

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY AND CARBON MANAGEMENT

_____)	
FOURCHON LNG LLC)	DOCKET NO. 17-105-LNG
_____)	

ORDER VACATING LONG-TERM AUTHORIZATION
TO EXPORT LIQUEFIED NATURAL GAS TO FREE TRADE AGREEMENT NATIONS,
AND DISMISSING PENDING APPLICATION

DOE/FECM ORDER NO. 4162-A

MAY 31, 2024

I. BACKGROUND

On August 17, 2017, Fourchon LNG LLC (Fourchon LNG) filed an application (Application)¹ with the Department of Energy's (DOE) Office of Fossil Energy (now the Office of Fossil Energy and Carbon Management)² requesting long-term authorization to export domestically produced liquefied natural gas (LNG) under section 3 of the Natural Gas Act (NGA).³ Fourchon LNG seeks to export the LNG by vessel from its proposed natural gas liquefaction facility to be located on Port Fourchon at Belle Pass in Lafourche Parish, Louisiana (the Facility or Project).³ On March 11, 2018, in Order No. 4162,⁴ DOE granted the portion of the Application seeking to export LNG in a volume equivalent to approximately 260 billion cubic feet per year (Bcf/yr) of natural gas from the Facility 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) under NGA section 3(c).⁵ Under this FTA authorization, the LNG may be exported for a term of 30 years.

In the Application, Fourchon LNG also requested authorization to export the same volume of LNG on a non-additive basis from the Facility to countries with which the United States has no FTA and with which trade is not prohibited by U.S. law or policy (non-FTA

¹ Fourchon LNG LLC, Application for Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas to Free Trade Agreement and Non-Free Trade Agreement Countries, Docket No. 17-105-LNG (Aug. 17, 2017).

² The Office of Fossil Energy (FE) changed its name to the Office of Fossil Energy and Carbon Management (FECM) on July 4, 2021.

³ 15 U.S.C. § 717b. 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 FECM in Redelegation Order No. S4-DEL-FE1-2023, issued on April 10, 2023.

⁴ *Fourchon LNG LLC*, DOE/FE Order No. 4162, Docket No. 17-105-LNG, Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas By Vessel from the Proposed Fourchon LNG Facility in Lafourche Parish, Louisiana, to Free Trade Agreement Nations (Mar. 11, 2018).

⁵ 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.

countries) under NGA section 3(a).⁶ The non-FTA portion of the Application remains pending.

In Fourchon LNG's semi-annual report filed with DOE on September 29, 2023, Fourchon LNG stated that it was undertaking a "reassessment of the Project."⁷

II. DISCUSSION

On March 29, 2024, DOE sent Fourchon LNG, by email and certified mail, a "Notice of Non-Compliance and Planned DOE Action" (Notice).⁸ In the Notice, DOE took "administrative notice that, on December 20, 2023, the Federal Energy Regulatory Commission (FERC) issued a letter to Fourchon LNG terminating the pre-filing review process for the proposed Facility due to Fourchon LNG's 'lack of progress.'"⁹ DOE stated that its regulations required Fourchon LNG to update its pending application and to notify DOE of "changes to the information submitted during the application process upon which the [FTA] authorization was based."¹⁰ DOE also observed that, "based on the information presented ... (including FERC's statements), DOE sees no evidence that Fourchon LNG intends to maintain its FTA authorization or advance the non-FTA portion of its Application."¹¹

As DOE had received no notification from Fourchon LNG regarding FERC's termination notice, DOE stated that, "if Fourchon does not comply with DOE's regulations within **30 days** from the date of this letter (*i.e.*, by April 29, 2024), DOE will issue an order vacating Fourchon LNG's FTA authorization (DOE/FE Order No. 4162) and dismissing the Application without

⁶ 15 U.S.C. § 717b(a).

⁷ Fourchon LNG LLC, Docket No. 17-105-LNG, Semi-Annual Progress Report (Order No. 4162), at 2 (Sept. 29, 2023), <https://www.energy.gov/sites/default/files/2023-10/Fourchon%20LNG%20Status%20Report%20to%20DOE%204142-4153-0443%20v.1.pdf>.

⁸ U.S. Dep't of Energy, Notice of Non-Compliance and Planned DOE Action, Docket No. 17-105-LNG (Mar. 29, 2024), https://www.energy.gov/sites/default/files/2024-04/Fourchon%20LNG%20-%20Notice%20of%20Non-Compliance_03.29.2024.pdf.

⁹ *Id.* at 1-2 (quoting Letter from Terry Turpin, Director of FERC's Office of Energy Projects, to A. Gregory Junge, Counsel to Fourchon LNG LLC, FERC Docket No. PF17-9-000, at 1 (Dec. 20, 2023), https://elibrary.ferc.gov/eLibrary/docinfo?accession_number=20231220-3035).

¹⁰ *Id.* at 2.

¹¹ *Id.*

prejudice to Fourchon LNG filing a new application in the future.”¹²

On April 1, 2024, Fourchon LNG’s counsel submitted Fourchon LNG’s required semi-annual progress report on its behalf, but also withdrew as counsel in the same communication.¹³ Fourchon LNG’s counsel noted that, since learning of FERC’s pre-filing termination proceedings, counsel had “not received any responses to ... inquiries of [Fourchon LNG] concerning its intentions with respect to this project.”¹⁴

More than 30 days have passed since the April 29, 2024 deadline established by DOE, and Fourchon LNG has not responded to the Notice or otherwise contacted DOE. Based on Fourchon LNG’s lack of action and communication with DOE regarding this matter, and taking into account both FERC’s termination notice issued more than five months ago and the statements from Fourchon LNG’s former counsel, DOE concludes that Fourchon LNG is no longer interested in maintaining its FTA authorization or pursuing the non-FTA portion of the Application.

III. FINDINGS

For the foregoing reasons, DOE finds that Fourchon LNG continues to be out of compliance with DOE’s regulations pertaining to both its FTA authorization and its pending non-FTA application (including 10 C.F.R. §§ 590.202(b)(7), 590.204(a), and 590.407). Under section 16 of the NGA, DOE is authorized “to perform any and all acts, and to prescribe, issue, make, amend, and rescind such orders, rules, and regulations as it may find necessary or

¹² *Id.*

¹³ Fourchon LNG LLC, Docket No. 17-105-LNG, Semi-Annual Progress Report and Withdrawal of Counsel (Apr. 1, 2024), <https://www.energy.gov/sites/default/files/2024-04/Fourchon%20LNG%20Status%20Report%20to%20DOE%20%28April%201%202024%29.pdf>.

¹⁴ *Id.* at 2 (further stating that “w[e] have forwarded DOE’s March 29, 2024, Notice of Noncompliance” to Fourchon LNG and that, “[i]f Fourchon wishes to respond to that Notice within the 30 days DOE specified, we assume the company will be in touch with DOE directly or through alternate counsel.”).

appropriate” to carry out its responsibilities.¹⁵ Pursuant to this authority, DOE finds it necessary and appropriate to vacate Fourchon LNG’s FTA authorization and to dismiss Fourchon LNG’s non-FTA application. Both actions are taken without prejudice, should Fourchon LNG wish to file an application requesting an export authorization in the future.

ORDER

Pursuant to sections 3 and 16 of the Natural Gas Act, it is ordered that:

- A. Fourchon LNG’s FTA authorization granted in DOE/FE Order No. 4162 is vacated;
- B. Fourchon LNG’s pending non-FTA application is dismissed; and
- C. The administrative record for Docket No. 17-105-LNG is closed, effective immediately.

Issued in Washington, D.C., on May 31, 2024.

Amy R. Sweeney
Director, Office of Regulation, Analysis, and Engagement
Office of Resource Sustainability

¹⁵ 15 U.S.C. § 717o.