

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

MAGNOLIA LNG LLC

)

)

)

FE DOCKET NO. 12-183-LNG

FE DOCKET NO. 13-131-LNG

ORDER AMENDING LONG-TERM, MULTI-CONTRACT AUTHORIZATIONS
TO EXPORT LIQUEFIED NATURAL GAS BY VESSEL FROM
THE PROPOSED MAGNOLIA LNG TERMINAL
TO FREE TRADE AGREEMENT NATIONS

DOE/FE ORDER NOS. 3245-A AND 3406-A

MARCH 21, 2019

I. INTRODUCTION AND BACKGROUND

The Department of Energy's Office of Fossil Energy (DOE/FE) has issued three authorizations to Magnolia LNG LLC (Magnolia LNG) under section 3 of the Natural Gas Act (NGA), 15 U.S.C. § 717b.¹ These authorizations approve Magnolia LNG's export of domestically produced liquefied natural gas (LNG) from the proposed Magnolia LNG Terminal, to be located in Calcasieu Parish, Louisiana, as follows:

- DOE/FE Order No. 3245 (FE Docket No. 12-183-LNG), authorizing the export of LNG to any country with which the United States has entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas (FTA countries),² in a volume equivalent to 197.1 billion cubic feet per year (Bcf/yr) of natural gas, or 0.54 Bcf per day (Bcf/d);³
- DOE/FE Order No. 3406 (FE Docket No. 13-131-LNG), authorizing the export of LNG to FTA countries in a volume equivalent to 197.1 Bcf/yr of natural gas, or 0.54 Bcf/d;⁴ and
- DOE/FE Order No. 3909 (FE Docket No. 13-132-LNG), authorizing the export of LNG to any other country with which trade is not prohibited by U.S. law or policy (non-FTA countries) in a volume equivalent to 394.2 Bcf/yr of natural gas, or 1.08 Bcf/d.⁵

In sum, Magnolia LNG is currently authorized to export LNG in a total volume of 394.2 Bcf/yr

¹ The authority to regulate the imports and exports of natural gas, including liquefied natural gas, under section 3 of the NGA has been delegated to the Assistant Secretary for FE in Redelegation Order No. 00-006.02, issued on November 17, 2014.

² The United States currently has FTAs requiring national treatment for trade in natural gas with Australia, Bahrain, Canada, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Republic of Korea, and Singapore. FTAs with Israel and Costa Rica do not require national treatment for trade in natural gas.

³ *Magnolia LNG, LLC*, DOE/FE Order No. 3245, FE Docket No. 12-183-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Proposed Magnolia LNG Terminal to be Constructed in Lake Charles, Louisiana, to Free Trade Agreement Nations (Feb. 26, 2013).

⁴ *Magnolia LNG, LLC*, DOE/FE Order No. 3406, FE Docket No. 13-131-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Proposed Magnolia LNG Terminal to be Constructed in Lake Charles, Louisiana, to Free Trade Agreement Nations (Mar. 5, 2014).

⁵ *Magnolia LNG, LLC*, DOE/FE Order No. 3909, FE Docket No. 13-132-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Proposed Magnolia LNG Terminal to be Constructed in Lake Charles, Louisiana, to Non-Free Trade Agreement Nations (Nov. 30, 2016).

(1.08 Bcf/d) on a non-additive basis⁶ as follows: (i) under its two FTA orders (Order Nos. 3245 and 3406), pursuant to NGA section 3(c),⁷ and (ii) under its non-FTA authorization (Order No. 3909), pursuant to NGA section 3(a).⁸

On December 31, 2018, Magnolia LNG submitted an application (Application) to DOE/FE requesting an amendment to its FTA and non-FTA orders.⁹ Magnolia LNG states that it “seeks to align the authorized export volumes of LNG from the Magnolia LNG Terminal with the optimized production capacity design of the facilities.”¹⁰ As discussed in more detail below, Magnolia LNG asks DOE/FE to amend its orders to increase its total LNG export volume to FTA countries to 8.8 million tons per annum (mtpa), equivalent to 1.23 Bcf/d of natural gas, with the same attendant increase in its non-FTA export volume on a non-additive basis.¹¹

The portion of the Application that seeks to amend Magnolia LNG’s FTA authorizations is being reviewed pursuant to NGA section 3(c) and approved in this Order. The portion of the Application that seeks to amend Magnolia LNG’s non-FTA authorization will be reviewed pursuant to NGA section 3(a) and addressed in a separate order.¹²

II. DESCRIPTION OF REQUEST FOR FTA AUTHORIZATIONS

Magnolia LNG states that, when it applied for its FTA authorizations in 2012 and 2013, respectively, it requested export volumes based on the total LNG production capacity of its

⁶ See, e.g., DOE/FE Order No. 3909 at 168 (Ordering Para. E) (stating that the LNG export quantity authorized in Magnolia LNG’s non-FTA order “is not additive to the export volume in either of Magnolia LNG’s existing FTA authorizations, set forth in DOE/FE Order Nos. 3245 and 3406.”).

⁷ 15 U.S.C. § 717b(c).

⁸ *Id.* § 717b(a).

⁹ *Magnolia LNG LLC*, Application for Amendment to Long-Term Authorizations to Export Liquefied Natural Gas to Non-Free Trade Agreement and Free Trade Agreement Nations, FE Docket Nos. 13-132-LNG, *et al.* [hereinafter *Magnolia LNG App.*].

¹⁰ *Id.* at 1-2.

¹¹ *Id.*

¹² See *Magnolia LNG LLC*, Application for Amendment to Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations, 84 Fed. Reg. 1,111 (Feb. 1, 2019).

proposed Terminal—which it understood at that time to be 8.0 mtpa. According to Magnolia LNG, it calculated that the corresponding daily natural gas equivalent of 8.0 mtpa was 1.08 Bcf/d.¹³ For this reason, DOE/FE granted each of Magnolia LNG’s FTA authorizations in the requested volume of 0.54 Bcf/d, for a total combined FTA volume of 1.08 Bcf/d.

Magnolia LNG now argues that, “after further refinement, 1.08 Bcf/d is not an exact equivalent to the fully permitted 8.0 mtpa.”¹⁴ Magnolia LNG maintains that the “actual gas equivalent” for 8.0 mtpa of LNG is not 1.08 Bcf/d, but rather 1.12 Bcf/d of natural gas.¹⁵ Consequently—and notwithstanding that its FTA authorizations collectively approve an export volume of 1.08 Bcf/d—Magnolia LNG states that, “[f]or the purposes of this proposed incremental increase from 8.0 mtpa to 8.8 mtpa, the equivalent daily gas volume of 1.12 Bcf/d has been used as the starting point.”¹⁶

In the portion of the Application subject to this Order, Magnolia LNG requests that DOE/FE amend its two FTA orders (DOE/FE Order Nos. 3245 and 3406) so that, together, they authorize a combined export volume equivalent to 1.23 Bcf/d (449.0 Bcf/yr).¹⁷ Although not specified in the Application, we presume Magnolia LNG intends for this FTA volume to be divided on a pro rata basis for each order, so that the amended export volume for each FTA order would be 0.615 Bcf/d—for a combined 1.23 Bcf/d.

Magnolia LNG further states that, using 1.12 Bcf/d as the “starting point” for each order, “[p]roducing 8.8 mtpa is the equivalent of 1.23 Bcf/d, an increase of 0.11 Bcf/d or approximately 40.7 Bcf/yr, above what DOE previously authorized for Magnolia LNG.”¹⁸

¹³ Magnolia LNG App. at 4 n.10.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.* (emphasis added).

¹⁷ *Id.* at 2.

¹⁸ *Id.* at 4 n.10.

III. DISCUSSION

On consideration, DOE/FE does not agree that 1.12 Bcf/d should be used as the “starting point” for calculating the proposed volume increases for DOE/FE Order Nos. 3245 and 3406. DOE/FE issued those two FTA authorizations in 2013 and 2014, respectively—each in a volume equivalent to 0.54 Bcf/d (197.1 Bcf/yr), as requested by Magnolia LNG. Any change in those FTA authorizations in response to Magnolia LNG’s current Application must be based on the FTA volumes as approved by DOE/FE. For this reason, DOE/FE will use the authorized FTA volumes—0.54 Bcf/d in each order—as the basis for calculating Magnolia LNG’s volume increase in this Order.

Accordingly, DOE/FE will authorize Magnolia LNG to export LNG to FTA countries in a total combined volume equivalent to 1.23 Bcf/d of natural gas (449.0 Bcf/yr). This represents an increase of 0.15 Bcf/d, or 54.8 Bcf/yr, above the total combined volume authorized in DOE/FE Orders No. 3245 and 3406. The Ordering Paragraphs below reflect the pro rata division of the amended volume between the two orders.

IV. FINDINGS

Section 3(c) of the NGA was amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486) to require that applications requesting authority for (a) the import and export of natural gas, including LNG, from and to a nation with which there is in effect a FTA requiring national treatment for trade in natural gas, and/or (b) the import of LNG from other international sources, be deemed consistent with the public interest and granted without modification or delay. Magnolia LNG’s Application, as described above, meets the NGA section 3(c) criterion and,

therefore, is consistent with the public interest. As such, DOE/FE is charged with granting the Application without modification or delay.¹⁹

ORDER

Pursuant to section 3(c) of the NGA, it is ordered that:

A. Magnolia LNG's request to amend DOE/FE Order No. 3245 in FE Docket No. 12-183-LNG is granted, as reflected in the following new Ordering Paragraph A:

Magnolia LNG is authorized to export domestically produced LNG by vessel from the proposed Magnolia LNG Terminal in Lake Charles, Louisiana, up to the equivalent of 0.615 Bcf/d, or 224.5 Bcf/yr, of natural gas for a 25-year term, beginning on the earlier of the date of first export or 10 years from the date the authorization is issued (February 26, 2023). Magnolia LNG is authorized to export this LNG on its own behalf or as agent for other entities who hold title to the natural gas, pursuant to one or more long-term contracts (a contract greater than two years).

This amended Ordering Paragraph A supersedes Ordering Paragraph A in DOE/FE Order No. 3245 in its entirety.

B. All other obligations, rights, and responsibilities established by DOE/FE Order No. 3245 remain in effect. Any other references to DOE/FE Order No. 3245 in the Ordering Paragraphs should reflect this amended authorization (DOE/FE Order No. 3245-A).

C. Magnolia LNG's request to amend DOE/FE Order No. 3406 is granted in FE Docket No. 13-131-LNG, as reflected in the following new Ordering Paragraph A:

¹⁹ DOE further finds that the requirement for public notice of applications and other hearing-type procedures in 10 C.F.R. Part 590, are applicable only to applications seeking to export natural gas, including LNG, to countries with which the United States does not have a FTA requiring national treatment for trade in natural gas.

Magnolia LNG is authorized to export domestically produced LNG by vessel from the proposed Magnolia LNG Terminal, to be located near Lake Charles, Louisiana. The volume authorized in this Order is up to the equivalent of 0.615 Bcf/d, or 224.5 Bcf/yr, of natural gas for a 25-year term, beginning on the earlier of the date of first export or 10 years from the date the authorization is issued (March 5, 2024). Magnolia LNG is authorized to export this LNG on its own behalf or as agent for other entities who hold title to the natural gas, pursuant to one or more long-term contracts (a contract greater than two years).

D. This amended Ordering Paragraph A supersedes Ordering Paragraph A in DOE/FE Order No. 3406 in its entirety.

E. All other obligations, rights, and responsibilities established by DOE/FE Order No. 3406 remain in effect. Any other references to DOE/FE Order No. 3406 in the Ordering Paragraphs should reflect this amended authorization (DOE/FE Order No. 3406-A).

F. This Order is effective immediately.

Issued in Washington, D.C., on March 21, 2019.

Shawn Bennett
Deputy Assistant Secretary for Oil and Natural Gas
Office of Fossil Energy