



Department of Energy
Washington, DC 20585

March 17, 2020

J. Patrick Nevins
Latham & Watkins LLP
555 11th Street NW, Suite 1000
Washington, D.C. 20004

RE: Notification Regarding Equity Ownership Change in Accordance with Procedures for Change in Control
Venture Global Calcasieu Pass, LLC
FE Docket Nos. 13-69-LNG, 14-88-LNG, 15-25-LNG

Dear Mr. Nevins:

This correspondence constitutes the response of the Department of Energy (DOE), Office of Fossil Energy (FE), to your letter filed on September 6, 2019, on behalf of Venture Global Calcasieu Pass, LLC (Calcasieu Pass).¹ In the letter, Calcasieu Pass provides information regarding an indirect equity investment in its planned LNG export project, in light of DOE/FE's Change in Control Procedures.²

I. BACKGROUND

Calcasieu Pass is developing a project to export domestically produced liquefied natural gas (LNG) from the proposed Venture Global Calcasieu Pass Project (Project), a natural gas liquefaction and export terminal to be located in Cameron Parish, Louisiana.

FTA Authorizations (FE Docket Nos. 13-69-LNG, 14-88-LNG, 15-25-LNG):

Calcasieu Pass currently holds three long-term authorizations to export domestically produced LNG from the Project to countries with which the United States has a free trade agreement (FTA) requiring national treatment for trade in natural gas (FTA countries),

¹ Venture Global Calcasieu Pass, LLC, FE Docket Nos. 13-69-LNG *et al.*, Notification Regarding Equity Ownership Change in Accordance with Procedures for Changes in Control (Sept. 6, 2019) [hereinafter Calcasieu Pass Ltr.].

² 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) [hereinafter DOE/FE Change in Control Procedures].

pursuant to section 3(c) of the Natural Gas Act (NGA).³ DOE/FE issued these FTA authorizations in Order Nos. 3345,⁴ 3520,⁵ and 3662.⁶

Non-FTA Authorizations (FE Docket Nos. 13-69-LNG, 14-88-LNG, 15-25-LNG):

Calcasieu Pass also holds a long-term authorization to export domestically produced LNG from the Project to any other country with which trade is not prohibited by U.S. law or policy (non-FTA countries), pursuant to NGA section 3(a).⁷ DOE/FE issued this non-FTA authorization on March 5, 2019, in DOE/FE Order No. 4346, a consolidated order granting the applications in the three dockets captioned above.⁸

II. DESCRIPTION OF CHANGE IN CORPORATE OWNERSHIP

Calcasieu Pass is a Delaware limited liability company with its principal place of business in Arlington, Virginia. Calcasieu Pass states that, at the time of DOE/FE's issuance of the export authorizations, Calcasieu Pass was a wholly-owned subsidiary of Venture Global LNG.

Venture Global LNG is a privately-held Delaware corporation with its principal place of business in Arlington, Virginia.⁹ Venture Global LNG was founded and originally owned and controlled by Robert B. Pender and Michael A. Sabel (collectively, the co-founders). Although the company sold passive ownership interests (each of less than 10%) to U.S. institutional investors, the co-founders retain the sole right to control Venture Global LNG and to appoint its board of directors.¹⁰

³ 15 U.S.C. § 717b(c).

⁴ *Venture Global Calcasieu Pass, LLC*, DOE/FE Order No. 3345, FE Docket No. 13-69-LNG, Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Proposed Venture Global LNG Project in Cameron Parish, Louisiana, to Free Trade Agreement Nations (Sept. 27, 2013).

⁵ *Venture Global Calcasieu Pass, LLC*, DOE/FE Order No. 3520, FE Docket No. 14-88-LNG, Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Proposed Venture Global LNG Project in Cameron Parish, Louisiana, to Free Trade Agreement Nations (Oct. 10, 2014). DOE/FE originally issued Order Nos. 3345 and 3520 to Venture Global LNG, LLC (Venture Global LNG). Venture Global LNG later reorganized its operations and created the wholly-owned subsidiary, Calcasieu Pass. On December 3, 2014, DOE/FE approved a change in control through which Venture Global LNG transferred these two FTA authorizations to Calcasieu Pass. See *Venture Global Calcasieu Pass, LLC*, DOE/FE Docket Nos. 13-69-LNG, 14-88-LNG, Notice of Corporate Reorganization or Change in Control and Amendment of Authorizations to Export Liquefied Natural Gas to Free Trade Agreement Countries (Dec. 3, 2014).

⁶ *Venture Global Calcasieu Pass, LLC*, DOE/FE Order No. 3662, FE Docket No. 15-25-LNG, Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Proposed Venture Global Calcasieu Pass LNG Project in Cameron Parish, Louisiana, to Free Trade Agreement Nations (June 17, 2015).

⁷ 15 U.S.C. § 717b(a).

⁸ *Venture Global Calcasieu Pass, LLC*, DOE/FE Order No. 4346, FE Docket Nos. 13-69-LNG *et al.*, Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations (Mar. 5, 2019).

⁹ Calcasieu Pass Ltr. at 3.

¹⁰ *Id.*

Calcasieu Pass states that Venture Global LNG made a positive final investment decision and subsequently closed the debt and equity financing of the Project on August 19, 2019. In connection with the financing, Venture Global LNG established four new subsidiaries—each a wholly-owned Delaware limited liability company having the same principal place of business in Arlington, Virginia—through which to hold its indirect ownership interest in Calcasieu Pass.¹¹

Following this internal corporate reorganization, Calcasieu Pass states that it is now a wholly-owned subsidiary of Calcasieu Pass Pledgor, LLC, which is a wholly-owned subsidiary of Calcasieu Pass Holdings, LLC. Calcasieu Pass remains the holder of the export authorizations issued by DOE/FE, and states that there has been no change in any aspect of the Project or its LNG export arrangements.¹²

Calcasieu Pass further states that, as part of the financing of the Project, Stonepeak Partners LP (Stonepeak) made equity investments totaling \$1.3 billion in Calcasieu Pass Holdings, LLC and Calcasieu Pass Funding, LLC, effective as of August 19, 2019.¹³ Stonepeak, a private equity firm, is headquartered in New York, New York.¹⁴

Calcasieu Pass Holdings, LLC has two members. One member, Calcasieu Pass Funding, LLC, owns all of the common units of the company. The other member, Stonepeak Bayou Holdings LP, a Delaware limited partnership affiliated with Stonepeak, owns all of the preferred units of the company. Calcasieu Pass states that “[t]he preferred units will convert into common units upon the commercial operation date of the Project and will constitute a minority of the total common units of the company at that time (but more than ten percent).”¹⁵

Calcasieu Pass Holdings, LLC is managed and directed by a board of three managers: two designated by Calcasieu Pass Funding, LLC and one designated by Stonepeak Bayou Holdings, LP. Under certain extraordinary circumstances, such as events of default and material breaches or termination of key Project contracts, Stonepeak Bayou Holdings LP “would obtain the right to appoint a majority of the board of managers of Calcasieu Pass Holdings, LLC for a limited period of time lasting until thirty days after such circumstances are no longer continuing, at which time Calcasieu Pass Funding, LLC will once again have the right to appoint a majority of the board of managers.”¹⁶

Calcasieu Pass further states that the manager designated by Stonepeak Bayou Holdings LP generally has the right to direct Calcasieu Pass Holdings, LLC and its subsidiaries with respect to certain uncured material breaches or defaults by Venture Global LNG, the ultimate parent company of Calcasieu Pass, or its affiliates under contracts to which

¹¹ *Id.* Calcasieu Pass attached an organizational chart to its Letter showing this new corporate structure.

¹² *Id.*

¹³ *Id.*

¹⁴ *See id.* at 1, 3.

¹⁵ Calcasieu Pass Ltr. at 3.

¹⁶ *Id.* at 4.

Venture Global LNG and its affiliates are party that have an adverse impact on the Project.¹⁷

Calcasieu Pass Funding, LLC has two members. All of its common units are owned by Venture Global Calcasieu Pass Holding, LLC, which is a direct, wholly-owned subsidiary of Venture Global LNG. All of the company's preferred units, which are redeemable over time, are owned by Stonepeak Bayou Holdings II LP, another Delaware limited partnership affiliated with Stonepeak. All of the company's business and affairs, however, are generally managed by the holder of its common units.¹⁸

III. DISCUSSION AND CONCLUSIONS

DOE/FE 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 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.¹⁹ 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.²⁰

A. FTA Authorizations

DOE/FE's CIC Procedures provide that, upon receipt of a statement of change in control relating to existing FTA export authorizations, DOE will give immediate effect to the change in control and will take no further action.²¹ Accordingly, the change in control described above has taken effect insofar as it relates to the FTA authorizations issued to Calcasieu Pass in DOE/FE Order Nos. 3345, 3520, and 3662.

B. Non-FTA Authorization

DOE/FE's Change in Control Procedures state that, with respect to existing non-FTA authorizations, DOE/FE will give effect to the change in control and will publish a notice of the change in the *Federal Register*.²² If no interested person protests the change in control and DOE takes no action on its own motion, the amendment to the existing non-FTA authorization will be deemed granted 30 days after publication in the *Federal Register*.²³

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ See DOE/FE Change in Control Procedures, 79 Fed. Reg. at 65,542.

²⁰ See *id.*

²¹ See *id.*

²² See *id.*

²³ See *id.*

Consistent with these procedures, DOE published a notice of Calcasieu Pass’s equity ownership change in the *Federal Register* on October 21, 2019 (Notice).²⁴ DOE/FE invited protests, motions to intervene, and written comments to be filed no later than November 5, 2019.²⁵ DOE/FE received no filings in response to the Notice. Because more than 30 days have passed since the Notice was published in the *Federal Register*, the amendment to Calcasieu Pass’s non-FTA authorization (DOE/FE Order No. 4346) has been deemed granted.

Nonetheless, Calcasieu Pass argues that the presumption that control exists set forth in DOE/FE’s Change in Control Procedures “may be considered rebutted” in this proceeding for two reasons: first, there will be “no significant change in the operation or management of the Project” as a result of the Stonepeak equity investment; and second, the co-founders of Venture Global LNG will continue to direct the management and policies of Calcasieu Pass.²⁶ Based on the information provided by Calcasieu Pass, however, it appears that the preferred units provide Stonepeak Bayou Holdings LP with the right to govern and direct Calcasieu Pass in certain circumstances (including but not limited to events of default and material breaches or termination of key Project contracts).²⁷ DOE/FE therefore finds that Calcasieu Pass has not rebutted the presumption that control exists as a result of the Stonepeak equity investment.

We agree with Calcasieu Pass, however, that the Stonepeak investment does not alter DOE/FE’s public interest determination in granting Order No. 4346.²⁸ In strengthening the financial capabilities of Calcasieu Pass to construct and execute the Project²⁹—and thus to commence its authorized LNG export operations—we find that the Stonepeak equity investment is consistent with the public interest under NGA section 3(a).

No further action is required.

Sincerely,

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

²⁴ U.S. Dep’t of Energy, Venture Global Calcasieu Pass, LLC; Notice of Change in Control, 84 Fed. Reg. 56,184 (Oct. 21, 2019).

²⁵ *See id.*

²⁶ Calcasieu Pass Ltr. at 4.

²⁷ *Id.*

²⁸ *Id.* at 4-5.

²⁹ *Id.* at 5.