



Department of Energy
Washington, DC 20585

September 23, 2022

Via Email

Thomas E. Knight
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RE: Notice of Change in Control
Lake Charles Exports, LLC
Docket Nos. 11-59-LNG, 16-110-LNG

Dear Mr. Knight:

This correspondence constitutes the response of the Department of Energy (DOE), Office of Fossil Energy and Carbon Management (FECM),¹ to the Notice of Change in Control filed on behalf of your client, Lake Charles Exports, LLC (LCE), on May 17, 2022.² LCE provides notice of a change in its upstream ownership, in light of DOE's Change in Control Procedures.³

I. BACKGROUND

LCE is authorized to export domestically produced liquefied natural gas (LNG) from the proposed Lake Charles Terminal under the following three long-term export orders (and subsequent amendments, as applicable), issued by DOE under section 3 of the Natural Gas Act (NGA)⁴:

¹ The Office of Fossil Energy changed its name to the Office of Fossil Energy and Carbon Management on July 4, 2021.

² Lake Charles Exports, LLC, Notice of Change in Control, Docket Nos. 11-59-LNG, 16-110-LNG (May 17, 2022), <https://www.energy.gov/sites/default/files/2022-06/Notice%20of%20change%20in%20control%20Lake%20Charles%20Exports%20LLC.pdf> [hereinafter Notice of Change in Control].

³ 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 Change in Control Procedures].

⁴ 15 U.S.C. § 717b.

- (i) DOE/FE Order No. 2987,⁵ as amended by Order No. 2987-A, authorizing exports to any country with which the United States has entered into, or in the future will have, a free trade agreement (FTA) requiring national treatment for trade in natural gas (FTA countries), in a total volume equivalent to 730 billion cubic feet per year (Bcf/yr) of natural gas for a 30-year term, under NGA section 3(c);⁶
- (ii) DOE/FE Order No. 3324-A, as amended by Order No. 3324-B,⁷ authorizing exports to any other country with which trade is not prohibited by U.S. law or policy (non-FTA countries), in a volume equivalent to 730 Bcf/yr of natural gas for a 20-year term, under NGA section 3(a).⁸
- (iii) DOE/FE Order No. 4011, as amended by Order No. 4011-A,⁹ a consolidated order authorizing the export of LNG in a volume equivalent 121 Bcf/yr to FTA countries for a 30-year term and to non-FTA countries for a 20-year term.

The proposed Lake Charles Terminal will be located in Lake Charles, Louisiana. Under these authorizations, as amended, the FTA volumes are not additive to the non-FTA volumes.¹⁰

II. DESCRIPTION OF CHANGE IN CORPORATE OWNERSHIP

In the Notice of Change in Control, LCE states that, by means of a transaction (Transaction) that closed on April 1, 2020, its ownership has changed.¹¹ LCE states that, prior to the Transaction, LCE was a joint venture between Energy Transfer Equity, L.P. (Energy Transfer) and Royal Dutch Shell plc (Shell).¹²

⁵ *Lake Charles Exports, LLC*, DOE/FE Order No. 2987, 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) *amended by* DOE/FE Order No. 2987-A (Oct. 6, 2020) (amending the term of export authorization).

⁶ 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.

⁷ *Lake Charles Exports, LLC*, DOE/FE Order No. 3324-A, 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) *amended by* DOE/FE Order No. 3324-B (Oct. 6, 2020) (amending the commencement of operations deadline).

⁸ 15 U.S.C. § 717b(a).

⁹ *Lake Charles Exports, LLC*, DOE/FE Order No. 4011, 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), *amended by* DOE/FE Order No. 4011-A (Oct. 6, 2020) (amending the term of FTA export authorization and amending the commencement of operations deadline of non-FTA authorization).

¹⁰ DOE notes that, on May 24, 2022, counsel for LCE filed an application asking DOE to amend these orders to extend the respective export terms through December 31, 2050. Further, on June 21, 2022, counsel for LCE filed an application requesting DOE to amend the non-FTA authorizations, DOE/FE Order No. 3324-A, as amended, and Order No. 4011, as amended, to extend the commencement of export operations deadline to December 16, 2028. Those applications remain under review.

¹¹ Notice of Change in Control at 2.

¹² *Id.* at 1-2.

LCE states that, on April 1, 2020, Energy Transfer acquired Shell's membership interests in LCE. Accordingly, LCE is now a wholly owned subsidiary of Energy Transfer.¹³

III. DISCUSSION AND CONCLUSIONS

DOE 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.¹⁴ 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.¹⁵

As noted above, upon the closing of the Transaction, Energy Transfer acquired Shell's membership interests in LCE. Accordingly, LCE is now a wholly owned subsidiary of Energy Transfer.¹⁶

A. FTA Export Authorizations

DOE's Change in Control 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.¹⁷ Accordingly, the change in control described above has taken effect insofar as it relates to LCE's FTA authorization, DOE/FE Order No. 2987, as amended, and the FTA portion of Order No. 4011, as amended.

B. Non-FTA Export Authorizations

DOE's Change in Control Procedures state that, with respect to existing non-FTA authorizations, DOE will give effect to the change in control and will publish a notice of the change in the *Federal Register*.¹⁸ 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*.¹⁹

Consistent with these procedures, DOE published a notice of LCE's change in control in the *Federal Register* on June 21, 2022 (Notice).²⁰ DOE invited protests, motions to intervene, and

¹³ Notice of Change in Control at 2.

¹⁴ See DOE Change in Control Procedures, 79 Fed. Reg. at 65,542.

¹⁵ *Id.*

¹⁶ Notice of Change in Control at 2.

¹⁷ DOE Change in Control Procedures, 79 Fed. Reg. at 65,542.

¹⁸ See *id.*

¹⁹ *Id.*

²⁰ U.S. Dep't of Energy, Notice of Change in Control; Lake Charles Exports, LLC, 87 Fed. Reg. 36,844 (Jun. 21, 2022).

written comments to be filed no later than July 6, 2022.²¹ DOE 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 LCE's non-FTA authorization, DOE/FE Order No. 3324-A, as amended, and the non-FTA portion of Order No. 4011, as amended, is deemed granted. No further action is required.

Sincerely,

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

²¹ *Id.*