG, (Sept. 10, 2013); *Sabine Pass Liquefaction, LLC, Application for Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations*, FE Docket No. 15-63-LNG, (Apr. 20, 2015).

¹⁶ See e.g., NERA Economic Consulting, *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports* (June 7, 2018), available at <https://www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf>; U.S. Energy Information Administration (“EIA”), *Effect of Increased Levels of Liquefied Natural Gas Exports on U.S. Energy Markets* (Oct. 29, 2014) [hereinafter *2014 Increased Export Study*], available at <http://www.eia.gov/analysis/requests/fe/>; NERA Economic Consulting, *Macroeconomic Impacts of LNG Exports from the United States* (Dec. 3, 2012), available at http://energy.gov/sites/prod/files/2013/04/f0/nera_lng_report.pdf; EIA, *Effect of Increased Natural Gas Exports on Domestic Energy Markets, as Requested by the Office of Fossil Energy* (Jan. 2012) [hereinafter *2012 EIA Export Study*], available at http://energy.gov/sites/prod/files/2013/04/f0/fe_eia_lng.pdf.

¹⁷ DiSavino, Scott, *Cheniere to build Louisiana Sabine Pass 6 LNG export train*, Reuters, available at <https://www.reuters.com/article/us-usa-cheniere-sabine-lng/cheniere-to-build-louisiana-sabine-pass-6-lng-export-train-idUSKCN1T41S1>, (June 3, 2019).

projected combined LNG production capacity of Trains 1 - 6, based on certain enhancements during the engineering, design, and construction process, as well as operational experience to date. This capacity optimization does not involve additional construction of new facilities or impacts to existing permits applicable to the Sabine Pass LNG Terminal. Nor does it require additional LNG vessel transits beyond those already authorized, or any additional environmental impacts. Moreover, it does not involve any changes that could impact the siting analysis previously undertaken by the FERC with respect to the Sabine Pass LNG Terminal.

Based on its operating experience to date and various enhancements to maintenance and production processes, Sabine Pass has calculated the Sabine Pass LNG Terminal's production and export capability to be approximately 1,661.94 Bcf/y. Further details on the enhancements are provided herein as Appendix B.

2. Source and security of the natural gas supply to be exported:

SPL purchases natural gas to be used as fuel and feedstock for LNG production from the interstate and intrastate grid at points of interconnection with other pipelines and points of liquidity both upstream and downstream of the Cheniere Creole Trail Pipeline, L.P. system and other systems that will interconnect with the Project. Through these interconnections, the Project has access to almost any point on the U.S. interstate pipeline system through direct delivery or by displacement. As noted in DOE/FE Order Nos. 2961 and 3669, the proximity of the Project to multiple interstate and intrastate pipelines will enable SPL to purchase natural gas from multiple conventional and unconventional basins located across the region, state, and virtually anywhere in the nation.¹⁸ This supply can be sourced in large volumes in the spot market, or pursued under

¹⁸ DOE/FE Order No. 2961, *supra* note 3, at 5.

long-term arrangements. To date, SPL has entered into a number of long-term gas supply purchase transactions associated with the long-term supply of natural gas to the Project.¹⁹ These transactions are not tied to individual trains or specific export sales and purchase agreements or DOE/FE authorizations, but rather, the natural gas secured under the transactions will be liquefied for export as required to meet SPL's commercial commitments.

3. Identification of participants in the transaction, and affiliations:

SPL is an indirect subsidiary of Cheniere Energy, Inc. (NYSE MKT: LNG), a publicly traded corporation that is a developer of LNG terminals and natural gas pipelines on the Gulf Coast, including the Sabine Pass LNG Terminal. SPL is authorized to do business in the States of Texas and Louisiana.

4. Terms of the transaction:

As reflected above, SPL has entered into, and submitted to DOE/FE, documentation associated with the long-term supply of natural gas to the Project. SPL has not yet entered into any long-term export contracts specific to the authorization requested herein. Accordingly, SPL is not submitting transaction-specific information herewith, and requests that DOE/FE make a similar finding to that in DOE/FE Order No. 2961,²⁰ with regard to the transaction-specific information requested in Section 590.202(b) of the DOE regulations.

SPL will file—or cause to be filed—either unredacted contracts, or long-term contracts under seal, with either: (i) a copy of each long-term contract with commercially sensitive information redacted, or (ii) a summary of all major provisions of the contracts including, but not

¹⁹ Confirmations of the transactions have been submitted to DOE/FE in compliance with 10 C.F.R. Part 590 and DOE/FE Order Nos. 2833, 2961-A, 3306, 3306-A, 3307, 3307-A, 3384, 3384-A, 3595, 3669, 3669-B & 3792.

²⁰ *DOE/FE Order No. 2961.*

limited to, the parties to each contract, contract term, quantity, any take-or-pay or equivalent provisions/conditions, re-sale provisions, and other relevant provisions.

5. Lack of domestic need for the gas to be exported:

As discussed more fully in Appendix A, it is evident from the current supply/demand balance in the United States that the Application's request for authorization to export U.S. natural gas will not impinge on any domestic need for the gas.

6. Environmental impact:

SPL respectfully submits that a categorical exclusion applies to the authorization requested in the instant Application. A categorical exclusion is appropriate because the request for authorization to export additional volumes of LNG from the Project does not involve any new construction or modifications to existing facilities or permits.

Under the Council on Environmental Quality's regulations and Guidance, categorical exclusions apply to categories of actions the implementing agency has determined are not expected to have individually or cumulatively significant environmental impacts.²¹ The proposed increase in production capacity represents the projected LNG production and export capability of the liquefaction trains under optimal operating conditions and involves no additional construction of new facilities or the modification of the previously authorized facilities. In this regard, DOE's regulations set forth a categorical exclusion for actions related to authorizations for the export of natural gas under Section 3 of the NGA that involve minor operational changes (such as changes

²¹ See 40 C.F.R. § 1508.4; see also *Final Guidance on Improving the Process for Preparing Efficient and Timely Environmental Reviews under the National Environmental Policy Act*, 77 Fed. Reg. 14,473 (2012).

in natural gas throughput, transportation and storage operations) but not new construction,²² as is the case in the authorization requested in the instant Application.

Because the FERC regulations do not provide for a categorical exclusion for an action under NGA Section 3, FERC will be required to conduct a NEPA analysis related to the increase in LNG production capacity of the Project. Therefore, any potential environmental impacts associated with the export of additional volumes of LNG from the Project (in the amount contemplated herein) will be fully considered by FERC.

WHEREFORE, SPL respectfully requests that DOE/FE grant its request for long-term, multi-contract authorization to engage in exports of an additional 152.64 Bcf/y of domestically produced LNG from the Project to FTA and Non-FTA Nations, for (i) a 25-year period for exports to FTA Nations and (ii) a 20-year period for exports to Non-FTA Nations, each commencing on the date of first export commercial export of such volumes from the Project. SPL respectfully requests that the DOE/FE issue the authorization as requested herein by May 1, 2020.

Respectfully submitted,

/s/ Lisa M. Tonery

Lisa M. Tonery

Mariah T. Johnston

Attorneys for

Sabine Pass Liquefaction, LLC

Dated: September 27, 2019

²² Proposed actions within a categorical exclusion category do not require further analysis and documentation in an Environmental Assessment or an Environmental Impact Statement. 10 C.F.R. § 1021.400. A categorical exclusion can be used after determining that a proposed action falls within the categories of actions described in the categorical exclusion and that there are no extraordinary circumstances indicating further environmental review is warranted. *Id.* at § 1021.410.

Appendix A

Further Discussion of the Projected Need for the Natural Gas to be Exported

Appendix A

Further Discussion of the Projected Need for the Natural Gas to be Exported

Natural gas production levels continue to outpace domestic demand and support the export of additional volumes from the Project. Both existing and projected trends concerning U.S. gas demand and supply indicate that additional exports will have a positive impact on the U.S. economy.

Notably, DOE/FE has already determined that exports from the Project are not inconsistent with the public interest.¹ In fact, DOE/FE found LNG exports will result in various tangible economic and public benefits.² The most recent DOE/FE study, prepared last year by NERA Economic Consulting, supports DOE/FE's finding.³ Specifically, the *2018 LNG Export Study* found that “[e]ven the most extreme scenarios of high LNG exports that are outside the more likely probability range...show higher overall economic performance in terms of GDP, household income, and consumer welfare than lower export levels associated with the same domestic supply

¹ See, e.g., *Sabine Pass Liquefaction, LLC*, Final Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas from Sabine Pass LNG Terminal to Non-Free Trade Agreement Nations, DOE/FE Order No. 2961-A, at 29, FE Docket No. 10-111-LNG (Aug. 7, 2012), Errata (Sept 4, 2012); *Sabine Pass Liquefaction, LLC*, Final Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Sabine Pass LNG Terminal Located in Cameron Parish, Louisiana, to Non-Free Trade Agreement Nations, DOE/FE Order No. 3669, FE Docket Nos. 13-30-LNG, 13-42-LNG & 13-121-LNG (June 26, 2015).

² *Sabine Pass Liquefaction, LLC*, Opinion and Order Conditionally Granting Long-Term Authorization to Export Liquefied Natural Gas from Sabine Pass LNG Terminal to Non-Free Trade Agreement Nations, DOE/FE Order No. 2961, at 37–38, FE Docket No. 10-111-LNG (May 20, 2011) (noting the various benefits resulting from the proposed exports include (1) “significant increased economic activity and job creation ...”, (2) “enhanced support for continued natural gas exploration and development activities to supply the export market”, (3) “increases in local, state and federal tax revenues” and (4) “the multiplier effects of all of these developments on the national economy and welfare”).

³ NERA Econ. Consulting, *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports* (June 7, 2018), available at <https://www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf> [hereinafter *2018 LNG Export Study*].

scenarios.”⁴ The *2018 LNG Export Study* also found that “[i]ncreased exports of natural gas will improve the U.S. balance of trade and result in a wealth transfer into the United States.”⁵

Consistent with DOE precedent, domestic need for the natural gas proposed to be exported is “the only explicit criterion that must be considered in determining the public interest.”⁶ DOE’s 1984 *Policy Guidelines* support this position: “[t]he market, not the government, should determine the price and other contract terms of imported [and exported] gas,” and “the federal government’s primary responsibility ... should be to evaluate the need for the gas ...”⁷

Furthermore, innovations in the market have resulted in the availability of potential supplies that far exceed market need for the foreseeable future. The EIA’s *Annual Energy Outlook 2019* demonstrates that the United States has significant natural gas resources available to meet projected future domestic needs.⁸

1. *National Supply – Overview*

Domestic natural gas production has increased rapidly in recent years as technological innovations have greatly enhanced productivity.⁹ Since 2008, U.S. marketed natural gas

⁴ *Id.* at 21.

⁵ *Id.* at 64.

⁶ *Phillips Alaska Nat. Gas Corp. & Marathon Oil Co.*, DOE/FE Order No. 1473, at 14 (Apr. 2, 1999) [hereinafter *Phillips Alaska*]. “In prior decisions, however, DOE/FE has identified a range of factors that it evaluates when reviewing an application for export authorization. These factors include economic impacts, international impacts, security of natural gas supply, and environmental impacts, among others.” *Freeport LNG Expansion, L.P., et al., Final Opinion and Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Freeport LNG Terminal on Quintana Island, Texas to Non-Free Trade Agreement Nations*, DOE/FE Order No. 3282-C, FE Docket No. 10-161-LNG, at 9 (Nov. 14, 2014).

⁷ DOE, *New Policy Guidelines and Delegation Orders from Secretary of Energy to Economic Regulatory Administration and Federal Energy Regulatory Commission Relating to the Regulation of Imported Natural Gas*, 49 Fed. Reg. 6684, 6685 (Feb. 22, 1984). While the *Policy Guidelines* addressed natural gas imports, DOE/FE has recognized that their “principles are applicable to exports as well.” *Phillips Alaska*, *supra* note 6, at 14.

⁸ EIA, *Annual Energy Outlook 2019 with Projections to 2050*, (Jan. 24, 2019), available at <https://www.eia.gov/outlooks/aeo/pdf/aeo2019.pdf> [hereinafter *AEO 2019*].

⁹ See generally EIA, *Today in Energy: Growth in U.S. Hydrocarbon Production from Shale Resources Driven by Drilling Efficiency* (Mar. 11, 2014), <http://www.eia.gov/todayinenergy/detail.cfm?id=15351>.

production has grown approximately 55%, from approximately 21.1 Tcf to about approximately 32.7 Tcf in 2018, representing the highest production levels in U.S. history.¹⁰ The outlook for future increases in domestic natural gas supply capacity is robust and is reflected in the *AEO 2019*. The *AEO 2019* found that “[n]atural gas experiences the largest production increase of all fossil fuels during the projection period across all cases...The growth in natural gas production supports increasing domestic consumption, particularly in the industrial and electric power sectors, and higher levels of natural gas exports.” Total U.S. dry gas production is projected to be 43.41 Tcf by 2050 in the Reference Case, with a 1.2% annual growth rate between 2018 and 2050.¹¹

2. *National Natural Gas Demand*

Production of natural gas is outpacing domestic consumption. In this regard, the United States “became a net natural gas exporter on an annual basis in 2017 and continued to export more natural gas than it imported in 2018.”¹² In the *AEO 2019* Reference Case, EIA predicts energy consumption for natural gas to grow at an annual rate of only 0.6% from 2018 to 2050 while, as noted above, total U.S. dry gas production during the same period is projected to increase 1.2% annually.¹³

¹⁰ See EIA, *U.S. Natural Gas Marketed Production*, <http://www.eia.gov/dnav/ng/hist/n9050us2A.htm> (last visited July 23, 2019).

¹¹ *AEO 2019*, *supra* note 8, Appendix A, pg. 27.

¹² *AEO 2019*, *supra* note 8, at 13.

¹³ *Id.* Appendix A, pg. 27.

a. *Industrial Sector*

Industrial consumption of natural gas is projected to see modest expansion through 2050.¹⁴ The *AEO 2019* Reference Case projects U.S. industrial sector consumption will grow an average of 0.8% annually to total 13.15 Tcf in 2050 from 10.06 Tcf consumed in 2018.¹⁵

b. *Residential and Commercial Sectors*

EIA forecasts a contraction in future residential consumption of natural gas. U.S. residential natural gas demand is predicted in *AEO 2019* to decline modestly to 4.43 Tcf in 2040 from 4.83 Tcf in 2018.¹⁶ Natural gas use declines in every residential sector key indicator except clothes dryers.¹⁷ Commercial sector natural gas consumption is projected in the *AEO 2019's* Reference Case to experience modest annual growth of 0.5%, reaching 3.92 Tcf in 2050 from 3.29 Tcf in 2018.¹⁸

c. *Electricity Sector*

Natural gas consumption in the electric generating sector is forecasted in the *AEO 2019* Reference Case to increase by an average of 0.5% per year, expanding to 12.15 Tcf in 2050 from 10.40 Tcf in 2018.¹⁹

d. *Transportation Sector*

Natural gas consumed for transportation increases but accounts for a small portion of the total domestic gas market.²⁰ The EIA, in its *AEO 2019* Reference Case, forecasts that

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* Appendix A, pg. 9.

¹⁸ *Id.* at Appendix A, pg. 27.

¹⁹ *Id.*

²⁰ *Id.*

transportation sector demand will grow 1.8% annually to 1.33 Tcf in 2050 from 0.76 Tcf in 2018.²¹ The use of natural gas by motor vehicles, trains and ships are the vast majority of growth in natural gas consumption in this sector.²²

3. *Supply-Demand Balance Demonstrates the Lack of National Need*

As indicated above, trends in the U.S. natural gas market make evident that there is little, if any, domestic need for the natural gas that would be exported as a result of the requested authorization. These trends demonstrate that available natural gas reserves exceed current demand, and that future resources exist in excess of projected long-term domestic needs. Therefore, the surplus of deliverable supply in excess of foreseeable U.S. market demand demonstrates that resources are available for export and would not interfere with the public interest.

4. *Macroeconomic Impacts*

SPL's Application is further supported by economic projections of the impact on domestic natural gas markets resulting from future LNG exports. DOE/FE has commissioned multiple studies to evaluate the macroeconomic effects of LNG exports on the U.S. economy. Most recently, DOE/FE released the *2018 LNG Export Study*.²³ The study concluded that "[i]ncreasing U.S. LNG exports under any given set of assumptions about U.S. natural gas resources and their production leads to only small increases in U.S. natural gas prices."²⁴ The study further concluded that "[a]vailable natural gas resources have the largest impact on natural gas prices. Therefore, U.S. natural gas prices are far more dependent on available resources and

²¹ *Id.*

²² *Id.*

²³ *2018 LNG Export Study, supra* note 3.

²⁴ *Id.* at 55.

technologies to extract available resources than on U.S. policies surrounding LNG exports.”²⁵

As discussed above, current projections for natural gas production show that U.S. supply will continue to outpace demand, and therefore the impact on domestic prices from LNG exports should be insignificant. Moreover, the *2018 LNG Export Study* concluded that with rising LNG exports, U.S. consumer well-being increases and total economic activity expands.²⁶

²⁵ *Id.*

²⁶ *Study on Macroeconomic Outcomes of LNG Exports: Response to Comments Received on Study*, 83 Fed. Reg. 67,251 (December 28, 2018).

Appendix B

DESCRIPTION OF ENHANCEMENTS

(CUI//PRIV—PRIVILEGED AND CONFIDENTIAL—DO NOT RELEASE)

FILED UNDER SEPARATE COVER

Appendix C

OPINION OF COUNSEL



September 27, 2019

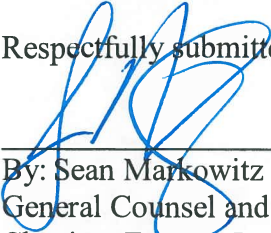
U.S. Department of Energy
Office of Fossil Energy, FE-34
1000 Independence Avenue, S.W.
Washington, D.C. 20585

**RE: Sabine Pass Liquefaction, LLC
FE Docket No. 19-___-LNG
Application for Long-Term Authorization to Export LNG**

Dear Sir or Madam:

This opinion of counsel is provided in accordance with the requirements of section 590.202(c) of the U.S. Department of Energy's regulations, 10 C.F.R. § 590.202(c) (2019). I have examined the Limited Liability Company Agreement of Sabine Pass Liquefaction, LLC ("SPL") and other authorities as necessary, and have concluded that the proposed exportation of liquefied natural gas is within SPL's corporate powers.

Respectfully submitted,



By: Sean Markowitz
General Counsel and Corporate Secretary
Cheniere Energy, Inc.
700 Milam Street, Suite 1900
Houston, TX 77002
Phone: (713) 375-5000
Fax: (713) 375-6000