



Department of Energy
Washington, DC 20585

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Via Email

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RE: Notification Regarding Change in Control
Dominion Energy Cove Point LNG, LP
FE Docket Nos. 11-115-LNG, 11-128-LNG, 18-180-LNG, 19-156-LNG

Dear Mr. Nevins:

This correspondence constitutes the response of the Department of Energy (DOE), Office of Fossil Energy (FE), to the Notification in Accordance With Procedures for Changes in Control that you filed on behalf of your client, Dominion Energy Cove Point LNG, LP (DECP), on July 9, 2020.¹ DECP provides notice of a planned change in ownership, in light of DOE/FE's Change in Control Procedures.²

I. BACKGROUND

DECP, a Delaware limited partnership, is the owner and operator of the Dominion Cove Point Terminal located in Lusby, Maryland (the Terminal), as well as an 88-mile natural gas pipeline connecting the Terminal to the interstate pipeline grid.³ DECP currently holds the following four authorizations from DOE/FE:

- DOE/FE Order No. 3019,⁴ a long-term, multi-contract authorization to export domestically produced liquefied natural gas (LNG) to any country with which the United

¹ See Dominion Energy Cove Point LNG, LP, Notification in Accordance With Procedures for Change in Control, FE Docket Nos. 11-115-LNG, *et al.* (July 9, 2020), available at: https://www.energy.gov/sites/prod/files/2020/07/f76/DECP_BHE_DOE_CIC_filing.pdf [hereinafter DECP Notification].

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 or CIC Procedures].

³ DECP Notification at 2.

⁴ *Dominion Energy Cove Point LNG, LP*, DOE/FE Order No. 3019, FE Docket No. 11-115-LNG, Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Cove Point LNG

States currently has, or in the future will have, a free trade agreement (FTA) requiring national treatment for trade in natural gas (FTA countries);⁵

- DOE/FE Order No. 3331-A,⁶ a long-term, multi-contract authorization to export domestically produced LNG to any other country with which trade is not prohibited by U.S. law or policy (non-FTA countries);⁷
- DOE/FE Order No. 4320, a short-term blanket authorization to import LNG from various international sources by vessel;⁸ and
- DOE/FE Order No. 4508, a short-term blanket authorization to export domestically produced LNG to free trade agreement and non-free trade agreement nations.⁹

II. DESCRIPTION OF CHANGE IN CORPORATE OWNERSHIP

DECP is a wholly-owned, indirect subsidiary of Dominion Energy, Inc. (DEI), a Virginia corporation. DECP states that 75% of its limited partnership interest is currently owned by Dominion MLP Holding Company II, LLC (Dominion MLP Holding), a Virginia limited liability company that is a wholly-owned, direct subsidiary of Dominion Energy Gas Holdings, LLC, which in turn is a wholly-owned subsidiary of DEI. The remaining 25% of DECP's limited partnership interest is owned by Bowie Acquisitions LLC, an affiliate of Brookfield Asset Management Inc. (Brookfield). The general partnership interest in DECP is currently held by Cove Point GP Holding Company, LLC (Cove Point GP), a Delaware limited liability company and a wholly-owned, direct subsidiary of Dominion MLP Holding.¹⁰

DECP provides notification of a planned transaction in which Berkshire Hathaway Energy Company (BHE), an Iowa corporation and a subsidiary of Berkshire Hathaway Inc. (a Delaware corporation), “will become the indirect owner of the entire general partnership interest in DECP, and of twenty-five percent (25%) of DECP’s limited partnership interest.”¹¹ DECP states that 50% of its limited partnership interest will continue to be owned directly or indirectly by DEI.

Terminal to Free Trade Agreement Nations (Oct. 7, 2011), *amended by* DOE/FE Order No. 3019-A (Aug. 4, 2017) (amending authorization to reflect corporate name change to DECP).

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.

⁶ *Dominion Energy Cove Point LNG, LP*, DOE/FE Order No. 3331-A, FE Docket No. 11-128-LNG, Final Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel From the Cove Point LNG Terminal in Calvert County, Maryland, to Non-Free Trade Agreement Nations (May 7, 2015), *reh’g denied*, DOE/FE Order No. 3331-B (Apr. 18, 2016), *amended by* DOE/FE Order No. 3331-C (Aug. 4, 2017) (amending authorization to reflect corporate name change to DECP).

⁷ 15 U.S.C. § 717b(a).

⁸ *Dominion Energy Cove Point LNG, LP*, DOE/FE Order No. 4320, FE Docket No. 18-180-LNG, Order Granting Blanket Authorization to Import Liquefied Natural Gas From Various International Sources by Vessel (Dec. 11, 2018).

⁹ *Dominion Energy Cove Point LNG, LP*, DOE/FE Order No. 4508, FE Docket No. 19-156-LNG, Order Granting Blanket Authorization to Export Liquefied Natural Gas to Free Trade Agreement and Non-Free Trade Agreement Nations (Feb. 28, 2020).

¹⁰ DECP Notification at 3.

¹¹ *Id.* at 4.

Brookfield will continue to own the remaining 25% of DECP's limited partnership interest through Bowie Acquisitions LLC.¹²

According to DECP, BHE is acquiring these interests in DECP as part of a larger transaction, with an enterprise value of approximately \$9.7 billion, involving the acquisition by BHE of a number of subsidiaries of DEI, pursuant to a Purchase and Sale Agreement dated as of July 3, 2020.¹³ DECP states that BHE and DEI plan to close that transaction during the fourth quarter of 2020, and to effectuate the change in control of DECP at that time.¹⁴

DECP states that, although it will remain the holder of the DOE/FE authorizations, BHE expects to change the name of the entity and will submit a future filing to DOE/FE to effectuate the name change for its export and import authorizations.¹⁵

DECP further states that BHE generally will have day-to-day management and control of DECP.¹⁶ Specifically, BHE will operate the Terminal after the closing, but there will be no change in any aspect of DECP's export and import operations. DECP states that all of its commercial agreements with its customers will remain in effect and unaltered, and its key employees currently involved in DECP's operations will either remain employees of DECP, or otherwise will transfer to BHE following the transaction.¹⁷

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.¹⁸ 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.¹⁹

A. LNG Import and FTA Export Authorizations

DOE/FE's Change in Control Procedures provide that, upon receipt of a statement of change in control relating to existing LNG import and FTA export authorizations, DOE will give immediate effect to the change in control and will take no further action.²⁰ Accordingly, the

¹² *Id.*

¹³ *Id.* at 1.

¹⁴ *Id.* at 1, 4. A chart showing the revised corporate structure to be in effect following the closing of the transaction is attached to the DECP Notification as Attachment A.

¹⁵ *Id.* at 4.

¹⁶ DECP Notification at 4.

¹⁷ *Id.*

¹⁸ See DOE/FE Change in Control Procedures, 79 Fed. Reg. at 65,542.

¹⁹ See *id.*

²⁰ See *id.*

change in control described above has taken effect insofar as it relates to DOE/FE Order No. 3019, Order No. 4320, and the FTA portion of Order No. 4508.

B. Non-FTA Export Authorizations

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*.²¹ 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*.²²

Consistent with these procedures, DOE published a notice of DECP's change in control in the *Federal Register* on July 22, 2020 (Notice).²³ DOE/FE invited protests, motions to intervene, and written comments to be filed no later than August 6, 2020.²⁴ 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 change in control with respect to DOE/FE Order No. 3331-A and the non-FTA portion of Order No. 4508 is deemed granted. No further action is required.

Sincerely,

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

²¹ *See id.*

²² *See id.*

²³ U.S. Dep't of Energy, Notice of Change in Control, Dominion Energy Cove Point LNG, LP, 85 Fed. Reg. 44,288 (July 22, 2020).

²⁴ *See id.*