

UNITED STATES OF AMERICA.

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

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FREEPORT LNG EXPANSION, L.P.; )  
FLNG LIQUEFACTION, LLC; )  
FLNG LIQUEFACTION 2, LLC; )  
FLNG LIQUEFACTION 3, LLC. )

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FE DOCKET NO. 14-005-CIC  
FE DOCKET NO. 12-06-LNG  
FE DOCKET NO. 11-161-LNG  
FE DOCKET NO. 10-160-LNG  
FE DOCKET NO. 10-161-LNG

ORDER APPROVING CHANGE IN CONTROL  
OF EXPORT AUTHORIZATIONS

DOE/FE ORDER NO. 3495

SEPTEMBER 23, 2014

## I. DESCRIPTION OF REQUEST

On July 3, 2014, Freeport LNG Expansion, L.P., FLNG Liquefaction, LLC, FLNG Liquefaction 2, LLC, and FLNG Liquefaction 3, LLC (collectively, FLEX), filed an Application<sup>1</sup> with the Office of Fossil Energy (FE) of the Department of Energy (DOE) requesting approval to transfer indirect control of four export authorizations jointly held by these entities. Two of the authorizations, DOE/FE Order Nos. 2913-A and 3066-A, allow FLEX to export domestically produced liquefied natural gas (LNG) from the Freeport LNG Terminal located on Quintana Island, Texas, to any country with which the United States has a free trade agreement (FTA) that requires national treatment for trade in natural gas (FTA countries) in a total volume equivalent to 2.8 billion cubic feet per day (Bcf/d) of natural gas (1022 Bcf per year (Bcf/yr)).<sup>2</sup> The other two authorizations, DOE/FE Order Nos. 3282-B and 3357-A, conditionally allow FLEX to export domestically produced LNG from the Freeport LNG Terminal to countries with which the United State does not have a FTA that requires national treatment for trade in natural gas (non-FTA countries) in a total volume equivalent to 1.8 Bcf/d of natural gas (657 Bcf/yr).<sup>3</sup> The export

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<sup>1</sup> Freeport LNG Expansion, L.P., FLNG Liquefaction, LLC, FLNG Liquefaction 2, LLC, and FLNG Liquefaction 3, LLC, Application to Transfer Control of Long-Term Authorization to Export LNG to Free Trade Agreement Nations and Request for Expedited Treatment, FE Docket No. 14-005-CIC (July 3, 2014).

<sup>2</sup> *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 2913, FE Docket No. 10-160-LNG, Order Granting Long-Term Authorization to Export Liquefied Natural Gas from the Freeport LNG Terminal to Free Trade Nations (Feb. 10, 2011), *as amended*, DOE/FE Order No. 2913-A (Feb. 7, 2014); *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 3066, FE Docket No. 12-06-LNG, Order Granting Long-Term Authorization to Export Liquefied Natural Gas by Vessel from the Freeport LNG Terminal to Free Trade Nations (Feb. 10, 2012), *as amended*, DOE/FE Order No. 3066-A (Feb. 7, 2014).

<sup>3</sup> *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 3282, FE Docket No. 10-161-LNG, Order Conditionally Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Freeport LNG Terminal on Quintana Island, Texas to Non-Free Trade Agreement Nations (May 17, 2013), *as amended*, DOE/FE Order No. 3282-A (Feb. 7, 2014) & DOE/FE Order No. 3282-B (June 6, 2014); *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 3357, FE Docket No. 11-161-LNG, Order Conditionally Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Freeport LNG Terminal on Quintana Island, Texas to Non-Free Trade Agreement Nations (Nov. 15, 2013), *as amended*, DOE/FE Order No. 3357-A (June 6, 2014).

volumes authorized in the two FTA orders are not additive to the export volumes conditionally authorized in the two non-FTA orders.<sup>4</sup>

In the current Application, FLEX states that the proposed indirect changes in control will occur in the upstream ownership of FLNG Liquefaction, LLC and FLNG Liquefaction 2, LLC. According to FLEX, these changes are necessary components of the financing of the FLEX liquefaction project. FLEX further states that the changes in control will not affect the Freeport LNG Terminal or modify the proposed liquefaction project.

FLEX requests approval of the proposed changes in control pursuant to DOE/FE's regulations, which state that "[a]uthorizations by the Assistant Secretary to import or export natural gas shall not be transferable or assignable, unless specifically authorized by the Assistant Secretary,"<sup>5</sup> and in compliance with its conditional non-FTA authorizations.<sup>6</sup> With respect to FLEX's FTA authorizations, we are charged with granting FLEX's request without modification or delay, 15 U.S.C. § 717b(c), and therefore grant FLEX's Application as to those two authorizations below.<sup>7</sup>

With respect to FLEX's conditional non-FTA authorizations, following an examination of the record evidence, we find that the proposed changes in control have not been shown to be inconsistent with the public interest under section 3(a) of the Natural Gas Act (NGA), 15 U.S.C. § 717b(a), as amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486). Therefore, we also grant FLEX's Application as to those two conditional authorizations.

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<sup>4</sup> See, e.g., *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 3357, at 163, 165 (Ordering Para. C).

<sup>5</sup> 10 C.F.R. § 590.405.

<sup>6</sup> See, e.g., *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 3357, at 158-59, 168 (Ordering Para. N) (requiring DOE/FE approval prior to any change in control of the authorization holder).

<sup>7</sup> The authority to regulate the imports and exports of natural gas, including LNG, under NGA section 3 has been delegated to the Assistant Secretary for Fossil Energy pursuant to Redelegation Order No. 00-002.04F (July 11, 2013).

## II. BACKGROUND

**Applicant.** Freeport LNG Expansion, L.P. is a Delaware limited partnership and a wholly owned subsidiary of Freeport LNG Development, L.P. Its principal place of business is in Houston, Texas.

FLNG Liquefaction, LLC (FLIQ1), FLNG Liquefaction 2, LLC (FLIQ2), and FLNG Liquefaction 3, LLC are Delaware limited liability companies and wholly owned subsidiaries of Freeport LNG Expansion, L.P. They also have their principal place of business in Houston, Texas.

The ultimate FLEX parent company, Freeport LNG Development, L.P., is a Delaware limited partnership. It owns and operates the Freeport LNG Terminal located on Quintana Island, southeast of the City of Freeport in Brazoria County, Texas.

FLEX states that Osaka Gas Co., Ltd. (Osaka Gas) and Chubu Electric Power Co., Inc. (Chubu Electric) have entered into an agreement with FLEX to provide the equity financing for FLIQ1.<sup>8</sup> As described below, under the proposed transactions, Osaka Gas and Chubu Electric will take an ownership interest in FLIQ1's parent company, FLIQ1 Holdings, LLC (FLIQ1 Holdings), through their wholly owned U.S. subsidiaries, which have not yet been formed. For purposes of the Application, these planned U.S. subsidiaries are referred to as "Osaka Gas Member" and "Chubu Member," respectively. FLEX anticipates that, once these new subsidiaries are formed, both will be Delaware corporations with their principal place of business in Houston, Texas.<sup>9</sup>

IFM Global Infrastructure Fund (IFM), a global infrastructure investment fund advised by IFM Investors, will take an ownership interest in FLIQ2's parent company, FLIQ2 Holdings,

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<sup>8</sup> FLEX states that Osaka Gas and Chubu Electric are two of the largest utilities and LNG end users in Japan.

<sup>9</sup> We note that FLEX will be required to file relevant information with the Office of Oil and Gas Global Security and Supply within 30 days of the establishment of these entities.

LLC (FLIQ2 Holdings).<sup>10</sup> IFM is a trust company established under the laws of the Cayman Islands, where it has its principal place of business. The IFM entity that will hold the ownership interest in FLIQ2 Holdings will be IFM FLIQ Holding GP, a general partnership under Delaware law.

**Procedural History.** FLEX’s Application concerns the indirect control of four export authorizations issued by DOE/FE. The detailed procedural history of these authorizations and related amendments is summarized in DOE/FE Order Nos. 3282-B and 3357-

A.<sup>11</sup> Below, we provide a brief overview of each authorization:

**LNG Export Authorizations Held by the FLEX Entities**

<b>DOE/FE Docket No.</b>	<b>DOE/FE Order No.</b>	<b>Type of Authorization</b>	<b>Date Issued</b>	<b>Export Volume Authorized</b>
10-160-LNG	2913-A	FTA	February 10, 2011	1.4 Bcf/d (511 Bcf/yr)
10-161-LNG	3282-B	Non-FTA Conditional	May 17, 2013	1.4 Bcf/d (511 Bcf/yr)
11-161-LNG	3357-A	Non-FTA Conditional	November 15, 2013	0.4 Bcf/d (146 Bcf/yr)
12-06-LNG	3066-A	FTA	February 10, 2012	1.4 Bcf/d (511 Bcf/yr)

As noted above, the FTA export volumes are not additive to the conditionally authorized non-FTA export volumes.

FLEX filed the Application in this proceeding on July 3, 2014. Additionally, FLEX submitted four supplements to the Application via electronic mail, all of which are posted in the

<sup>10</sup> According to FLEX, IFM Investors is a global fund manager (with nearly \$50 billion in funds under management) and one of the largest infrastructure investors in the world. It is owned by 30 major not-for-profit pension funds, with investments in the United States, Australia, and Europe. Therefore, FLEX states that the capital investment in FLIQ2 will be owned by some of the largest pension funds globally, including 5 of the top 10 U.S. public pension funds.

<sup>11</sup> See *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order Nos. 3282-B, 3357-A, Docket Nos. 10-161-LNG, 11-161-LNG, Order Amending DOE/FE Order Nos. 3282 & 3357, at 2-5 (June 6, 2014).

docket for this proceeding and incorporated herein. DOE/FE published a Notice of Application in the *Federal Register* on August 13, 2014.<sup>12</sup> The Notice of Application stated that comments, protests, and motions to intervene or notices of intervention would be due no later than September 2, 2014. DOE/FE received no filings in response to the Notice.

### **III. APPLICATION TO TRANSFER CONTROL**

Pursuant to 10 C.F.R. § 590.405, FLEX seeks approval for the indirect transfer of control due to changes in the upstream ownership structure of FLIQ1 and FLIQ2. As stated in the Application and discussed in prior orders, the FLEX export facilities initially will include three liquefaction trains, each having long-term liquefaction tolling agreements (LTAs) as follows:

- FLIQ1 will own the initial liquefaction train (Train 1). It has entered into a LTA with both Osaka Gas and Chubu Electric. The LTAs will commence upon achieving commercial operation of Train 1.
- FLIQ2 will own the second liquefaction train (Train 2). It has entered into a LTA with BP Energy Company (BP) that will commence upon achieving commercial operation of Train 2.
- FLNG Liquefaction 3, LLC (FLIQ3) will own the third liquefaction train (Train 3). It has entered into a LTA with each of Toshiba Corporation and SK E&S LNG, LLC. The LTAs will commence upon achieving commercial operation of Train 3.

According to FLEX, the capital costs for the construction of Train 1, Train 2, and Train 3 will be separately financed by FLIQ1, FLIQ2, and FLIQ3, respectively, with equity and debt financing provided by third parties.

**FLNG Liquefaction 1, LLC (FLIQ1).** FLEX states that the FLIQ1 debt requirements will be provided by the Japan Bank for International Cooperation and a consortium of commercial banks. The approximately \$1.2 billion FLIQ1 equity requirements for Train 1 will be provided 50% each by Osaka Gas and Chubu Electric through to-be-formed wholly owned

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<sup>12</sup> Freeport LNG Expansion, L.P.; FLNG Liquefaction, LLC; FLNG Liquefaction 2, LLC; and FLNG Liquefaction 3, LLC; Request for Change in Control, 79 Fed. Reg. 47,446 (Aug. 13, 2014).

U.S. subsidiaries (Osaka Gas Member and Chubu Member). In exchange for this capital, Osaka Gas Member and Chubu Member each will receive an ownership interest in FLIQ1's 100% parent company, FLIQ1 Holdings. The remaining ownership interest in FLIQ1 Holdings will be retained by its current parent, Freeport LNG Expansion, L.P.

FLEX further states that, following the new equity investments by Osaka Gas Member and Chubu Member in FLIQ1 Holdings, all votes with respect to FLIQ1 Holdings and indirectly, FLIQ1, will require the unanimous consent of Freeport Expansion, the Osaka Gas Member, and the Chubu Member (or, at a minimum, one appointee of each of them to the Board of Managers of FLIQ1 Holdings). According to FLEX, this voting control will grant each of Freeport Expansion, the Osaka Gas Member, and the Chubu Member equal power to direct management and policies of FLIQ1.

**FLNG Liquefaction 2, LLC (FLIQ2).** FLEX states that the FLIQ2 debt requirements will be sourced from the U.S. project finance bank markets. The approximately \$1.3 billion in FLIQ2 equity requirements for Train 2 will be provided by IFM. In exchange for the capital, IFM will receive an ownership interest in FLIQ2's 100% parent company, FLIQ2 Holdings. The IFM entity that will hold the ownership interest in FLIQ2 Holdings will be IFM FLIQ Holding GP. The remaining ownership interest in FLIQ2 Holdings will be retained by its current parent, Freeport Expansion.

FLEX states that, following the new equity investment by IFM in FLIQ2 Holdings, all votes with respect to FLIQ2 Holdings and, indirectly, FLIQ2, will require the unanimous consent

of Freeport Expansion and IFM. Consequently, this voting control will grant each of Freeport Expansion and IFM equal power to direct the management and policies of FLIQ2.<sup>13</sup>

**Freeport LNG Terminal Operations and Export Administration.** FLEX asserts that, under its proposal, operation and maintenance of the Freeport LNG facilities (both regasification and liquefaction) will remain under the control of Freeport LNG Development, L.P. through various contractual arrangements with FLIQ1, FLIQ2, and FLIQ3. As noted above, Freeport Development is the ultimate 100% parent of Freeport Expansion. No change in control is proposed with respect to either Freeport Development or Freeport Expansion. FLEX states that Freeport Expansion will be the single point of contact with DOE/FE with respect to reporting and administration under all of FLEX's FTA and conditional non-FTA export authorizations.

#### **IV. DECISION**

##### **A. FTA Authorizations**

Pursuant to the transfer of authorities under sections 301(b) and 402 of the DOE Organization Act, 42 U.S.C. § 7151(b) and 42 U.S.C. § 7172, DOE/FE is responsible for evaluating the Application under section 3 of the NGA. Section 3(c) provides:

For purposes of subsection (a) of this section, ... the exportation of natural gas to a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas, shall be deemed to be consistent with the public interest, and applications for such importation or exportation shall be granted without modification or delay.

15 U.S.C. § 717b(c). DOE/FE will apply the standard of review set forth in section 3(c) of the NGA to the proposed changes in control of FLEX's FTA authorizations. As the proposed

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<sup>13</sup> FLEX asserts that the source of debt and equity funding for FLIQ3's capital costs for construction of Train 3 has not yet been finalized. FLEX states that it will submit a separate request to DOE/FE for approval of any proposed change in control related to FLIQ3, as appropriate.



changes in control are deemed consistent with the public interest, *id.*, we grant the Application as to DOE/FE Order Nos. 2913-A and 3066-A.<sup>14</sup>

## **B. Conditional Non-FTA Authorizations**

### **1. Standard of Review**

Section 3(a) of the NGA provides:

[N]o person shall export any natural gas from the United States to a foreign country or import any natural gas from a foreign country without first having secured an order of the [Secretary of Energy] authorizing it to do so. The [Secretary] shall issue such order upon application, unless after opportunity for hearing, [he] finds that the proposed exportation or importation will not be consistent with the public interest. The [Secretary] may by [the Secretary's] order grant such application, in whole or part, with such modification and upon such terms and conditions as the [Secretary] may find necessary or appropriate.

15 U.S.C. § 717b(a). DOE/FE will apply the standard of review set forth in section 3(a) to the proposed changes in control of FLEX's conditional non-FTA authorizations. Accordingly, we will authorize FLEX's requested changes in control unless it is shown that the proposed changes will not be consistent with the public interest.

### **2. Analysis and Findings**

FLEX's Application is unopposed, as DOE/FE received no filings in response to the Notice of Application. Further, DOE/FE has found no basis in the Application to find that the proposed changes in control would be inconsistent with the public interest. Finally, it has not been shown that the proposed changes in control will impact any of the public interest considerations evaluated by DOE/FE in issuing FLEX's two conditional non-FTA authorizations.

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<sup>14</sup> For each authorization addressed herein, FLEX is advised that any change in control may require the approval of the Committee on Foreign Investment in the United States (CFIUS). DOE expresses no opinion regarding the need for review by CFIUS. Further information may be obtained at: <http://www.treasury.gov/resource-center/international/Pages/Committee-on-Foreign-Investment-in-US.aspx>.

After due consideration based on all facts and evidence of record set forth above, DOE/FE finds that a grant of the requested changes in control has not been shown to be inconsistent with the public interest, and we further find that the Application should be granted as to DOE/FE Order Nos. 3282-B and 3357-A.

### **ORDER**

Pursuant to section 3 of the NGA and 10 C.F.R. § 590.405, it is ordered that:

A. DOE/FE approves the proposed changes in control of FLEX's FTA authorizations, issued in DOE/FE Order No. 2913-A (FE Docket No. 10-160-LNG) and DOE/FE Order No. 3066-A (FE Docket No. 12-06-LNG), and its conditional non-FTA authorizations, issued in DOE/FE Order No. 3282-B (FE Docket No. 10-161-LNG) and DOE/FE Order No. 3357-A (FE Docket No. 11-161-LNG), as follows:

1. Both Osaka Gas Co., Ltd. and Chubu Electric Power Co., Inc., through to-be-formed wholly owned U.S. subsidiaries (Osaka Gas Member and Chubu Member, respectively), will obtain an ownership interest in FLIQ1 Holdings, LLC, the 100% parent company of FLNG Liquefaction, LLC. The remaining ownership interest in FLIQ1 Holdings, LLC will be retained by its current parent, Freeport LNG Expansion, L.P.

2. IFM Global Infrastructure Fund, through its subsidiary IFM FLIQ Holding GP, will obtain an ownership interest in FLIQ2 Holdings, LLC, the 100% parent company of FLNG Liquefaction 2, LLC. The remaining ownership interest in FLIQ2 Holdings, LLC will be retained by its current parent, Freeport LNG Expansion, L.P.

B. The four entities comprising FLEX (Freeport LNG Expansion, L.P., FLNG Liquefaction, LLC, FLNG Liquefaction 2, LLC, and FLNG Liquefaction 3, LLC) will continue to hold jointly the FTA and conditional non-FTA authorizations specified above.

C. This authorization shall be effective immediately.

Issued in Washington, D.C., on September 23, 2014.

A handwritten signature in black ink, appearing to read "John A. Anderson", written over a horizontal line.

John A. Anderson  
Director, Division of Natural Gas Regulatory Activities  
Office of Oil and Gas Global Security and Supply  
Office of Fossil Energy