

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

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LAKE CHARLES EXPORTS, LLC	)	FE DOCKET NOS.	11-59-LNG
	)		16-110-LNG
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ORDER GRANTING APPLICATION TO AMEND  
LONG-TERM AUTHORIZATIONS

DOE/FE ORDER NO. 2987-A  
DOE/FE ORDER NO. 3324-B  
DOE/FE ORDER NO. 4011-A

OCTOBER 6, 2020

## I. INTRODUCTION AND BACKGROUND

On March 4, 2020, Lake Charles Exports, LLC (LCE) filed with the Office of Fossil Energy (FE) of the Department of Energy (DOE) an application (Application)<sup>1</sup> under section 3 of the Natural Gas Act (NGA).<sup>2</sup> In the Application, LCE asks DOE to amend its three existing long-term authorizations to export domestically produced liquefied natural gas (LNG) from the Lake Charles Terminal in Lake Charles, Louisiana, as set forth below.

LCE holds the following long-term authorizations from DOE/FE:

- DOE/FE Order No. 2987,<sup>3</sup> authorizing the export of LNG in a volume equivalent to 730 billion cubic feet per year (Bcf/yr) of natural gas for a 25-year term to any country with which the United States has entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas (FTA countries), pursuant to NGA section 3(c);<sup>4</sup>
- DOE/FE Order No. 3324-A,<sup>5</sup> authorizing the export of LNG in a volume equivalent to 730 Bcf/yr of natural gas for a 20-year term 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);<sup>6</sup> and

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<sup>1</sup> Lake Charles Exports, LLC, Application for Amendment of Long-Term Authorizations to Export Liquefied Natural Gas to Free Trade Agreement and Non-Free Trade Agreement Countries, FE Docket Nos. 11-59-LNG & 16-110-LNG (Mar. 4, 2020) [hereinafter App.].

<sup>2</sup> The authority to regulate the imports and exports of natural gas, including liquefied natural gas, under section 3 of the NGA (15 U.S.C. § 717b) has been delegated to the Assistant Secretary for FE in Redelegation Order No. 00-002.04G, issued on June 4, 2019.

<sup>3</sup> *Lake Charles Exports, LLC*, DOE/FE Order No. 2987, FE Docket No. 11-59-LNG, Order Granting Long-Term Authorization to Export Liquefied Natural Gas by Vessel from the Lake Charles Terminal to Free Trade Agreement Nations (July 22, 2011).

<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> *Lake Charles Exports, LLC*, DOE/FE Order No. 3324-A, FE Docket No. 11-59-LNG, Final Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Lake Charles Terminal in Calcasieu Parish, Louisiana, to Non-Free Trade Agreement Nations (July 29, 2016).

<sup>6</sup> 15 U.S.C. § 717b(a).

- DOE/FE Order No. 4011,<sup>7</sup> a consolidated order authorizing the export of LNG in a volume equivalent 121 Bcf/yr to FTA countries for a 25-year term and to non-FTA countries for a 20-year term (on a non-additive basis).<sup>8</sup>

In 2015, the Federal Energy Regulatory Commission (FERC) issued an order approving the Lake Charles Terminal liquefaction facilities (Liquefaction Project) and set December 16, 2020, as the deadline for construction.<sup>9</sup> On December 5, 2019, FERC issued an order (FERC Extension Order) extending the deadline for LCE's affiliates to construct the Liquefaction Project and a related pipeline modification project until December 16, 2025.<sup>10</sup> In light of the FERC Extension Order, LCE asks DOE/FE to amend its DOE/FE export authorizations as follows:

- DOE/FE Order No. 2987, to amend the term of export authorization from 25 years to 30 years, commencing on the earlier of (i) the date of first export, or (ii) 10 years from the date the amended authorization is issued;
- DOE/FE Order No. 3324-A, to amend the commencement of operations deadline (currently July 29, 2023) to December 16, 2025, to align with the FERC Extension Order;
- DOE/FE Order No. 4011
  - FTA authorization, to amend the term of export authorization from 25 years to 30 years, commencing on the earlier of (i) the date of first export, or (ii) 10 years from the date the amended authorization is issued; and
  - Non-FTA authorization, to amend the commencement of operations deadline (currently June 29, 2024) to December 16, 2025, to align with the FERC Extension Order.<sup>11</sup>

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<sup>7</sup> *Lake Charles Exports, LLC*, DOE/FE Order No. 4011, FE Docket No. 16-110-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Lake Charles Terminal in Lake Charles, Louisiana, to Free Trade Agreement and Non-Free Trade Agreement Nations (June 29, 2017).

<sup>8</sup> App. at 1-2. Under these three orders, LCE is authorized to export a total of 851 Bcf/yr to FTA and non-FTA countries on a non-additive basis.

<sup>9</sup> *Id.* at 2 (citing *Trunkline Gas Co., LLC, et al.*, 153 FERC ¶ 61,300 (Ordering Para. L) (2015) [hereinafter 2015 FERC Order], *order denying reh'g*, 155 FERC ¶ 61,328 (2016)).

<sup>10</sup> *Trunkline Gas Co., LLC, et al.*, Letter Order, FERC Docket Nos. CP14-119-000, *et al.* (Dec. 5, 2019) [hereinafter FERC Extension Order] (attached as Appendix A to App.).

<sup>11</sup> App. at 3-4.

In sum, the Application, if granted, would extend the export term of both FTA authorizations by five years, and would extend the commencement deadlines for LCE's non-FTA authorizations by approximately 28.5 months for Order No. 3324-A and by approximately 17.5 months for the non-FTA portion of Order No. 4011.

Below, DOE/FE grants LCE's Application. Specifically, DOE/FE grants the Application to extend the export term for LCE's FTA authorizations (Order No. 2987 and the FTA portion of Order No. 4011) under NGA section 3(c), 15 U.S.C. § 717b(c). Section 3(c) was amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486) to require that FTA applications "shall be deemed to be consistent with the public interest" and granted "without modification or delay."<sup>12</sup> The FTA portion of the Application falls within NGA section 3(c) and, therefore, DOE/FE approves the requested FTA term extension for Order No. 2987 and the FTA portion of Order No. 4011 without modification or delay. Accordingly, none of the public interest analysis discussed below applies to the FTA portion of the Application.

Additionally, DOE/FE has reviewed the portion of LCE's Application requesting to amend the commencement of operations deadlines for its non-FTA authorizations (Order No. 3324-A and the non-FTA portion of Order No. 4011) under NGA section 3(a), 15 U.S.C. § 717b(a). On April 3, 2020, DOE/FE published a Notice of Application for the non-FTA portion of LCE's Application in the *Federal Register*.<sup>13</sup> DOE/FE invited the public to submit protests, motions to intervene, and comments in response to the Application no later than April 20, 2020. DOE/FE received one anonymous comment on April 18, 2020, but that comment was non-responsive.<sup>14</sup> Accordingly, the Application is uncontested. Based on the record in this

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<sup>12</sup> 15 U.S.C. § 717b(c).

<sup>13</sup> U.S. Dep't of Energy, Lake Charles Exports, LLC; Application to Amend Existing Long-Term Authorizations to Export Liquefied Natural Gas to Non-Free Trade Agreement Countries, 85 Fed. Reg. 18,944 (Apr. 3, 2020).

<sup>14</sup> See Anonymous Comment, FE Docket No. 16-110-LNG (Apr. 18, 2020).

proceeding, including the FERC Extension Order, DOE/FE approves LCE’s request to extend the non-FTA commencement deadlines.

## **II. APPLICANT’S PUBLIC INTEREST ANALYSIS**

LCE requests the existing commencement of operations date for its two non-FTA authorizations—DOE/FE Order Nos. 3324-A and the non-FTA portion of Order No. 4011—“be extended to December 16, 2025 to align with the FERC Extension Order.”<sup>15</sup>

As support for the requested non-FTA amendments, LCE states that the sponsors of the Liquefaction Project have been “actively progressing the Project” following an unforeseen construction delay resulting from a commercial merger in LCE’s corporate ownership.<sup>16</sup> LCE states that, to date, the Project sponsors have taken the following actions:

- Obtained all required federal, state, and local authorizations and permits;
- Secured all LNG export terminal land rights;
- Taken steps toward construction, including tree-clearing and drilling of test piles;
- Completed front-end engineering and design;
- Issued a commercial tender inviting engineering, procurement, and contracting (EPC) contractors to bid for a lump-sum turnkey contract for the construction, commissioning, and start-up of the Liquefaction Project, with the decision on the EPC contractor expected in 2020;
- Incurred in excess of \$300 million in development costs; and
- Approved additional expenditures of approximately \$150 million in development costs to be incurred prior to the final investment decision (FID).<sup>17</sup>

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<sup>15</sup> App. at 5; *see also id.* at 2, 8, Appendix A.

<sup>16</sup> App. at 5-6. LCE previously informed DOE/FE of this change in corporate ownership. *See id.* at 6 n.12.

<sup>17</sup> *Id.* at 5-7.

LCE anticipates completion of construction of the Liquefaction Project “as early as the second half of 2025.”<sup>18</sup> Accordingly, LCE asserts that, before taking FID, it is vital that sponsors have assurances that all DOE/FE authorizations will remain valid until 2025.<sup>19</sup>

Finally, LCE asserts that “the public interest would be served by granting the extension and realizing the benefits of the proposed exports as contemplated in the original export authorization orders.”<sup>20</sup>

### **III. DISCUSSION FOR NON-FTA AUTHORIZATIONS**

DOE/FE finds good cause to grant the Application to amend LCE’s long-term non-FTA authorizations. First, DOE/FE notes that FERC already has extended the in-service deadline for the Liquefaction Project through December 16, 2025.<sup>21</sup> Additionally, we agree with LCE that extending the deadline for it to commence non-FTA exports under DOE/FE Order Nos. 3324-A and 4011 (by approximately 28.5 and 17.5 months, respectively) does not alter DOE/FE’s public interest determination in granting the authorizations under NGA section 3(a). No facts associated with LCE’s original applications, and no requirements of the non-FTA authorizations, are affected by this extension beyond the additional time period for LCE to commence export operations. LCE is working to complete the export facilities necessary to commence its approved exports, which promotes the public interest under NGA section 3(a).

According to LCE, construction of the Liquefaction Project likely will not be completed until the second half of 2025, at the earliest.<sup>22</sup> Without the requested extension of the commencement deadlines, the non-FTA authorizations would lapse before construction of the

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<sup>18</sup> *Id.* at 7.

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

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 2; *see also* FERC Extension Order (Appendix A to App.) at 1-2.

<sup>22</sup> App. at 7.

Liquefaction Project is completed.<sup>23</sup> Therefore, absent the requested amendments to both non-FTA orders, the Liquefaction Project likely would fail.<sup>24</sup>

Finally, the Application is unopposed. No arguments have been presented to counter LCE's representations in favor of granting the Application.

On the basis of the foregoing, we find that granting the non-FTA portion of the Application has not been shown to be inconsistent with the public interest under NGA section 3(a).

### **ORDER**

Pursuant to section 3 of the Natural Gas Act (15 U.S.C. § 717b), DOE/FE hereby orders that:

A. **DOE/FE Order No. 2987 (FE Docket No. 11-59-LNG, FTA Authorization).**

Ordering Paragraph A of DOE/FE Order No. 2987 is amended to state as follows:

Lake Charles Exports, LLC (LCE) is authorized to export domestically produced LNG by vessel from the Lake Charles Terminal in a volume up to the equivalent of approximately 2 Bcf/d for a 30-year term commencing on the earlier of (i) the date of first export, or (ii) 10 years from the date the amended authorization is issued, pursuant to a long-term contract with BGLS that does not exceed the term of this authorization.

This amended Ordering Paragraph A supersedes Ordering Paragraph A in DOE/FE Order No. 2987 in its entirety.

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<sup>23</sup> The current commencement of operations deadlines under DOE/FE Order No. 3324-A and the non-FTA portion of Order No. 4011 are July 29, 2023, and June 29, 2024, respectively. *See id.* at 3-4.

<sup>24</sup> *See id.* at 7 (explaining importance of maintaining authorizations to reach FID).

B. **DOE/FE Order No. 3324-A (FE Docket No. 11-59-LNG, Non-FTA**

**Authorization)**. Ordering Paragraph D of DOE/FE Order No. 3324-A is amended to state as follows:

LCE must commence export operations using the planned liquefaction facilities no later than December 16, 2025.

This amended Ordering Paragraph D supersedes Ordering Paragraph D in Order No. 3324-A in its entirety.<sup>25</sup>

C. **DOE/FE Order No. 4011 (FE Docket No. 16-110-LNG, Consolidated FTA and Non-FTA Authorization)**.

1. Term and Condition A of DOE/FE Order No. 4011 (“Term of the Authorizations”) is amended to state as follows:

For the FTA authorization, LCE requests a 30-year term.

We grant that request without modification as required by NGA section 3(c), 15 U.S.C. § 717b(c). The 30-year term will commence on the earlier of (i) the date of first export, or (ii) 10 years from the date the amended authorization is issued.

For the non-FTA authorization, LCE requests a 20-year term commencing on the date of first export. This term is consistent with our practice in the non-FTA export authorizations issued to date, including LCE’s authorization in DOE/FE Order No. 3324-A. The 20-year term must commence no later than December 16, 2025.

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<sup>25</sup> This amendment renders moot Term and Condition (B) of Order No. 3324-A, “Commencement of Operations Within Seven Years.” See *Lake Charles Exports, LLC*, DOE/FE Order No. 3324-A, at 144-45.

This amended Term and Condition Paragraph A supersedes Term and Condition Paragraph A in DOE/FE Order No. 4011 in its entirety.

2. Ordering Paragraph C of DOE/FE Order No. 4011 is amended to state as follows:

The 30-year period for the FTA authorization will commence on the earlier of (i) the date of first export, or (ii) 10 years from the date the amended authorization is issued. The 20-year period for the non-FTA authorization must commence no later than December 16, 2025.

LCE may export Commissioning Volumes prior to the commencement of the terms of this Order, pursuant to a separate short-term export authorization. The Commissioning Volumes will not be counted against the maximum level of volume authorized in any of LCE's existing FTA and non-FTA orders, including this Order.

This amended Ordering Paragraph C supersedes Ordering Paragraph C in Order No. 4011 in its entirety.

3. Ordering Paragraph D of DOE/FE Order No. 4011 is amended to state as follows:

LCE may continue exporting for a total of three years following the end of the 30-year FTA export term and 20-year non-FTA export term, solely to export any Make-Up Volume that it was unable to export during the original export period. The three-year Make-Up Period allowing the export of Make-Up Volumes does not affect or modify the maximum volume of LNG authorized for export in any

of LCE's existing FTA and non-FTA orders, including this Order. Insofar as LCE may seek to export additional volumes not previously authorized for export, it will be required to obtain appropriate authorization from DOE/FE.

This amended Ordering Paragraph D supersedes Ordering Paragraph D in Order No. 4011 in its entirety.

4. Ordering Paragraph E of DOE/FE Order No. 4011 is amended to state as follows:

For the FTA authorization, LCE must commence export operations using the planned liquefaction facilities no later than 10 years from the date the amended authorization is issued.

For the non-FTA authorization, LCE must commence export operations using the planned liquefaction facilities no later than December 16, 2025.

This amended Ordering Paragraph E supersedes Ordering Paragraph E in in Order No. 4011 in its entirety.<sup>26</sup>

D. All other obligations, rights, and responsibilities established by DOE/FE Order Nos. 2987, 3324-A, and 4011, as amended, remain in effect.

Issued in Washington, D.C., on October 6, 2020.



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Steven Eric Winberg  
Assistant Secretary  
Office of Fossil Energy

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<sup>26</sup> This amendment renders moot Term and Condition (B) of Order No. 4011, "Commencement of Operations." See *Lake Charles Exports, LLC*, DOE/FE Order No. 4011, at 47.