

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY AND CARBON MANAGEMENT

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SAPPHIRE GAS SOLUTIONS

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DOCKET NO. 24-57-LNG

ORDER GRANTING LONG-TERM AUTHORIZATION  
TO EXPORT LIQUEFIED NATURAL GAS TO FREE TRADE AGREEMENT NATIONS,  
AND LONG-TERM AUTHORIZATION FOR SMALL-SCALE EXPORTS  
OF LIQUEFIED NATURAL GAS

DOE/FECM ORDER NO. 5186

OCTOBER 21, 2024

## I. INTRODUCTION

On June 10, 2024, Sapphire Gas Solutions (Sapphire) filed an Application<sup>1</sup> with the Department of Energy's (DOE) Office of Fossil Energy and Carbon Management (FECM) under section 3 of the Natural Gas Act (NGA),<sup>2</sup> requesting long-term, multi-contract authorization<sup>3</sup> to export domestically produced liquefied natural gas (LNG). Sapphire requests authorization to export LNG as follows:

- (i) Under section 3(c) of the NGA, to any country with which the United States has, or in the future may enter into, a free trade agreement (FTA) requiring national treatment for trade in natural gas (FTA countries),<sup>4</sup> and
- (ii) Under section 3(a) of the NGA, to any country with which trade is not prohibited by United States law or policy (non-FTA countries).<sup>5</sup>

Sapphire states that its proposed non-FTA exports would qualify as “small-scale natural gas exports” under DOE’s regulations at 10 C.F.R. §§ 590.102(p) and 590.208(a), and therefore should be deemed to be consistent with the public interest under NGA section 3(a).<sup>6</sup>

Sapphire seeks to export LNG in a total volume equivalent to 51.75 billion cubic feet (Bcf) per year (Bcf/yr), or 0.14 Bcf per day (Bcf/d), of natural gas.<sup>7</sup> Sapphire states that it seeks

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<sup>1</sup> Sapphire Gas Solutions, Application for Long-Term and Short-Term Authorization to Make Small Scale Exports of Liquefied Natural Gas to Free Trade Agreement and Non-Free Trade Agreement Countries, Docket No. 24-57-LNG (June 10, 2024) [hereinafter App.].

<sup>2</sup> 15 U.S.C. § 717b. 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 FECM in Redelegation Order No. S4-DEL-FE1-2023, issued on April 10, 2023.

<sup>3</sup> Sapphire also requests authority to engage in short-term exports of LNG. Long-term authorizations issued by DOE now include authority to export the same approved volume of LNG pursuant to short-term contracts (*i.e.*, transactions with terms of less than two years) 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, 86 Fed. Reg. 2243 (Jan. 12, 2021); *see also* *infra* § VII (Ordering Para. A).

<sup>4</sup> 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.

<sup>5</sup> *Id.* § 717b(a).

<sup>6</sup> App. at 2; *see also* U.S. Dep’t of Energy, Small-Scale Natural Gas Exports; Final Rule, 83 Fed. Reg. 35,106 (July 25, 2018) [hereinafter Small-Scale Rule].

<sup>7</sup> App. at 1, 4.

to export this LNG from the Port of Miami to the Bahamas and other islands in the Caribbean via Department of Transportation-approved International Organization for Standardization (ISO) containers transported by barge.<sup>8</sup> In Appendix C to the Application, Sapphire identifies 16 existing facilities in the United States from which it seeks to source LNG for export (collectively, the Facilities).<sup>9</sup>

Sapphire requests that its long-term authorization commence on the date of first commercial export and extend through December 31, 2050.<sup>10</sup> Additionally, Sapphire requests authority to export the LNG on its own behalf and as agent for other entities that hold title to the LNG at the time of export.<sup>11</sup>

In this consolidated Order, DOE grants Sapphire's Application and authorizes the requested export volume of 51.75 Bcf/yr (0.14 Bcf/d) to both FTA and non-FTA countries on a non-additive basis. Specifically, DOE finds that the FTA portion of the Application falls within NGA section 3(c), and we therefore grant the requested FTA authorization without modification or delay.<sup>12</sup> DOE also finds that the proposed non-FTA exports qualify as "small-scale natural gas exports" under the criteria set forth in 10 C.F.R. § 590.102(p). Accordingly, we grant the small-scale portion of the Application under 10 C.F.R. § 590.208(a).

This Order, however, does not provide Sapphire with an independent right to purchase or load LNG at any of the Facilities. DOE takes no position on the commercial arrangements that may be necessary for Sapphire to effectuate the export of LNG approved in this Order.

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<sup>8</sup> *See id.* at 1, 4, 7.

<sup>9</sup> *Id.* at Appendix C. Sapphire states that, to the extent it seeks to purchase LNG from facilities that are not included in Appendix C, Sapphire will notify DOE of such facilities. *Id.* at 4 n.8; *see infra* at 10 n.39 (Ordering Para. A).

<sup>10</sup> App. at 1.

<sup>11</sup> *Id.* at 4.

<sup>12</sup> 15 U.S.C. § 717b(c).

## II. BACKGROUND

**Applicant.** Sapphire is a Delaware limited liability company with its principal place of business in Conroe, Texas.<sup>13</sup> Sapphire states that its upstream owner is Apollo Global Management, Inc.<sup>14</sup>

**Liquefaction Facilities and Transport.** Sapphire states that it intends to export domestically produced LNG received from the 16 Facilities identified in Appendix C to the Application.<sup>15</sup> According to Sapphire, it will export these LNG volumes from the Port of Miami via ISO containers mounted on a chassis and transported on a barge to the Bahamas and other islands in the Caribbean.<sup>16</sup>

**Source of Supply.** Sapphire states that the source of the proposed exports is expected to be the natural gas supply produced throughout the United States and delivered to the Facilities through the integrated natural gas pipeline grid.<sup>17</sup>

**Business Model.** Sapphire requests authorization to export LNG on its own behalf and as agent for other entities that hold title to the LNG at the time of export.<sup>18</sup> Sapphire states that it will file, or cause to be filed, all long-term commercial agreements, once executed, in accordance with DOE's established policy, and will comply with all DOE requirements for exporters and agents, including registration requirements.<sup>19</sup>

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<sup>13</sup> App. at 3.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 4.

<sup>16</sup> *Id.* at 3-4 (stating that Sapphire is working with Cat Cay Utility Company Limited in the Bahamas to supply U.S.-sourced LNG as fuel for natural gas power generators, "thus lowering carbon emissions significantly"); *see also id.* at 6-7.

<sup>17</sup> *Id.* at 4.

<sup>18</sup> App at 4.

<sup>19</sup> *Id.*

### III. STANDARD OF REVIEW

#### A. FTA Authorization

Section 3(c) of the NGA was amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486). In relevant part, applications to export natural gas, including LNG, to countries with which there is an FTA in effect requiring national treatment for trade in natural gas “shall be deemed to be consistent with the public interest” and granted “without modification or delay.”<sup>20</sup>

#### B. Small-Scale Authorization

DOE defines a “small-scale natural gas export” as an export of natural gas, including LNG, to a non-FTA country that meets the following two criteria:

- (1) The application proposes to export natural gas in a volume up to and including 51.75 billion cubic feet per year, and
- (2) DOE’s approval of the application does not require an environmental impact statement (EIS) or an environmental assessment (EA) under the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*<sup>21</sup>

Small-scale natural gas exports are deemed to be consistent with the public interest under NGA section 3(a).<sup>22</sup> Therefore, DOE will issue an export authorization upon receipt of a complete application to conduct small-scale natural gas exports.<sup>23</sup>

### IV. DISCUSSION AND CONCLUSIONS

#### A. FTA Authorization

We find that the FTA portion of Sapphire’s Application falls within NGA section 3(c), and

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<sup>20</sup>15 U.S.C. § 717b(c).

<sup>21</sup> 10 C.F.R. § 590.102(p).

<sup>22</sup> *Id.* § 590.208(a).

<sup>23</sup> *Id.*; *see also* Small-Scale Rule, *supra* note 6.

therefore we grant the requested FTA authorization without modification or delay.<sup>24</sup>

## **B. Small-Scale Authorization**

We find that the non-FTA portion of the Application meets the criteria for small-scale natural gas exports, set forth in 10 C.F.R. § 590.102(p). First, Sapphire requests authority to export LNG to non-FTA countries in a volume equivalent to 51.75 Bcf/yr of natural gas, which is consistent with the limit in the regulation. Second, DOE's National Environmental Policy Act (NEPA) procedures provide for a categorical exclusion if neither an EA nor an EIS is required—specifically, categorical exclusion B5.7 (10 C.F.R. Part 1021, Subpart D, Appendix B5), *Export of natural gas and associated transportation by marine vessel*.<sup>25</sup> On October 18, 2024, DOE issued a categorical exclusion for the non-FTA portion of Sapphire's Application under this provision.<sup>26</sup> Accordingly, pursuant to 10 C.F.R. § 590.208(a), the proposed small-scale exports are deemed to be consistent with the public interest under NGA section 3(a), and DOE grants the requested authorization.

## **V. FINDINGS**

Based on the findings and conclusions herein, DOE grants the Application subject to the Terms and Conditions and Ordering Paragraphs set forth below.

## **VI. TERMS AND CONDITIONS**

### **A. Term of the Authorization**

Consistent with DOE's practice, Sapphire requests that its FTA and small-scale non-FTA authorizations commence on the date of first commercial export and end on December 31,

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<sup>24</sup> DOE further finds that the requirements 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 (other than applications for small-scale exports of natural gas, *see* 10 C.F.R. § 590.208(a)).

<sup>25</sup> *See* 10 C.F.R. Part 1021, Subpt. D, App. B, Categorical Exclusion B5.7.

<sup>26</sup> U.S. Dep't of Energy, Categorical Exclusion Determination, Sapphire Gas Solutions, Docket No. 24-57-LNG (Oct. 18, 2024).

2050.<sup>27</sup> Accordingly, the term for this authorization will commence on the date of first commercial export and extend through December 31, 2050.

### **B. Commencement of Operations for Small-Scale Authorization**

DOE will add as a condition of the small-scale authorization that Sapphire must commence commercial LNG export operations no later than two years from the date of issuance of this Order. Because this Order allows for exports to begin from existing facilities, we find that Sapphire should be able to commence small-scale exports of LNG immediately.

### **C. FTA Countries for FTA Authorization**

The countries with which the United States has an FTA requiring national treatment for trade in natural gas are currently: Australia, Bahrain, Canada, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Republic of Korea, and Singapore.

### **D. Transfer, Assignment, or Change in Control**

DOE's natural gas regulations prohibit authorization holders from transferring or assigning authorizations to import or export natural gas without specific authorization by the Assistant Secretary for Fossil Energy and Carbon Management.<sup>28</sup> DOE has found that this requirement applies to any change in control of the authorization holder. This condition was deemed necessary to ensure that DOE will be given an adequate opportunity to assess the public interest impacts of such a transfer or change.

DOE construes a change in control to mean a change, directly or indirectly, of the power to direct the management or policies of an entity, whether such power is exercised through one or more intermediary companies or pursuant to an agreement, written or oral, and whether such

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<sup>27</sup> App. at 1-2.

<sup>28</sup> 10 C.F.R. § 590.405.

power is established through ownership or voting of securities, or common directors, officers, or stockholders, or voting trusts, holding trusts, or debt holdings, or contract, or any other direct or indirect means.<sup>29</sup> A rebuttable presumption that control exists will arise from the ownership or the power to vote, directly or indirectly, 10% or more of the voting securities of such entity.<sup>30</sup>

#### **E. Agency Rights**

Sapphire requests authorization to export LNG on its own behalf and as agent for other entities that hold title to the LNG at the time of export. DOE previously has determined that, in LNG export orders in which Agency Rights have been granted, DOE shall require registration materials filed for, or by, an LNG title-holder (Registrant) to include the same company identification information and long-term contract information of the Registrant as if the Registrant had filed an application to export LNG on its own behalf.<sup>31</sup>

To ensure that the public interest is served, this authorization requires that, where Sapphire proposes to export LNG as agent for other entities that hold title to the LNG (Registrants), it must register those entities with DOE in accordance with the procedures and requirements described herein.

#### **F. Contract Provisions for the Sale or Transfer of LNG to be Exported**

DOE will require that Sapphire file or cause to be filed with DOE any relevant long-term commercial agreements associated with the export of LNG, including agreements pursuant to which Sapphire intends to export LNG as agent for a Registrant. DOE finds that the submission

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<sup>29</sup> 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, 65,542 (Nov. 5, 2014).

<sup>30</sup> See *id.*

<sup>31</sup> See, e.g., *Cameron LNG, LLC*, DOE/FE Order No. 3846, Docket No. 15-90-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from Trains 4 and 5 of the Cameron LNG Terminal to Non-Free Trade Agreement Nations, at 128-29 (July 15, 2016); *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 2913, Docket No. 10-160-LNG, Order Granting Long-Term Authorization to Export Liquefied Natural Gas from the Freeport LNG Terminal to Free Trade Agreement Nations, at 7-8 (Feb. 10, 2011).

of all such agreements or contracts within 30 days of their execution using the procedures described below will be consistent with the “to the extent practicable” requirement of section 590.202(b) of DOE’s regulations.<sup>32</sup>

In addition, DOE finds that section 590.202(c) of DOE’s regulations<sup>33</sup> requires that Sapphire file, or cause to be filed, all long-term contracts associated with the long-term supply of natural gas to the Facilities, whether signed by Sapphire or the Registrant, within 30 days of their execution.

DOE recognizes that some information in Sapphire’s or a Registrant’s long-term commercial agreements associated with the export of LNG, and/or long-term contracts associated with the long-term supply of natural gas to the Facilities, may be commercially sensitive. DOE therefore will provide Sapphire the option to file or cause to be filed either unredacted contracts, or in the alternative (A) Sapphire may file, or cause to be filed, long-term contracts under seal, but it also will file either: (i) a copy of each long-term contract with commercially sensitive information redacted, or (ii) a summary of all major provisions of the contract(s) including, but not limited to, the parties to each contract, contract term, quantity, any take or pay or equivalent provisions/conditions, destinations, re-sale provisions, and other relevant provisions; and (B) the filing must demonstrate why the redacted information or non-disclosed information should be exempted from public disclosure.<sup>34</sup>

To ensure that DOE destination and reporting requirements included in this Order are conveyed to subsequent title holders, DOE will include as a condition of this authorization that

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<sup>32</sup> 10 C.F.R. § 590.202(b).

<sup>33</sup> *Id.* § 590.202(c).

<sup>34</sup> *Id.* § 590.202(e) (allowing confidential treatment of information in accordance with 10 C.F.R. § 1004.11).

future contracts for the sale or transfer of LNG exported pursuant to this Order shall include an acknowledgement of these requirements.

### **G. Export Quantity**

This Order grants Sapphire's Application in the full volume of LNG requested, up to the equivalent of 51.75 Bcf/yr of natural gas for FTA and non-FTA countries.

### **H. Non-Additive Export Volumes**

Consistent with DOE's small-scale export regulations, Sapphire may not treat the FTA and small-scale non-FTA volumes in this Order as additive to one another.

## **VII. ORDER**

Pursuant to section 3 of the Natural Gas Act, it is ordered that:

A. Sapphire Gas Solutions (Sapphire) is authorized by DOE to export domestically produced LNG obtained from any of the 16 Facilities listed in Appendix C of the Application.<sup>35</sup> Sapphire is authorized to export this LNG in approved ISO containers transported by barge in a volume equivalent to 51.75 Bcf/yr of natural gas. The FTA and small-scale authorizations will commence on the date of first commercial export and extend through December 31, 2050. Sapphire is authorized to export this LNG on its own behalf and as agent for other entities that hold title to the LNG at the time of export, pursuant to one or more contracts of any duration.<sup>36</sup>

B. This Order does not give Sapphire an independent right to purchase or load LNG from any of the identified Facilities. Sapphire and each Facility may agree upon contractual terms for Sapphire's export services, as they deem appropriate. Additionally, this Order does not

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<sup>35</sup> If, in the future, Sapphire wishes to obtain LNG for export from facilities other than the 16 Facilities listed in Appendix C, it will be required to file with DOE a request to amend this Order to add those facilities. DOE will evaluate that request under the same standards of review discussed above.

<sup>36</sup> 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, 86 Fed. Reg. 2243 (Jan. 12, 2021).

restrict, through volume limitations or otherwise, any existing or future authorizations issued by DOE for any of the Facilities.<sup>37</sup>

C. Exports of LNG under this Order may be exported by vessel to any country with the capacity to import LNG, and with which trade is not prohibited by U.S. law or policy.

D. For the authorization to non-FTA countries under the Small-Scale Rule, Sapphire must commence export operations using the Facilities no later than two years from the date of issuance of this Order.

E. Sapphire shall ensure that all transactions authorized by this Order are permitted and lawful under U.S. laws and policies, including the rules, regulations, orders, policies, and other determinations of the Office of Foreign Assets Control of the U.S. Department of the Treasury, the Federal Energy Regulatory Commission, and the Pipeline and Hazardous Materials Safety Administration of the U.S. Department of Transportation, as applicable. Failure to comply with these requirements could result in rescission of this authorization and/or other civil or criminal penalties.

F. (i) Sapphire shall file, or cause others to file, with the U.S. Department of Energy, Office of Fossil Energy and Carbon Management, Office of Resource Sustainability, Office of Regulation, Analysis, and Engagement (FE-34) an unredacted copy of all executed long-term contracts associated with the long-term export of LNG. The unredacted copies must be filed within 30 days of their execution and may be filed under seal, as described above.

(ii) Sapphire shall file, or cause others to file, with the Office of Regulation, Analysis, and Engagement a non-redacted copy of all executed long-term contracts associated

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<sup>37</sup> See *BP Energy Co.*, DOE/FE Order No. 4302, FE Docket No. 18-69-LNG, Order Granting Blanket Authorization to Export Previously Imported Liquefied Natural Gas by Vessel to Free Trade Agreement and Non-Free Trade Agreement Nations, at 13-14, 19 (Nov. 19, 2018).

with the long-term supply of natural gas to the Facilities. The unredacted copies must be filed within 30 days of their execution and may be filed under seal, as described above.

G. Sapphire is permitted to use its authorization to export LNG as agent for other LNG title-holders (Registrants), after registering those entities with DOE. Registration materials shall include an agreement by the Registrant to supply Sapphire with all information and copies of contracts necessary to permit Sapphire to register that person or entity with DOE, including: (1) the Registrant's agreement to comply with this Order and all applicable requirements of DOE's regulations at 10 C.F.R. Part 590, including but not limited to destination restrictions; (2) the exact legal name of the Registrant, state/location of incorporation/registration, primary place of business, the Registrant's ownership structure, including the ultimate parent entity if the Registrant is a subsidiary or affiliate of another entity; (3) the name, title, mailing address, e-mail address, and telephone number of a corporate officer or employee of the Registrant to whom inquiries may be directed; and (4) within 30 days of execution, a copy of any long-term contracts not previously filed with DOE, described in Ordering Paragraph F of this Order.

Any change in the registration materials—including changes in company name, contact information, length of the long-term contract, termination of the long-term contract, or other relevant modifications—shall be filed with DOE within 30 days of such change(s).

H. Sapphire, or others for whom Sapphire acts as agent, shall include the following provision in any agreement or contract for the sale or transfer of LNG exported pursuant to this Order:

Customer or purchaser acknowledges and agrees that it will resell or transfer LNG purchased hereunder for delivery only to countries identified in Ordering Paragraph C of DOE/FECM Order No. 5186, issued October 21, 2024, in Docket No. 24-57-LNG, and/or to purchasers that have agreed in writing to limit their direct or indirect resale or transfer of such LNG to such countries. Customer or purchaser further commits to cause a report to

be provided to Sapphire Gas Solutions that identifies the country (or countries) into which the LNG was actually delivered, and to include in any resale contract for such LNG the necessary conditions to ensure that Sapphire Gas Solutions is made aware of all such countries.

I. Within two weeks after the first export authorized in Ordering Paragraph A occurs, Sapphire shall provide DOE written notification of the date on which the first export occurred.

J. With respect to any change in control of the authorization holder, Sapphire must comply with DOE's Procedures for Change in Control Affecting Applications and Authorizations to Import or Export Natural Gas.<sup>38</sup>

K. Monthly Reports: With respect to the exports authorized by this Order, Sapphire shall file with the Office of Regulation, Analysis, and Engagement, within 30 days following the last day of each calendar month, a report on Form FE-746R indicating whether exports of LNG have been made. The first monthly report required by this Order is due no later than the 30<sup>th</sup> day of the month following the month of first export. In subsequent months, if exports have not occurred, a report of "no activity" for that month must be filed. If exports have occurred, the report must provide the information specified for each applicable activity and mode of transportation, as set forth in the Guidelines for Filing Monthly Reports. These Guidelines are available at: <https://www.energy.gov/fecm/guidelines-filing-monthly-reports>.

(Approved by the Office of Management and Budget under OMB Control No. 1901-0294)

L. All monthly report filings on Form FE-746R shall be made to the Office of Regulation, Analysis, and Engagement according to the methods of submission listed on the

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<sup>38</sup> See 79 Fed. Reg. at 65,541-42.

Form FE-746R reporting instructions available at: <https://www.energy.gov/fecm/regulation>.

Issued in Washington, D.C., on October 21, 2024.

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