

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY AND CARBON MANAGEMENT

AIR FLOW NORTH AMERICA CORP.)
_____)

DOCKET NO. 14-206-LNG

ORDER VACATING LONG-TERM AUTHORIZATION TO EXPORT LIQUEFIED
NATURAL GAS TO NON-FREE TRADE AGREEMENT NATIONS IN CENTRAL
AMERICA, SOUTH AMERICA, THE CARIBBEAN, OR AFRICA

DOE/FECM ORDER NO. 3753-A

DECEMBER 30, 2021

I. INTRODUCTION

On December 4, 2015, in Order No. 3753 (Order),¹ the Department of Energy's (DOE) Office of Fossil Energy (now the Office of Fossil Energy and Carbon Management)² granted a long-term authorization to Air Flow North America Corp. (Air Flow) under section 3(a) of the Natural Gas Act (NGA).³ Under that Order, DOE authorized Air Flow to export domestically produced liquefied natural gas (LNG) in a volume up to the equivalent of 0.67 billion cubic feet per year (Bcf/yr) of natural gas.⁴ Air Flow was authorized to export this LNG in approved ISO containers loaded at the Clean Energy Fuels Corp. Facility (the Facility) in Willis, Texas, to any country in Central America, South America, the Caribbean, or Africa with which the United States does not have a free trade agreement (FTA) requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (non-FTA countries).⁵ This non-FTA authorization was for a term of 20 years to commence on the date of first commercial export.⁶

To ensure that Order No. 3753 was not inconsistent with the public interest under NGA section 3(a), DOE included various Terms and Conditions and Ordering Paragraphs.⁷ As relevant here, Ordering Paragraph C of the Order stated that "Air Flow must commence export operations using the Facility no later than five years from the date of issuance of this Order

¹ *Air Flow North America Corp.*, DOE/FE Order No. 3753, Docket No. 14-206-LNG, Final Opinion and Order Granting Long-Term, Multi Contract Authorization to Export Liquefied Natural Gas in ISO Containers Loaded at the Clean Energy Fuels Corp. LNG Production Facility in Willis, Texas, and Exported by Vessel to Non-Free Trade Agreement Nations in Central America, South America, the Caribbean, or Africa (Dec. 4, 2015), available at: <https://www.energy.gov/sites/prod/files/2015/12/f27/ord3753.pdf>.

² The Office of Fossil Energy changed its name to the Office of Fossil Energy and Carbon Management on July 4, 2021.

³ 15 U.S.C. § 717b(a). 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 FECM in Redelegation Order No. S4-DEL-FE1-2021, issued on March 25, 2021.

⁴ See *Air Flow North America Corp.*, DOE/FE Order No. 3753, at 29-30.

⁵ See *id.* at 30.

⁶ *Id.*

⁷ *Id.* at 26, 29.

(December 4, 2020).”⁸ Additionally, Ordering Paragraph I required Air Flow to file with DOE, “on a semi-annual basis, written reports identifying the date the exports authorized by this Order are expected to commence,” as well as the status of contracts relevant to Air Flow’s export of LNG.⁹

II. DISCUSSION

In issuing Order No. 3753 under NGA section 3(a), DOE required (at Air Flow’s request) that Air Flow commence commercial LNG export operations no later than five years from the date of issuance of the Order—*i.e.*, by December 4, 2020.¹⁰ Air Flow did not commence exports by that date as directed by Ordering Paragraph C, nor has it contacted DOE about this requirement.

Additionally, Air Flow last filed a semi-annual report on September 25, 2020.¹¹ It did not file its semi-annual reports due on April 1 and October 1, 2021, and thus has not complied with Ordering Paragraph I.

On various dates in March and April 2021, DOE emailed Air Flow.¹² A representative for Air Flow responded to DOE on March 23 and March 24, 2021, to provide new contact information only.¹³ Air Flow has not been in touch with DOE since its March 24, 2021 email.

⁸ *Id.* at 30; *see also id.* at 27 (Term and Condition B, “Commencement of Operations Within Five Years”).

⁹ *See id.* at 32.

¹⁰ *See Air Flow North America Corp.*, DOE/FE Order No. 3753, at 27, 30.

¹¹ Air Flow North America Corp., Semi-Annual Report, Docket No. 14-206-LNG (received Sept. 25, 2020), *available at*:

<https://www.energy.gov/sites/default/files/2020/09/f79/Semi%20Annual%20report%20OCT%202020%20Air%20Flow.pdf>.

¹² DOE’s initial attempt to email the contact identified in Air Flow’s application for the official service list was unsuccessful, as the email was returned for delivery failure. Upon DOE’s additional outreach efforts, Air Flow provided new contacts via email. *See* Email Correspondence from DOE to Air Flow North America Corp., Docket No. 14-206-LNG (various dates), *available at*: <https://www.energy.gov/fecm/downloads/air-flow-north-america-corp-fe-dkt-no-14-206-lng>.

¹³ *See id.* (Emails from Carlos Castañeda, Air Flow, to Peri Ulrey, DOE (Mar. 23 and 24, 2021)).

III. FINDINGS

For the reasons stated above, DOE finds that Air Flow has not complied with Ordering Paragraphs C and I, and Term and Condition B, of Order No. 3753, as well as DOE's regulations.¹⁴ In particular, because Air Flow did not commence exports by the December 4, 2020 commencement deadline, the export authorization granted in Order No. 3753 has expired. In the intervening year, Air Flow has provided new contact information at DOE's request, but has not inquired about the Order or otherwise acknowledged its missed export commencement deadline and missed semi-annual reporting requirements for 2021. In sum, DOE finds that Air Flow has not indicated an interest in maintaining its export authorization.

Under section 16 of the NGA, DOE is authorized "to prescribe, issue, make, amend, and rescind such orders, rules, and regulations as it may find necessary or appropriate" to carry out its responsibilities.¹⁵ Pursuant to this authority, DOE finds it necessary and appropriate to vacate Order No. 3753. This action is taken without prejudice, should Air Flow wish to file an application requesting export authorization in the future.

ORDER

Pursuant to sections 3(a) and 16 of the Natural Gas Act, it is ordered that:

A. Air Flow North America Corp.'s authorization to export LNG to non-FTA countries granted in DOE/FE Order No. 3753 (Docket No. 14-206-LNG) is vacated; and

¹⁴ See 10 C.F.R. § 590.406 ("Compliance with orders").

¹⁵ 15 U.S.C. § 717o.

B. The administrative record for this docket is closed, effective immediately.

Issued in Washington, D.C., on December 30, 2021.

Amy R. Sweeney
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