

Alert | Energy & Natural Resources



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LNG Export: DOE Authorizes a New Business Model Under Its Small-Scale Export Rule

On Nov. 8, 2019, the Office of Fossil Energy (FE) of the Department of Energy (DOE) issued DOE/FE Order Nos. 4461 and 4462 (the Orders) authorizing GT client SpotX Energy, LLC (SpotX) to export domestically produced liquefied natural gas (LNG) under its recently enacted “small-scale natural gas export” rule (the Rule). The Rule amended DOE’s regulations to facilitate small-scale exports up to 51.75 billion cubic feet per year (Bcf/yr). The Rule was intended to promote exports to emerging foreign markets that have not been targeted by larger scale LNG projects due to practical and economic constraints. Provided an application seeks authorization within the volume limits, and is eligible for a categorical exclusion from the requirement to perform an Environmental Impact Statement or Environmental Assessment, the Rule provides that exports will be deemed consistent with the public interest.

The Orders are the first export authorizations issued by DOE under the Rule, and will permit SpotX to implement a new business model consisting of aggregating, trading, and exporting LNG. To date, DOE export authorizations are typically held by the owner/operators of the LNG export facilities that use their authorizations to export their own LNG or export the LNG as agent for buyers or sellers. Under SpotX’s business model, as approved in the Orders, SpotX intends initially to purchase LNG from various natural gas liquefaction facilities or third parties, and load the LNG into approved ISO containers, or load the LNG directly onto shipping vessels for export. Additionally, SpotX is permitted to export LNG as agent for other entities that hold title to the LNG at the time of export. SpotX intends to export LNG primarily to emerging markets in the Caribbean, Central America, Latin America, and Africa. The business model

allows a trader such as SpotX, instead of the small-scale LNG facility operators, to perform the administrative tasks associated with obtaining the required authorizations and complying with DOE's reporting requirements.

The Orders also improve the DOE application process by allowing one application to combine requests for export authorizations on both a long-term and short-term basis, and to both free trade and non-free trade countries. Previously, separate applications were required to be filed for authority to export on a short-term and long-term basis.

This business model developed by SpotX, and approved by the DOE, is an innovative mechanism that enhances the potential of the United States to export greater quantities of LNG at a time when domestic natural gas production is increasing. The increased exports authorized by the DOE's small-scale rule and the Orders issued under the Rule will pave the way for positive economic benefits to the United States, such as job creation, tax revenue, and improved balance of trade, and will provide emerging countries around the world with a diversified, reliable, and cost-effective source of energy that improves their environment by allowing them to switch fuels to cleaner burning natural gas.

GT represented SpotX in the preparation and processing of the application for export authority at DOE.

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