DOE's Permit Policy Creates US LNG Developer Division

A crackdown by the US Department of Energy DOE on rubber stamping export permits for LNG export projects is creating a divide between companies who have already built projects and aspiring developers.

In an April 21 decision, the DOE handed down a new policy statement saying that the agency would be stricter on extensions for permits to export LNG to non-free trade agreement nations. The permit is viewed as critical to developers seeking to export LNG to lucrative markets in Asia and Europe.

Arguing that there were too many proposed projects with many languishing for more than 10 years, DOE officials said the overhang complicated forecasts for US natural gas supply and demand. The agency asserts that renewing permits also prevents newer and cleaner projects from coming to the market.

DOE officials said all seven US LNG exporters in operation began service before the seven-year expiration date that is the standard for nonFTA permits. The agency said it had previously given too many extensions and will now only do so for projects that are physically under construction and that can also demonstrate extenuating circumstances for delays. The agency granted a first-time extension for Sempra's 13.5-MMt/y Port Arthur LNG export terminal under construction in Texas. But it denied a second-time extension request by Energy Transfer's 16.5-MMt/y Lakes Charles LNG export project in Louisiana. Lake Charles LNG has signed 7.9-MMt/y of contracts with customers but has yet to reach a final investment decision (FID).

Energy Transfer has filed a May 22 appeal but the industry's reaction to the issue over the last month reveals a divide between companies with existing export terminals and those still seeking to secure contracts and financing for their projects.

Lake Charles LNG appeal

In a highly critical request for rehearing, Energy Transfer said the seven-year expiration date that the DOE applies to non-FTA permits is arbitrary. Lake Charles LNG lost one potential customer after the DOE denied a second extension for its nonFTA permit. The proposed export project suffered two blows during the coronavirus pandemic after European oil major Shell withdrew its partnership and no global buyers were signing long-term deals.

Lake Charles LNG was once an import terminal with storage tanks and a dock that are still in good condition. Energy Transfer has spent $350 million on the proposed Lake Charles LNG export project, of which $50 million was spent since the DOE gave the project an extension for its nonFTA permit in October 2020. The company's non-FTA permit expires on December 16, 2025 – which is not enough time to begin exports given that it usually takes four years to build a liquefaction plant.

The company received fresh engineering, procurement and construction bids from two contractors in

May that are both above $10 billion. Lake Charles LNG expects to select the contractor in June and issue a contract in July. Bechtel and a joint venture between KBR and Technip are said to be the bidders.

Lake Charles LNG holds a combined 7.9 MMt/y of contracts with Gunvor, Shell, SK Gas, China Gas and ENN that are said to be linked to the Henry Hub index with liquefaction fees ranging from $1.85 to $2.05/MMBtu. The project has tapped Morgan Stanley as its financial advisor and has started the process of obtaining equity financing.

Energy Transfer plans to begin work in September on four natural gas pipeline compressor stations that will allow bidirectional flows. The company also received approval from the Federal Energy Regulatory Commission (FERC) to relocate a section of the Alcoa pipeline on its property.

The DOE has 30 days to review Energy Transfer's appeal. If the agency does not rule in favor of Lake Charles LNG, the company could take the agency to court. Under one scenario the action could be filed in the oil and natural gas industry-friendly Fifth Circuit Court of Appeals in Texas.

Aspiring developers want more flexibility

Numerous other US LNG developers found themselves in the same situation as Energy Transfer during the pandemic. Russia's invasion of Ukraine and a new global emphasis on energy security resulted in a flurry of deals for US LNG export projects.

The DOE is currently reviewing applications for two developers seeking extensions on their non-FTA export permits. The first is the 10-MMt/y Goldboro LNG export project in Canada, which needs the permit because it will re-export US-sourced gas. The second is Glenfarne's 8.8-MMt/y Magnolia LNG export project in Louisiana. The DOE has pledged to review requests under its previous criteria since the applications were filed before the new policy statement was issued.

But for future requests, the DOE said it will apply its new policy to any applications that are filed afterwards.

There are 14 pre-FID export projects that have non-FTA permits that expired by end of 2027, meaning that they will likely need extensions. One of the projects is NextDecade's Rio Grande LNG, which is close to reaching FID (see p. 3) but its non-FTA export permit expires on February 10, 2027. Even if the project secures financing and begins construction this summer, it will not likely begin exports before that date – meaning it will likely need to file for an extension. Many observers believe a nearly two-year pause handed down by the courts on the project will count as extenuating circumstances.

Developers club favors DOE policy

US LNG developers are typically united on policy issues that are advocated for by lobbyists and trade associations. However, the new DOE policy created a rift between aspiring developers who want more flexibility and already-existing exporters such as Cheniere Energy, Sempra and Venture Global LNG who are fine with the new policy.

All seven existing US LNG export terminals brought their plants into service under the seven-year expiration date for their non-FTA permits. Using time-saving modular technology, Venture Global's Calcasieu Pass LNG in Louisiana began exporting cargoes in March 2022, roughly three years after securing its non-FTA permit.

Golden Pass LNG, Plaquemines LNG, Corpus Christi Stage 3 and Port Arthur LNG – the four US LNG export projects under construction – are expected to do the same.

During recent earnings calls, executives from Cheniere and Sempra said they were not concerned about the DOE's new policy and even viewed it in a positive light.

"Some of these projects have been on the books for over a decade," Cheniere Energy CEO Jack Fusco told investors. "And…quite frankly, it's time to either build a project or not. And so I view it relatively positively."