

June 5, 2017

Mr. Jack A. Fusco
President and Chief Executive Officer
Cheniere Energy, Inc.
700 Milam Street
Houston, TX 77002

Re: CPF No. 4-2016-3002

Dear Mr. Fusco:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$32,400 against Sabine Pass LNG, LP, a subsidiary of Cheniere Energy, Inc. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon receipt of payment. Service of the Final Order by certified mail is deemed effective as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Jon Manning, Acting Director, Southwest Region, Office of Pipeline Safety, PHMSA
Mr. R. Keith Teague, Vice President, Asset Group, Sabine Pass LNG, LP

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

)	
In the Matter of)	
)	
Sabine Pass LNG, LP,)	CPF No. 4-2016-3002
a subsidiary of Cheniere Energy, Inc.,)	
)	
Respondent.)	
)	

FINAL ORDER

From June 24, 2016, to August 17, 2016, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of Sabine Pass LNG, LP (SPLNG or Respondent), in Louisiana. Sabine Pass LNG, LP, is a wholly-owned subsidiary of Cheniere Energy, Inc. (Cheniere), which owns the Sabine Pass LNG Terminal.¹ The Sabine Pass LNG Terminal is located on over 1,000 acres of land along the Sabine Pass River in Cameron Parish, Louisiana, with an expected nominal production capacity of 27 million metric tons per annum of liquefied natural gas (LNG).²

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated October 17, 2016, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that SPLNG had violated 49 C.F.R. § 191.22, and proposed assessing a civil penalty of \$32,400 for the alleged violation.

SPLNG responded to the Notice by letter dated November 28, 2016 (Response). The company contested the allegation and requested that the proposed civil penalty be reconsidered. Respondent did not request a hearing and therefore has waived its right to one.

FINDING OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 191, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 191.22(c)(1), which states:

¹ Pipeline Safety Violation Report (Violation Report), (October 18, 2016) (on file with PHMSA), at 1.

² Cheniere Energy, Inc., website, available at <http://www.cheniere.com/terminals/sabine-pass/> (last accessed February 8, 2017).

§ 191.22 National Registry of Pipeline and LNG Operators.

(a)

(c) *Changes*. Each operator of a gas pipeline, gas pipeline facility, underground natural gas storage facility, LNG plant, or LNG facility must notify PHMSA electronically through the National Registry of Pipeline, Underground Natural Gas Storage Facility, and LNG Operators at <http://opsweb.phmsa.dot.gov> of certain events.

(1) An operator must notify PHMSA of any of the following events not later than 60 days before the event occurs . . .

(iii) Construction of a new LNG plant or LNG facility

The Notice alleged that Respondent violated 49 C.F.R. § 191.22(c)(1) by failing to electronically notify PHMSA not later than 60 days before the construction of a new LNG facility. Specifically, the Notice alleged that on June 28, 2016, SPLNG submitted an Operator Identification assignment request to PHMSA for LNG Train 5, which is part of Cheniere's Sabine Pass LNG project. The construction project described in the request included an anticipated start date for field work activities of January 4, 2016. It was confirmed that construction of LNG Train 5 began prior to June 28, 2016. Accordingly, SPLNG should have submitted its notification not later than 60 days before January 4, 2016, or by November 5, 2015, in order to provide PHMSA the requisite notice of construction of a new LNG facility.

In its Response, SPLNG argued that LNG Trains 1 through 6 are process units to the whole plant, rather than separate facilities. SPLNG stated it provided a New Construction Notification for the Sabine Pass Liquefaction Project on October 11, 2012, and the initial project included the addition of four LNG Liquefaction Trains. Subsequently, an expansion of the liquefaction facility included LNG Trains 5 and 6, both of which are within the original property boundary. SPLNG further argued that its updated notification on June 28, 2016, was at the direction of a PHMSA representative and was not meant to construe each LNG Train as separate and distinct projects.

Section 191.22(c)(1)(iii) requires each operator to notify PHMSA electronically 60 days before the construction of a new LNG facility. An *LNG facility* is defined in 49 C.F.R. § 193.2007 as "a pipeline facility that is used for liquefying natural gas or synthetic gas or transferring, storing, or vaporizing liquefied natural gas." A *pipeline facility* is defined in 49 C.F.R. § 193.2007 as "new and existing piping, rights-of-way, and any equipment, facility, or building used in the transportation of gas or in the treatment of gas during the course of transportation." Pursuant to these definitions, SPLNG's Train 5 is an LNG facility and SPLNG was required to notify PHMSA of its construction not later than 60 days before the event. In this case, SPLNG should have submitted its notification for Train 5 by November 5, 2015, in order to provide PHMSA the requisite notice.

SPLNG's Application for Authorization Under Section 3 of the Natural Gas Act, submitted to the Federal Energy Regulatory Commission, stated LNG Trains 1 and 2 were to be part of the Liquefaction Project Stage 1, and LNG Trains 3 and 4 were to be part of Liquefaction Project

Stage 2.³ The Project Description described the LNG Trains in terms of liquefaction capacity and as containing treatment facilities and equipment for removing solids and liquefying the natural gas.⁴ SPLNG then filed an Application for Authorization Under Section 3 of the Natural Gas Act for LNG Trains 5 and 6 in September 2013. This demonstrates that the notification of the first project did not include LNG Train 5 within its scope, and LNG Train 5 was a separate facility requiring an electronic notification to PHMSA.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 191.22(c)(1) by failing to electronically notify PHMSA not later than 60 days before the construction of LNG Train 5 of Cheniere's Sabine Pass LNG Project.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations. In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$32,400 for the violation cited above.

Item 1: The Notice proposed a civil penalty of \$32,400 for Respondent's violation of 49 C.F.R. § 191.22(c)(1), for failing to electronically notify PHMSA not later than 60 days before the construction of LNG Train 5 of Cheniere's Sabine Pass LNG project. As discussed above, SPLNG argued in favor of a penalty elimination or reduction because Respondent treats the LNG Trains as units to the whole plant and not as separate facilities requiring separate construction notifications. This argument is rejected because Respondent submitted separate notifications for Trains 1-4 and Trains 5-6 and the notification for Train 5 was not timely under the regulation.

The gravity of the violation in this case was slight in that pipeline safety and integrity was minimally affected by the failure to adequately notify PHMSA of the construction. However, I find that, with respect to culpability, Respondent failed to take appropriate action to comply with a clearly applicable requirement. Even though SPLNG stated it did not consider each LNG Train a separate LNG facility, PHMSA's regulations clearly define LNG facilities to include those facilities used for liquefying natural gas just as Respondent's LNG Trains are used.

³ Violation Report, Ex. A, FERC Submittal #20110131-5069.

⁴ *Id.*, at 2.

With respect to the good faith of Respondent in attempting to comply with the pipeline safety regulations, I find that Sabine did not make a reasonable interpretation of the requirement. By SPLNG's own description in its FERC Application, SPLNG acknowledged the LNG Trains perform the same function as an LNG facility and in the practical sense treated the LNG Trains as LNG facilities with equipment and facilities used to liquefy natural gas.

Upon consideration of Respondent's arguments, I am unconvinced that a penalty reduction is warranted. Accordingly, having reviewed the record and considered the assessment criteria for the Item cited above, I assess Respondent a civil penalty of **\$32,400** for violation of 49 C.F.R. § 191.22(c)(1).

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such payment to be made by wire transfer through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMK-325), Federal Aviation Administration, 6500 S MacArthur Blvd., Oklahoma City, Oklahoma 79169. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the \$32,400 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a district court of the United States.

Under 49 C.F.R. § 190.243, Respondent has the right to submit a Petition for Reconsideration of this Final Order. The petition must be sent to: Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. PHMSA will accept petitions received no later than 20 days after receipt of the Final Order by the Respondent, provided they contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The filing of a petition automatically stays the payment of any civil penalty assessed but does not stay any other provisions of the Final Order, including any required corrective actions. If Respondent submits payment of the civil penalty, the Final Order becomes the final administrative decision and the right to petition for reconsideration is waived.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

June 5, 2017

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued