

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, and Joseph T. Kelliher.

Freeport LNG Development, L.P.

Docket No. CP03-75-001

ORDER GRANTING REQUESTS FOR REHEARING AND CLARIFICATION

(Issued September 20, 2004)

1. On July 2, 2004, Freeport LNG Development, L.P. filed a timely request for clarification or, in the alternative, a request for rehearing of the order issued in *Freeport LNG Development, L.P.*, 107 FERC ¶ 61,278 (June 18, 2004).

2. The June 18 Order authorized Freeport to site, construct, and operate a liquefied natural gas (LNG) terminal and send-out pipeline to serve the intrastate Texas market. This order extends the three-year deadline for constructing Freeport's project to five years; clarifies ship scheduling issues in Freeport Harbor following a port closure; and clarifies that Freeport can operate the warm water/glycol boilers during ozone season, if necessary for the safe and efficient operation of the project as long as operation of the boilers is in compliance with federal and state air quality requirements.

Background

3. The June 18 Order approved Freeport's proposals to site, construct, and operate a LNG terminal on Quintana Island near Freeport, Texas, as well as a 9.6-mile long, 36-inch diameter, send-out pipeline and meter facilities under section 3 of the Natural Gas Act. Freeport proposed to receive, store, and vaporize imported LNG at its terminal and transport up to 1.5 billion cubic feet of natural gas per day through the send-out pipeline. Freeport stated that its proposals would only serve the intrastate Texas market.

4. Ordering Paragraph (C) required Freeport to construct and place its project into service within three years of the date of the order. The order also stated that "Freeport has committed . . . to schedule the LNG ships last in line when the queuing of ships is necessary to facilitate port entry after a long closure." In addition, the order referenced Freeport's statement that it would not fire the warm water/glycol boilers associated with the LNG vaporizers during "ozone season" from May through September.

Issues Raised for Rehearing or Clarification

5. Freeport contends that the three-year construction time frame should be increased to five years in order to provide a reasonable cushion in case contingencies arise. Freeport states that with a five-year construction window, it can meet pre-construction environmental mitigation conditions and make an allowance for unforeseen delays.

6. Since Freeport claims that it will need more than three years to construct its proposed project and place it into service in order to meet pre-construction environmental mitigation conditions and to make an allowance for unforeseen delays, we will modify Ordering Paragraph (C) to provide Freeport with up to five years from the date of the June 18 Order (*i.e.*, June 18, 2009) to complete construction of the authorized facilities. The five-year term is consistent with the terms authorized for the construction of other LNG terminals.¹ Thus, we will grant Freeport's request for rehearing.

7. Freeport contends that ship scheduling issues are in need of clarification. The June 18 Order stated that "Freeport has committed . . . to schedule the LNG ships last in line when the queuing of ships is necessary to facilitate port entry after a long closure."²

8. Freeport contends that its only intention in making this commitment was to disclaim a right of priority in obtaining a place in the queuing of ships following an extended port closure. Freeport asserts that the language in the June 18 Order goes beyond its statement to indicate that LNG ships should be last in line. Freeport believes that port officials should be allowed discretion to determine the queuing of ships to minimize the adverse impacts of ship traffic congestion following a port closure.

9. We will grant the clarification requested by Freeport. We believe that the scheduling of ship traffic should be made by port officials with knowledge of Freeport Harbor. For this reason, we will revise the statement "Freeport has committed . . . to schedule the LNG ships last in line when the queuing of ships is necessary to facilitate port entry after a long closure" to read "Freeport has committed . . . to follow the orders of those officials responsible for scheduling port traffic for the purpose of minimizing the impact of ship traffic congestion when the queuing of ships is necessary to facilitate port entry after a long closure."

¹ See *Cameron LNG, LLC*, 104 FERC ¶ 61,269 (2003).

² 107 FERC ¶ 61,278 at P 31.

10. Freeport contends that the operational protocol for the warm water/glycol boilers is in need of clarification. The June 18 Order stated that:

Freeport asserts that it will not fire the warm water/glycol boilers associated with the LNG vaporizers during “ozone season” from May through September, but that it will fire the boilers from October through April when ozone formations are not a concern. Freeport states that it will adhere strictly to all federal and state air quality restrictions.³

11. Freeport states that it does not intend to operate the warm water/glycol boilers during ozone season, but conditions could arise that would make the operation of the boilers necessary for the safe and efficient operation of the project in circumstances that would not jeopardize compliance with federal and state environmental concerns. For example, Freeport states that it may need to operate the boilers when the cooling towers need unscheduled maintenance or incur a mechanical breakdown. Freeport asserts that the authorization should not restrain it from using the warm water/glycol boilers when such operation is in compliance with federal and state air quality requirements.

12. The June 18 Order restricted the operation of the boilers to protect air quality. If the requirements of the other permitting agencies can be met, we do not object to the operation of the boilers during ozone season, if necessary for the safe and efficient operation of the project. Thus, we will clarify the June 18 Order to allow the operation of the warm water/glycol boilers during ozone season, as required for the safe and efficient operation of the project, as long as the operation of the boilers is in compliance with all applicable federal and state air quality requirements.

The Commission orders:

(A) Ordering Paragraph (C) in the June 18 Order is modified to provide that Freeport’s facilities must be constructed and made available for service within five years of the date of the June 18 order, *i.e.*, by June 18, 2009.

(B) The June 18 Order is clarified to provide that Freeport shall follow the orders of those officials responsible for scheduling port traffic after a port closure.

³ *Id.* at P 17.

(C) The June 18 Order is clarified to allow the operation of the warm water/glycol boilers during ozone season, as required for the safe and efficient operation of the project, so long as the operation of the boilers is in compliance with all applicable federal and state air quality requirements.

By the Commission. Commissioner Kelly not participating.

(S E A L)

Linda Mitry,
Acting Secretary.