

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

ENERGÍA COSTA AZUL, S. DE R.L. DE C.V.

FE DOCKET NO. 18-145-LNG

ORDER AMENDING LONG-TERM AUTHORIZATION
TO EXPORT NATURAL GAS TO MEXICO AND
TO OTHER FREE TRADE AGREEMENT NATIONS

ECA LARGE-SCALE PROJECT

DOE/FE ORDER NO. 4318-B

JUNE 11, 2021

I. DESCRIPTION OF REQUEST

On September 18, 2020, Energía Costa Azul, S. de R.L. de C.V. (ECA) filed an application (Application)¹ with the Office of Fossil Energy (FE) of the Department of Energy (DOE) under section 3 of the Natural Gas Act (NGA).² As explained below, ECA asks DOE/FE to amend its two long-term authorizations.

Both of ECA's authorizations involve the proposed liquefaction and export terminal facilities referred to as the ECA Large-Scale Project, to be located north of Ensenada in Baja California, Mexico, approximately 31 miles south of the San Diego-Tijuana/San Ysidro border between the United States and Mexico.³ ECA is currently authorized to export domestically produced natural gas by pipeline and/or to re-export⁴ the natural gas in the form of liquefied natural gas (LNG) as follows:

- (i) Under DOE/FE Order No. 4318,⁵ authorizing exports of U.S.-sourced natural gas by pipeline from the United States to Mexico and, after liquefaction in Mexico, by vessel from the proposed ECA Large-Scale Project to any country with which the United States currently has, or in the future will have, a free trade agreement (FTA) requiring national treatment for trade in natural gas (FTA countries), in a total volume equivalent to 545 billion cubic feet per year (Bcf/yr) of natural gas, under NGA section 3(c);⁶ and

¹ Energía Costa Azul, S. de R.L. de C.V., Application to Amend Long-Term, Multi-Contract Authorizations to Export Natural Gas to Mexico and to Export Liquefied Natural Gas From Mexico to Free Trade Agreement and Non-Free Trade Agreement Nations (ECA Large-Scale Project), FE Docket No. 18-145-LNG (Sept. 18, 2020) [hereinafter App.].

² The authority to regulate the imports and exports of natural gas, including liquefied natural gas (LNG), under section 3 of the NGA (15 U.S.C. § 717b) has been delegated to the Assistant Secretary for FE in Redelegation Order No. S4-DEL-FE1-2021, issued on March 25, 2021.

³ App. at 6.

⁴ For purposes of ECA's orders, "re-export" means to ship or transmit U.S.-sourced natural gas in its various forms (gas, compressed, or liquefied) subject to DOE/FE's jurisdiction under the NGA, 15 U.S.C. § 717b, from one foreign country (*i.e.*, a country other than the United States) to another foreign country.

⁵ *Energía Costa Azul, S. de R.L. de C.V.*, DOE/FE Order No. 4318, FE Docket No. 18-145-LNG, Order Granting Long-Term, Multi-Contract Authorization to Export Natural Gas to Mexico and to Other Free Trade Agreement Nations (ECA Large-Scale Project) (Jan. 25, 2019), *amended by* DOE/FE Order No. 4318-A (Dec. 10, 2020) (extending export term).

⁶ 15 U.S.C. § 717b(c). 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.

- (ii) Under DOE/FE Order No. 4365,⁷ authorizing re-exports of U.S.-sourced natural gas in the form of LNG by vessel from the proposed ECA Large-Scale Project to any other country with which trade is not prohibited by U.S. law or policy (non-FTA countries), in a volume equivalent to 475 Bcf/yr of natural gas, under NGA section 3(a).⁸

Both orders authorize exports on a non-additive basis through December 31, 2050.⁹

In the Application, ECA states that its original export application “assumed that the ECA Large-Scale Project would be capable of producing and exporting an equivalent of approximately 9.1 metric tons per annum [mtpa] of LNG.”¹⁰ ECA states that it has since determined that the full design of the ECA Large-Scale Project will be capable of producing an additional 3.3 mtpa of LNG, for a total productive capacity of 12.4 mtpa of LNG.¹¹ According to ECA, this change “will require an additional authorization of 182 Bcf/yr of exports to FTA countries and 161 Bcf/yr to non-FTA countries.”¹² Accordingly, ECA asks DOE/FE to amend its two orders to authorize total exports (and/or re-exports) as follows: (i) 727 Bcf/yr of natural gas (1.99 Bcf per day (Bcf/d)) to FTA countries, and (ii) 636 Bcf/yr (1.74 Bcf/d) to non-FTA countries.¹³

⁷ *Energía Costa Azul, S. de R.L. de C.V.*, DOE/FE Order No. 4365, FE Docket No. 18-145-LNG, Opinion and Order Granting Long-Term Authorization to Re-Export U.S.-Sourced Natural Gas in the Form of Liquefied Natural Gas from Mexico to Non-Free Trade Agreement Countries (ECA Large-Scale Project) (Mar. 29, 2019), *amended by* DOE/FE Order No. 4365-A (Dec. 10, 2020) (extending export term).

⁸ 15 U.S.C. § 717b(a).

⁹ See DOE/FE Order Nos. 4318-A and 4365-A; see also U.S. Dep’t of Energy, Extending Natural Gas Export Authorizations to Non-Free Trade Agreement Countries Through the Year 2050; Notice of Final Policy Statement and Response to Comments, 85 Fed. Reg. 52,237 (Aug. 25, 2020) [hereinafter 2050 Policy Statement]. Additionally, DOE/FE notes that, effective January 12, 2021, long-term export authorizations contain authority to export the same approved volume of LNG pursuant to transactions with terms of less than two years, including commissioning volumes, on a non-additive basis. See U.S. Dep’t of Energy, Including Short-Term Export Authority in Long-Term Authorizations for the Export of Natural Gas on a Non-Additive Basis; Policy Statement, 86 Fed. Reg. 2243 (Jan. 12, 2021).

¹⁰ App. at 7.

¹¹ *Id.*

¹² *Id.* (stating that approximately 21 Bcf/yr of the requested volumes will be consumed as fuel in Mexico (a FTA country) during the transportation and liquefaction process, with the remaining 161 Bcf/yr of natural gas to be re-exported in the form of LNG to FTA and non-FTA countries).

¹³ *Id.* at 7-8, 13.

ECA asks that the commencement date for the “full volumes to be exported from the ECA Large-Scale Project” (*i.e.*, the combined volumes authorized under ECA’s existing long-term orders and the volumes requested in the current Application) “begin on the earlier of the date of first export or seven years from the date of issuance of the authorizations requested herein.”¹⁴ ECA further requests an export term that extends through December 31, 2050.¹⁵ As with its existing authorizations, ECA seeks to export (or re-export) the amended volumes on its own behalf and as agent for other entities that hold title to the natural gas at the time it is exported to Mexico and/or to the U.S.-sourced natural gas at the time it is re-exported as LNG from Mexico.¹⁶

In this Order, DOE/FE grants the portion of ECA’s Application that seeks to increase the export volume in its FTA order (DOE/FE Order No. 4318, as amended), pursuant to NGA section 3(c), 15 U.S.C. § 717b(c). The non-FTA portion of the Application—seeking to increase the export volume in ECA’s non-FTA order (DOE/FE Order No. 4365, as amended)—will be reviewed pursuant to NGA section 3(a), 15 U.S.C. § 717b(a), and addressed in a separate order.

II. **BACKGROUND**¹⁷

Applicant. ECA is a Mexico variable-capital, limited liability company with its principal place of business in Cuauhtémoc, Mexico.¹⁸ On April 30, 2021, ECA and other affiliates of Sempra Energy (Sempra) jointly filed a Statement of Change in Control,¹⁹ as supplemented on

¹⁴ *Id.* at 5; *see also id.* at 14.

¹⁵ App. at 5 (citing 2050 Policy Statement).

¹⁶ *Id.*

¹⁷ For all other Project background information, DOE/FE incorporates by reference Order No. 4318, as amended by Order No. 4318-A.

¹⁸ App. at 11.

¹⁹ Cameron LNG, LLC, *et al.*, Statement of Change in Control, FE Docket Nos. 11-145-LNG, *et al.* (Apr. 30, 2021) [hereinafter Statement of Change in Control].

May 3 and May 19, 2021.²⁰ In the Statement of Change in Control, ECA's current ownership is described as follows:

Energía Costa Azul, S. de R.L. de C.V. is wholly owned by IEnova. Currently, 29.832% of shares in IEnova are publicly-held. The remaining 70.168% of shares [are] held by Semco Holdco, S. de R.L. de C.V., which in turn is over 99.9% owned by Sempra Energy Holdings XI B.V., which in turn is wholly owned by Sempra Energy International Holdings N.V., which in turn is wholly owned by Sempra Energy Holdings III B.V., which in turn is wholly owned by Pacific Enterprises International, which in turn is wholly owned by Sempra Energy International, LLC, which in turn is wholly owned by Sempra Global, which in turn is wholly owned by Sempra Energy.²¹

Additionally, ECA states that Sempra is in the process of conducting an internal reorganization to consolidate the assets of its LNG business and its ownership in IEnova under Sempra Global, which will be renamed Sempra Infrastructure Partners—among other transactions involving Sempra's portfolio of Northern American energy infrastructure projects.²² DOE/FE is currently processing the Statement of Change in Control, as supplemented, in accordance with its Procedures for Changes in Control Affecting Applications and Authorizations to Import or Export Natural Gas.²³

Proposed ECA Large-Scale Project. ECA states that the liquefaction facilities associated with the ECA Large-Scale Project will include the following major components: two liquefaction trains, each with a maximum liquefaction capacity of 6.2 mtpa of LNG (for a total productive capacity of 12.4 mtpa of LNG), and a gas pre-treatment unit; new ground flare

²⁰ For supplements to the Statement of Change in Control, *see* ECA's docket (FE Docket No. 18-145-LNG).

²¹ Statement of Change in Control at 6.

²² *Id.* at 5.

²³ *See* U.S. Dep't of Energy, Procedures for Changes in Control Affecting Applications and Authorizations to Import or Export Natural Gas, 79 Fed. Reg. 65,541 (Nov. 5, 2014).

equipment; piping and utility tie-ins to the existing terminal facilities; and a marine off-loading facility.²⁴

ECA states that it expects to commence construction activities associated with the ECA Large-Scale Project in the first part of 2024, and to place the first liquefaction train into commercial operation no later than 2028-2029.²⁵

III. 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. The portion of ECA's Application requesting an amendment to its FTA authorization (DOE/FE Order No. 4318, as amended) falls within NGA section 3(c).²⁶ Therefore, DOE/FE is charged with granting the requested amendment without modification or delay.²⁷

ORDER

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

A. Energía Costa Azul, S. de R.L. de C.V.'s Application to amend DOE/FE Order No. 4318, as amended in Order No. 4318-A, is granted, as reflected in the following new Ordering Paragraph A:

²⁴ App. at 16. ECA's affiliate, ECA Liquefaction, S. de R.L. de C.V. (ECA Liquefaction) is proposing to construct the ECA Mid-Scale Project, which will be composed of separate liquefaction facilities. *See id.* at 6 n.11. DOE/FE notes that the ECA Liquefaction proceeding is in FE Docket No. 18-144-LNG.

²⁵ App. at 6.

²⁶ 15 U.S.C. § 717b(c).

²⁷ 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 non-FTA countries.

Energía Costa Azul, S. de R.L. de C.V. (ECA) is authorized to export U.S.-sourced natural gas by pipeline from the United States to Mexico and, after liquefaction in Mexico, to re-export the U.S.-sourced natural gas in the form of LNG by vessel from the proposed ECA Large-Scale Project, to be located in Ensenada, Baja California, Mexico, to FTA countries. The volume authorized in this Order is up to the equivalent of 727 Bcf/yr of natural gas for a term beginning on the earlier of the date of first export or seven years from the date this authorization is issued (June 11, 2028), and extending through December 31, 2050. ECA is authorized to export the U.S.-sourced natural gas and to re-export the LNG on its own behalf and as agent for other entities who hold title to the natural gas, pursuant to one or more contracts of any duration.²⁸

B. All other obligations, rights, and responsibilities established by DOE/FE Order No. 4318, as amended by Order No. 4318-A, remain in effect.

Issued in Washington, D.C., on June 11, 2021.

Amy R. Sweeney
Director, Office of Regulation, Analysis, and Engagement
Office of Oil and Natural Gas

²⁸ These contracts may include the export of commissioning volumes prior to the start of facility operations on a non-additive basis. *See supra* note 9.