

132 FERC ¶ 61,146
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

Freeport LNG Development, L.P.

Docket Nos. CP03-75-007
CP05-361-005

ORDER ON REHEARING AND CLARIFICATION

(Issued August 18, 2010)

1. On March 25, 2010, the Director, Division of Gas – Environment and Engineering, Office of Energy Projects (Director), issued a letter approving Freeport LNG Development, L.P.’s (Freeport LNG) request to commence construction of liquefied natural gas (LNG) truck unloading facilities at its LNG terminal on Quintana Island, Texas (March 25 Letter).¹ Authorization to construct and operate the truck unloading facilities was granted by the Commission’s order in *Freeport LNG Development, L.P.*, issued May 6, 2009.² On April 13, 2010, Mr. Harold Doty, a local landowner in the Town of Quintana, Quintana Island, filed a request for rehearing of the March 25 Letter.³ For the reasons stated below, the request for rehearing is denied.

¹ See Docket Nos. CP03-75-004 and CP05-361-002, Letter from Lauren H. O’Donnell to Lisa Tonery, March 25, 2010.

² *Freeport LNG Development, L.P.*, 127 FERC ¶ 61,105 (2009) (May 6, 2009 Order).

³ Although Mr. Doty filed his request for rehearing under Rule 713 of the Commission’s Rules of Practice and Procedure (18 C.F.R. § 385.713 (2010)), the Commission will address Mr. Doty’s request for rehearing under Rule 1902 as an appeal of staff action pursuant to authority delegated in the May 6, 2009 Order. 18 C.F.R. § 385.1902 (2010).

I. Background

2. Freeport LNG operates an LNG terminal on the Northeast end of Quintana Island and an associated 9.6 mile-long take-away pipeline. In its application filed on November 19, 2008, Freeport LNG contended that in order to maintain its previously-authorized and constructed LNG storage tanks in a constant cryogenic state, there must be sufficient LNG in each tank to keep the in-tank pumps submerged. Given the uncertainty associated with the timing of receipt of foreign-sourced LNG, Freeport LNG sought authorization to construct facilities that would enable it to liquefy boil-off gas and return it to the storage tanks in order to keep the storage tanks in the necessary cryogenic state. Freeport LNG also requested authorization to make minor facility modifications in order to undertake LNG truck unloading activities in the event that the boil-off gas liquefaction facilities were not available to maintain minimum LNG volumes for safe and continuous cryogenic terminal operations. The Commission's May 6, 2009 Order granted Freeport LNG's requests. Specifically, as is relevant here, the order authorized Freeport LNG to install a single 4-inch diameter inlet connection and valves on one of the existing LNG transfer lines to the storage tanks and a 25 horsepower portable electric pump as part of the truck unloading facilities. These facilities will be used to transfer LNG, trucked from a commercial LNG supplier, into Freeport LNG's storage tanks. Freeport LNG anticipated that when no shiploads of LNG are available and the boil-off gas liquefaction facilities for any reason were not operational, there could be five to six truck deliveries of LNG per day.

3. Environmental Condition No. 12 of the May 6, 2009 Order provided that:

Freeport LNG shall update its Emergency Response Plan to address a potential LNG truck accident at any location along the truck route on Quintana Island and to coordinate procedures with state, county, and local emergency planning groups, fire departments, state and local law enforcement, and appropriate federal agencies. The updates to the Emergency Response Plan shall be prepared in consultation with appropriate agencies and filed with the Secretary [of the Commission] for review and written approval by the Director of OEP [Office of Energy Projects] prior to initial site preparation.

4. Pursuant to Environmental Condition No. 12, Freeport LNG filed its initial updated Emergency Response Plan (Revision No. 5) on June 16, 2009, and responses to staff requests for information and a further updated plan on October 6, 2009. On November 10, 2009, the Commission issued a notice of an on-site review scheduled for November 18, 2009, to examine the assembly areas and corresponding marine pick-up points identified in Freeport LNG's proposed revisions to its Emergency Response Plan. On December 16, 2009, and January 27, 2010, Freeport LNG filed additional updates to

its Emergency Response Plan based on staff review and comments made by local citizens at the November 18, 2009 on-site review.

II. March 25 Letter

5. The March 25 Letter authorized the start of construction of the LNG truck unloading facilities, in accordance with Environmental Condition 12 of the May 6, 2009 Order. The March 25 Letter also imposed the following additional requirements on Freeport LNG:

- the truck unloading facilities shall be used solely for the purpose of replacing the amount of LNG lost to boil-off while the boil-off gas liquefaction facilities are not operational; in addition, the LNG to be handled by the truck unloading facilities shall be limited to a per day volume approximating six truckloads;
- Freeport LNG shall conduct emergency response plan review meetings with Freeport Fire Department's management and other first responders to address emergency response issues identified during Commission staff's November 18, 2009 on-site visit; and
- Freeport LNG must provide at least two weeks' prior notice to the elected officials and first responders before each use of the LNG truck unloading facilities and familiarize the On-scene Incident Commander⁴ with the location of evacuation zones, assembly areas, and marine pick-up points.

6. A summary of the comments received during the Commission staff's November 18, 2009 on-site review and filed subsequently, as well as staff's responses to those comments, was included as an enclosure to the March 25 Letter.

III. Discussion

7. As noted, the March 25 Letter approved Freeport LNG's request to commence construction of the LNG truck unloading facilities authorized by the Commission's May 6, 2009 Order, the Director having found that Freeport LNG had satisfied the requirements of Environmental Condition No. 12, i.e., Freeport LNG had updated its Emergency Response Plan to (1) address a potential LNG truck accident at any location along the truck route on Quintana Island; and (2) coordinate procedures with state and local law enforcement, and appropriate federal agencies. Mr. Doty asserts that the

⁴ The On-scene Incident Commander is the person responsible for managing incident response and public evacuation.

Director erred in this action, failing to consider, and being misinformed about, various safety aspects of LNG truck transportation on existing road and bridge infrastructure, as well as other alternatives to truck transportation. Mr. Doty requests that the Commission require Freeport LNG to find other means to maintain their tanks in a cryogenic state than trucking in liquefied natural gas.

8. Mr. Doty's pleading primarily questions the Commission's decision to allow Freeport LNG to receive deliveries of LNG by truck, as opposed to the Director's decision that Freeport LNG had satisfied the pre-construction conditions imposed by the Commission's May 6, 2009 Order. To that extent, his pleading is not a request for rehearing of the March 25 Letter, but an untimely request for rehearing of the Commission's May 6, 2009 Order, and must be dismissed.

A. Issues Related to the Emergency Response Plan

9. Mr. Doty relies on the enclosure to the March 25 Letter (Response to Comments on Staff's November 18, 2009 On-site Review of Freeport LNG's Truck Unloading Facilities) as the basis for his request for rehearing. Commission staff noted that it was disclosed during the November 18, 2009 meeting with residents that the chief who had taken an active role in the initial emergency response plan review meetings was no longer with the Freeport Fire Department. The Director imposed a requirement in the March 25 Letter that Freeport LNG conduct additional emergency response plan meetings with the Freeport Fire Department management and other first responders and consider table top exercises and mock drills in the local community. In his request for rehearing, Mr. Doty states that this training has not been done and that it would be appropriate for someone who lives in Quintana to have this sort of training as well.

10. As the subsequent review meetings were first required in the March 25 Letter, we find no error on the part of the Director in granting clearance to commence construction before those meetings were held. However, we do agree with Mr. Doty that it would be appropriate to ensure that officials from the Town of Quintana be included in such meetings. Accordingly, we will revise the requirement of the March 25 Letter to specify that first responders and officials from the Town of Quintana be included in the emergency response plan review meetings. We find that this, combined with the requirement of the March 25 Letter that Freeport LNG provide notice to first responders and elected officials prior to each use of the truck unloading facilities, will insure that the responders in place at the time of any use will have the most recent emergency response information.

11. Mr. Doty also expresses concerns about the details of a potential evacuation of Quintana Island and how first responders would reach people on Quintana Island if there were to be a truck accident that blocked the road or the bridge leading to the island. We believe that Freeport's Emergency Response Plan provides sufficient information regarding assembly, pickup, and evacuation procedures to allow Freeport LNG to

commence construction of its facilities. Additional details, as appropriate, may be added as a result of the additional review meetings. The precise details of specific response will necessarily be determined by the location and nature of any incident (i.e., size of a release, if any, local wind conditions at the time, etc.). For example, if FM 1495 were blocked by an accident involving an LNG truck or any type of incident along that stretch of highway or on the bridge, first responders, such as the Brazoria County Emergency Response and local fire and police departments would determine whether the accident presented a public hazard to residents of Quintana Island. If so, residents would be directed away from the incident and, if necessary, to assembly areas for possible pick-up and evacuation by water.

12. We note that in addition to the requirement for additional emergency response plan meetings, the March 25 Letter requires Freeport LNG to give at least two weeks notice to elected officials and first responders in the Town of Quintana prior to each use of the truck unloading facilities. At the same time, Freeport LNG is required to familiarize the On-scene Incident Commander with the then-current location of evacuation zones, assembly areas, and marine pick-up points. These conditions will allow time for (1) Freeport LNG to update contacts and contact numbers in the Emergency Response Plan; and (2) any new first responders to familiarize themselves with the information in the Emergency Response Plan, including assembly, pick-up, and evacuation procedures. We would also note that Quintana Island has two docks identified in Freeport LNG's Emergency Response Plan that could be used to evacuate people by water. In the event that road access off the Island was blocked, the Coast Guard could be notified and requested to assist with any evacuation needs. In addition, there would be access to first responders with their own boats, or with the assistance of the Sheriff's Department, at pick-up points based on the circumstances of the incident.

13. For all the reasons above, we find that the Director did not err in authorizing Freeport LNG to commence construction of the truck unloading facilities at its LNG terminal. Accordingly, Mr. Doty's request for rehearing of the Director's March 25 Letter is denied.

B. Other Issues

14. Mr. Doty raises a number of other issues in his pleading, none of which are relevant to the Director's action in granting Freeport LNG permission to commence construction of the truck unloading facilities authorized in the Commission May 6, 2009 Order. While his arguments on these issues cannot be considered as valid requests for rehearing of the March 25 Letter, in order to provide as much clarity as possible to the public about our action, we will briefly address these other issues below.

15. Mr. Doty continues to argue that the transportation of LNG by truck to the Freeport LNG terminal is inherently unsafe. While Mr. Doty states that he supports the daily truck delivery limitation imposed in the March 25 Letter as compared to no

limitation at all, he asserts that no truck transportation would be the better approach given safety issues associated with trucking LNG.

16. The delivery of LNG to the Freeport LNG terminal by truck was authorized by the Commission in its May 6, 2009 Order and is not at issue here. However, we will point out that such deliveries were approved as a back-up feature to ensure that safe operation of the LNG terminal facility can be maintained when no other sources of LNG necessary to maintain the cryogenic state of the storage tanks are available. As conditioned by the March 25 Letter, LNG received by truck can only be used to replace the amount of LNG lost due to boil-off while the boil-off gas liquefaction facilities are not operational. The March 25 Letter additionally imposed a volume limit on truck deliveries in response to concerns regarding the number of LNG trucks that Freeport LNG could receive each day. We find that the limitations imposed on use of the truck unloading facilities by the March 25 Letter reasonably balance the need for alternative sources to supplement LNG supplies with the concerns expressed regarding the previously-approved trucking of LNG.

17. Mr. Doty also contends that the March 25 Letter's approval of Freeport LNG's request to commence construction ignored Freeport LNG's failure in September 2009 to declare an emergency and sound a public alarm or to provide notice to Town of Quintana officials following a release of over 500,000 cubic feet of LNG within the terminal. Mr. Doty implies that there could be a similar lack of communication and harmful consequences to the public in the event of an accident involving an LNG truck.

18. The released gas that Mr. Doty mentions accidentally escaped from a relief valve during a test within the terminal in September 2009. The gas dissipated within the terminal from an elevated release point. Freeport LNG did not immediately provide notice to the Town of Quintana because there was no risk to the public. Since that incident, the company has revised its operating procedures: during any in-plant incident that sends employees to muster stations while in-plant sirens are ringing, there will an employee designated to answer questions from the public.

19. With respect to the trucking of LNG, the Emergency Response Plan designates the location of assembly and pick-up areas and provides for evacuation procedures which would be implemented as necessary in the event of an incident involving an LNG truck. We note that Freeport LNG's Emergency Response Plan does not require Freeport LNG to sound a siren if an LNG delivery truck overturns or has a release on Quintana Island; we believe this is appropriate, since a siren would not provide information about the location or nature of the incident. In the event of a truck incident, local first responders would alert any residents and recreational users in the area and direct them away from it

in accordance with guidance in the Emergency Response Guidebook.⁵ People nearest to a truck incident may well call 911 and alert first responders before Freeport LNG is even aware that a truck incident has occurred.

20. The enclosure to the March 25 Letter also attempts to respond to continued expressions of concern about the suitability of roads and bridges in the area for LNG truck traffic. The enclosure notes that the LNG trucking company will have to obtain a heavy load permit from Brazoria County to use one of the roads, County Road 723, and that the Texas Department of Transportation (Texas DOT) has authority to set weight limits as necessary to ensure the safety of the FM 1495 bridge. Mr. Doty questions the enclosure's statement regarding the width of the road and alleges that the condition of the bridge is deteriorating. Trucks transporting LNG will have to obtain all necessary local permits. The various state and local authorities (Texas DOT, Brazoria County, and the Town of Quintana) have adequate authority to ensure that the trucks transporting LNG do so in a manner that will not compromise the structural integrity of their roads and bridges.

21. The enclosure to the March 25 Letter noted that in the 16 of 21 LNG trucking accidents that resulted in a rollover during a 33-year period, only four of those rollover incidents resulted in any LNG release. These were generally minor releases from fittings or valves; only one leak, in 1971, incurred loss of a significant amount of cargo (i.e., 20 percent). Current LNG cargo trailers are constructed with a double-shell design, in accordance with United States Department of Transportation regulations. Accordingly, the Commission believes that the risk of a release of methane which would result in harm to the public as a result of a truck accident is very low.

22. LNG trucking occurs on a routine basis in many parts of the country. Freeport LNG has no specific security measures that apply to LNG truck transportation. Contrary to the concerns expressed by Mr. Doty, there will be no requirements for local law enforcement to routinely become involved with Freeport LNG's truck traffic.

23. Since the Freeport LNG terminal was first proposed and authorized, the volume of LNG imports has varied over time and volumes in storage have approached levels inadequate to safely maintain the cryogenic nature of the terminal. As the Commission found in its May 6, 2009 Order, the transportation of LNG by truck may be necessary from time to time in order to provide the additional supplies of LNG required to maintain the safe and continuous cryogenic operations of the LNG terminal should the boil-off system not be operational. With the conditions imposed in the May 6, 2009 Order and

⁵ The United States Department of Transportation's Emergency Response Guidebook (2004) is designed to aid first responders in quickly identifying specific or generic hazards of materials involved in an incident and to protect first responders and the general public during the initial response phase of an incident.

the March 25 Letter, we believe that LNG can be safely delivered to the Freeport LNG terminal.

The Commission orders:

(A) The request for rehearing of the March 25 Letter is denied, as discussed in the body of this order.

(B) Freeport LNG is directed to include officials from the Town of Quintana in meetings with emergency responders to review emergency response procedures in the Emergency Response Plan, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.