

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

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LAKE CHARLES LNG EXPORT  
COMPANY, LLC

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FE DOCKET NOS. 13-04-LNG  
16-109-LNG

ORDER GRANTING APPLICATION  
FOR EXTENSION OF COMMENCEMENT DEADLINES

DOE/FE ORDER NO. 3252-B  
DOE/FE ORDER NO. 3868-A  
DOE/FE ORDER NO. 4010-A

OCTOBER 6, 2020

## **I. INTRODUCTION AND BACKGROUND**

On March 4, 2020, Lake Charles LNG Export Company, LLC (Lake Charles LNG Export) 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, Lake Charles LNG Export 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. 3252,<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. 3868,<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 LNG Export Co., 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. 13-04-LNG & 16-109-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 LNG Export Co., LLC*, DOE/FE Order No. 3252, FE Docket No. 13-04-LNG, Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Lake Charles Terminal to Free Trade Agreement Nations (Mar. 7, 2013), *amended by* DOE/FE Order No. 3252-A (Mar. 18, 2015) (amending authorization to reflect corporate name change to Lake Charles LNG Export).

<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 LNG Export Co., LLC*, DOE/FE Order No. 3868, FE Docket No. 13-04-LNG, 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. 4010,<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 Lake Charles LNG Export and its 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. 3252, 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. 3868, 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. 4010
  - 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 LNG Export Co., LLC*, DOE/FE Order No. 4010, FE Docket No. 16-109-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, Lake Charles LNG Export 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 for Lake Charles LNG Export's FTA authorizations (DOE/FE Order No. 3252 and the FTA portion of Order No. 4010) by five years. Additionally, it would extend the commencement deadlines for Lake Charles LNG Export's non-FTA authorizations by approximately 28.5 months for Order No. 3868 and by approximately 17.5 months for the non-FTA portion of Order No. 4010.

Below, DOE/FE grants Lake Charles LNG Export's Application. Specifically, DOE/FE grants the Application to extend the export term for Lake Charles LNG Export's FTA authorizations (Order No. 3252 and the FTA portion of Order No. 4010) 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. 3252 and the FTA portion of Order No. 4010 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 Lake Charles LNG Export's Application requesting to amend the commencement of operations deadlines for its non-FTA authorizations (Order No. 3868 and the non-FTA portion of Order No. 4010) 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 Lake Charles LNG Export'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

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<sup>12</sup> 15 U.S.C. § 717b(c).

<sup>13</sup> U.S. Dep't of Energy, Lake Charles LNG Export Co., LLC; Application to Amend Existing Long-Term Authorizations to Export Liquefied Natural Gas to Non-Free Trade Agreement Countries, 85 Fed. Reg. 18,946 (Apr. 3, 2020).

the Application no later than April 20, 2020. DOE/FE received four comments in response to the notice, and all four comments were non-responsive.<sup>14</sup> Accordingly, the Application is uncontested. Based on the record in this proceeding, including the FERC Extension Order, DOE/FE approves Lake Charles LNG Export’s request to extend the non-FTA commencement deadlines.

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

Lake Charles LNG Export requests the existing commencement of operations date for its two non-FTA authorizations—DOE/FE Order Nos. 3868 and the non-FTA portion of Order No. 4010—“be extended to December 16, 2025 to align with the FERC Extension Order.”<sup>15</sup>

As support for the requested non-FTA amendments, Lake Charles LNG Export 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> Lake Charles LNG Export 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;

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<sup>14</sup> See Comment of Jean Public, FE Docket No. 16-110-LNG (Apr. 3, 2020); Anonymous Comment, FE Docket No. 16-110-LNG (Apr. 3, 2020); Comment of Martin Ritter, FE Docket No. 16-110-LNG (Apr. 19, 2020); and Comment of Aaron Ahern, FE Docket No. 16-110-LNG (Apr. 20, 2020).

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

<sup>16</sup> App. at 5-6. Lake Charles LNG Export previously informed DOE/FE of this change in corporate ownership. *See id.* at 6 n.13.

- 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>

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 Lake Charles LNG Export’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 Lake Charles LNG Export that extending the deadline for it to commence non-FTA exports under DOE/FE Order Nos. 3868 and 4010 (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 Lake Charles LNG Export’s original applications, and no requirements of the non-FTA authorizations, are affected by this extension beyond the additional time period for Lake Charles LNG Export to commence export operations. Lake Charles LNG Export is working to complete the export facilities necessary to commence its approved exports, which promotes the public interest under NGA section 3(a).

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

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

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

<sup>20</sup> *Id.* at 9.

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

According to Lake Charles LNG Export, 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 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 Lake Charles LNG Export'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. 3252 (FE Docket No. 13-04-LNG, FTA Authorization).**

Ordering Paragraph A of DOE/FE Order No. 3252, as amended by Order No. 3252-A, is further amended to state as follows:

Lake Charles LNG Export Company, LLC (Lake Charles LNG Export) is authorized to export domestically produced LNG by vessel from the Lake Charles Terminal located in Lake Charles, Louisiana, in a volume up to the equivalent of 730 Bcf/yr of natural gas for a 30-year term commencing on the earlier of (i) the date of first export, or (ii)

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

<sup>23</sup> The current commencement of operations deadlines under DOE/FE Order No. 3868 and the non-FTA portion of Order No. 4010 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).

10 years from the date the amended authorization is issued. Lake Charles LNG Export is authorized to export the LNG on its own behalf and as agent for other entities who hold title to the natural gas, pursuant to one or more long-term contracts (a contract greater than two years).

This amended Ordering Paragraph A supersedes Ordering Paragraph A in DOE/FE Order No. 3252, as amended by Order No. 3252-A, in its entirety.

B. **DOE/FE Order No. 3868 (FE Docket No. 13-04-LNG, Non-FTA Authorization)**. Ordering Paragraph D of DOE/FE Order No. 3868 is amended to state as follows:

Lake Charles LNG Export 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. 3868 in its entirety.<sup>25</sup>

C. **DOE/FE Order No. 4010 (FE Docket No. 16-109-LNG, Consolidated FTA and Non-FTA Authorization)**.

1. Term and Condition A of DOE/FE Order No. 4010 (“Term of the Authorizations”) is amended to state as follows:

For the FTA authorization, Lake Charles LNG Export 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

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<sup>25</sup> This amendment renders moot Term and Condition (B) of Order No. 3868, “Commencement of Operations Within Seven Years.” See *Lake Charles LNG Export Co., LLC*, DOE/FE Order No. 3868, at 156.



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, Lake Charles LNG Export 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 Lake Charles LNG Export's authorization in DOE/FE Order No. 3868. The 20-year term must commence no later than December 16, 2025.

This amended Term and Condition Paragraph A supersedes Term and Condition Paragraph A in DOE/FE Order No. 4010 in its entirety.

2. Ordering Paragraph C of DOE/FE Order No. 4010 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.

Lake Charles LNG Export 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 Lake Charles LNG Export's existing FTA and non-FTA orders, including this Order.

This amended Ordering Paragraph C supersedes Ordering Paragraph C in Order No. 4010 in its entirety.

3. Ordering Paragraph D of DOE/FE Order No. 4010 is amended to state as follows:

Lake Charles LNG Export 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 Lake Charles LNG Export's existing FTA and non-FTA orders, including this Order. Insofar as Lake Charles LNG Export 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. 4010 in its entirety.

4. Ordering Paragraph E of DOE/FE Order No. 4010 is amended to state as follows:

For the FTA authorization, Lake Charles LNG Export 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, Lake Charles LNG Export 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 Order No. 4010 in its entirety.<sup>26</sup>

D. All other obligations, rights, and responsibilities established by DOE/FE Order Nos. 3252, 3868, and 4010, 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. 4010, “Commencement of Operations.” See *Lake Charles LNG Export Co., LLC*, DOE/FE Order No. 4010, at 48-49.