

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

_____)	
LAKE CHARLES EXPORTS, LLC)	DOCKET NO. 11-59-LNG
_____)	DOCKET NO. 16-110 LNG

ORDER EXTENDING EXPORT TERM FOR AUTHORIZATIONS
TO FREE TRADE AND NON-FREE TRADE AGREEMENT
NATIONS THROUGH DECEMBER 31, 2050

DOE/FECM ORDER NO. 2987-B
DOE/FECM ORDER NO. 3324-E
DOE/FECM ORDER NO. 4011-D

NOVEMBER 1, 2023

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I. INTRODUCTION

On May 24, 2022, Lake Charles Exports, LLC (LCE) filed an application (Application)¹ with the Department of Energy’s (DOE) Office of Fossil Energy and Carbon Management (formerly the Office of Fossil Energy)² under section 3 of the Natural Gas Act (NGA).³ As explained below, LCE asks DOE to extend the export term set forth in its three long-term authorizations, pursuant to DOE’s policy statement entitled, “Extending Natural Gas Export Authorizations to Non-Free Trade Agreement Countries Through the Year 2050” (2050 Policy Statement).⁴

LCE is currently authorized to export domestically produced liquefied natural gas (LNG) by vessel from the proposed Lake Charles Terminal liquefaction facilities (Liquefaction Project or Project), to be constructed in Lake Charles, Louisiana, under the following orders and their amendments:

- (i) DOE/FE Order No. 2987,⁵ as amended, authorizing the export of LNG in a volume equivalent to 730 billion cubic feet per year (Bcf/yr) of natural gas 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), under NGA section 3(c);⁶

¹ Lake Charles Exports, LLC, Application to Amend Export Term for Existing Long-Term Authorizations Through December 31, 2050, Docket Nos. 11-59-LNG and 16-110-LNG (May 24, 2022) [hereinafter Application or App.].

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

³ 15 U.S.C. § 717b. The authority to regulate the imports and exports of natural gas, including LNG, under section 3 of the NGA has been delegated to the Assistant Secretary for FECM in Redelegation Order No. S4-DEL-FE1-2023, issued on April 10, 2023.

⁴ U.S. Dep’t of Energy, Extending Natural Gas Export Authorizations to Non-Free Trade Agreement Countries Through the Year 2050; Notice of Final Policy Statement and Response to Comments, 85 Fed. Reg. 52,237 (Aug. 25, 2020) [hereinafter 2050 Policy Statement].

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.

- (ii) DOE/FE Order No. 3324-A,⁷ as amended, authorizing the export of LNG in a volume equivalent to 730 Bcf/yr of natural gas to any other country with which trade is not prohibited by U.S. law or policy (non-FTA countries), under NGA section 3(a);⁸ and
- (iii) DOE/FE Order No. 4011,⁹ as amended, a consolidated order authorizing the export of LNG in an additional export volume equivalent to 121 Bcf/yr of natural gas to FTA and non-FTA countries.

These three orders authorize exports of LNG in a total combined volume equivalent to 851 Bcf/yr of natural gas to FTA and non-FTA countries on a non-additive basis.¹⁰ LCE is authorized to export these volumes for a 30-year term to FTA countries and for a 20-year term to non-FTA countries.¹¹

In the Application, LCE asks DOE to “grant an extension to the currently authorized export term of each of the [a]uthorizations through December 31, 2050 (inclusive of any make-up period), with an attendant increase in the total export volume over the life of the [a]uthorizations.”¹²

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) (extending export commencement deadline in non-FTA authorization), *requested amendment denied* by DOE/FECM Order No. 3324-C (Apr. 21, 2023) (denying second commencement extension), *reh’g denied*, DOE/FECM Order No. 3324-D (June 21, 2023).

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 extending export commencement deadline in non-FTA authorization), *requested amendment denied* by DOE/FECM Order No. 4011-B (Apr. 21, 2023) (denying second commencement extension), *reh’g denied*, DOE/FECM Order No. 4011-C (June 21, 2023).

¹⁰ *Lake Charles Exports, LLC*, DOE/FE Order No. 4011, Docket No. 16-110-LNG, at 53-54 (Terms & Conditions I and J).

¹¹ *See Lake Charles Exports, LLC*, DOE/FE Order No. 4011-A, Docket No. 16-110-LNG, at 7-10 (Terms & Conditions A and C).

¹² App. at 4. Although the 2050 Policy Statement does not apply to exports of natural gas to FTA countries under NGA section 3(c), 15 U.S.C. § 717b(c), DOE anticipated that authorization holders would seek to align their long-term FTA and non-FTA export terms through December 31, 2050, for administrative efficiencies. *See* 2050 Policy Statement, 85 Fed. Reg. at 52,238 n.3, 52,248.

DOE published a notice of the non-FTA portion of the Application in the *Federal Register* (Notice of Application).¹³ The Notice of Application invited interested persons to submit protests, motions to intervene, notices of intervention, and/or comments addressing the requested term extension by July 6, 2022.¹⁴ DOE received a “Notice of Intervention, Protest, and Comment” filed by the Industrial Energy Consumers of America (IECA)¹⁵ and a “Motion to Intervene and Protest” filed by Public Citizen, Inc. (Public Citizen)¹⁶ in response to the Notice of Application. LCE subsequently filed an Answer to the motions to intervene and protest.¹⁷ IECA responded to LCE’s Answer.¹⁸

In this Order, DOE grants LCE’s Application and authorizes the requested term extension for all three orders. Specifically, DOE grants the FTA portion of the Application under NGA section 3(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

¹³ U.S. Dep’t of Energy, Lake Charles Exports, LLC; Application to Amend Export Term Through December 31, 2050, for Existing Non-Free Trade Agreement Authorizations, 87 Fed. Reg. 36,842 (June 21, 2022) [hereinafter Notice of Application].

¹⁴ DOE finds that the requirement for public notice of applications and other hearing-type procedures in 10 C.F.R. Part 590 is applicable only to non-FTA applications under NGA section 3(a).

¹⁵ Industrial Energy Consumers of America, Notice of Intervention, Protest and Comment, Docket Nos. 11-59-LNG, 16-110-LNG, 13-04-LNG, 16-110-LNG [sic] (July 6, 2022) [hereinafter IECA Pleading]. Under DOE’s regulations, only a state commission may file a notice of intervention. *See* 10 C.F.R. §§ 590.303(a), (b), 590.102(q). Therefore, DOE construes IECA’s filing as a motion to intervene under 10 C.F.R. § 590.303(b). IECA filed the same Pleading in both Lake Charles Docket Nos. 16-109-LNG relating to Lake Charles LNG Export Company, LLC (Lake Charles LNG Export) and 16-110-LNG relating to Lake Charles Exports, LLC. However, its Pleading mistakenly listed docket number 16-110-LNG for the non-FTA portion of the Lake Charles LNG Export proceeding; the correct docket number is 16-109-LNG.

¹⁶ Public Citizen, Inc., Motion to Intervene and Protest of Public Citizen, Inc., Docket Nos. 11-59-LNG, 16-110-LNG, 13-04-LNG, 16-109-LNG (July 6, 2022) [hereinafter Public Citizen Motion].

¹⁷ Lake Charles Exports, LLC, Answer of Lake Charles Exports, LLC, and Lake Charles LNG Export Company, LLC to the Protests of the Industrial Energy Consumers of America, Public Citizen, Inc., and Sierra Club, Docket Nos. 11-59-LNG, 16-110-LNG, 13-04-LNG, and 16-109-LNG (July 21, 2022) [hereinafter Answer]. Sierra Club’s Motion to Intervene and Protest is not considered in this proceeding because it only filed its Motion to Intervene and Protest in Docket No. 13-04-LNG/16-109-LNG, a related proceeding to this one. *See infra* § III.

¹⁸ Response by the Industrial Energy Consumers of America to Lake Charles Exports, LLC and Lake Charles LNG Export Company, LLC, Docket Nos. 11-59-LNG, 16-110-LNG, 13-04-LNG, 16-109-LNG (Aug. 5, 2022) [hereinafter IECA Response to Answer].

interest” and granted “without modification or delay.”¹⁹ The FTA portion of the Application falls within NGA section 3(c) and, therefore, DOE approves the requested term extension to Order No. 2987 and the FTA portion of Order No. 4011, both as amended, without modification or delay. Accordingly, none of the public interest analysis discussed below applies to the FTA portion of the authorizations.

DOE also grants the non-FTA portion of the Application under NGA section 3(a), and, therefore, approves the requested term extension for Order No. 3324-A and the non-FTA portion of Order No. 4011, both as amended. As discussed below, DOE received two motions to intervene and protests in opposition to the Application. Subsequently, LCE filed its Answer on July 21, 2022.²⁰ IECA responded to LCE’s Answer.²¹ Upon review of the record in this proceeding, DOE finds that it has not been shown that the term extension for Order No. 3324-A and the non-FTA portion of Order No. 4011, both as amended, are inconsistent with the public interest, as would be required to deny the non-FTA portion of the Application under NGA section 3(a).

In sum, DOE is amending Order Nos. 2987, 3324-A, and 4011, in each case, as amended, where applicable, to extend the existing export term in each authorization through December 31, 2050 (inclusive of any make-up period), with an attendant increase in the total export volume over the life of each authorization owing to the additional period that exports may occur.²² These orders remain unchanged in all other respects.

¹⁹ 15 U.S.C. § 717b(c).

²⁰ See Answer.

²¹ See IECA Response to Answer.

²² See 2050 Policy Statement, 85 Fed. Reg. at 52,247. In many long-term FTA and non-FTA authorizations, DOE has approved a three-year “make-up period” following the end of the original export term, during which the authorization holder may continue to export any “make-up volume” that it was unable to export during the export term. See *id.* at 52,239.

II. APPLICANT’S PUBLIC INTEREST ANALYSIS FOR REQUESTED NON-FTA TERM EXTENSION

LCE states that the requested term extension is in the public interest for the reasons set forth in the 2050 Policy Statement—namely, because the United States will experience economic and energy security benefits associated with exporting LNG through December 31, 2050.²³ LCE states that “[g]lobal events following the August 2020 publication of the [2050] Policy Statement have only further reinforced that the exportation of natural gas through December 31, 2050 will not be inconsistent with the public interest.”²⁴ LCE further notes that “the U.S. Energy Information Administration’s Annual Energy Outlook for 2022 projects growing natural gas production in the United States through 2050, the requested term of the extensions sought [].”²⁵

III. DOE PROCEEDING

In response to the Notice of Application of the non-FTA portion of the Application published in the *Federal Register* on June 21, 2022, DOE received two motions to intervene and protest, from IECA and Public Citizen, in opposition to LCE’s Application. On July 21, 2022, LCE filed an Answer in opposition to both pleadings. IECA responded to LCE’s Answer on August 5, 2022. The motions to intervene and protest, LCE’s Answer, and IECA’s response to the Answer are summarized below.

A. Motion to Intervene, Protest, and Comment by The Industrial Energy Consumers of America

On July 6, 2022, IECA submitted its “Notice of Intervention, Protest and Comment,” which DOE is construing as a motion to intervene and protest.²⁶ IECA states that it is a nonpartisan association of leading manufacturing companies with \$1.1 trillion in annual sales,

²³ App. at 4-5.

²⁴ *Id.* (citing 2050 Policy Statement).

²⁵ *Id.* at 5.

²⁶ *See generally* IECA Pleading.

over 11,700 facilities nationwide, and more than 1.8 million employees. IECA’s stated purpose is to promote the interests of manufacturing companies. IECA’s membership represents a diverse set of industries, including chemicals, plastics, steel, aluminum, fertilizer, automotive, and many more.²⁷

IECA challenges LCE’s request to increase the term for LNG exports as contrary to the public interest. IECA contends that increasing the term for LNG exports does not actually help consumer prices due to uncertainties with production capacity and opening access to the domestic LNG market to foreign countries.²⁸ IECA also raises arguments that the existing authorizations to export are also not in the public interest. IECA argues that DOE’s Study on “Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports” (2018 LNG Export Study)²⁹ “was fundamentally flawed” in three primary respects, and that any export volumes approved based on the study are therefore not in the public interest.³⁰ First, IECA asserts that, with rising domestic natural gas and electricity costs, instead of U.S. consumer well-being increasing with increased LNG exports, the opposite has occurred as “[o]nly a narrow sector of the economy has benefited...while every citizen and the economy in general has been negatively affected” due to rising natural gas costs.³¹ Second, IECA states that as a domestic source of income, LNG exports financially benefit “only a handful of large corporations, including foreign companies that own these export terminals[,] not households.”³² Finally, IECA asserts that the 2018 LNG Export Study did not take into account combined uncertainties

²⁷ See *id.* at 1.

²⁸ See *id.* at 2-3.

²⁹ NERA Economic Consulting, Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports (June 7, 2018), <https://cms.doe.gov/sites/prod/files/2018/12/f58/2018%20Study.pdf> [hereinafter 2018 LNG Export Study or 2018 Study].

³⁰ See IECA Pleading at 1-2.

³¹ See *id.* at 2.

³² See *id.*

unique to natural gas, such as “levels of production[,]. . . pipeline availability[,], weather that causes extreme heat or cold, [or] federal and state public policies and activist groups that can stop or slow the drilling and building of pipelines.”³³

B. Motion to Intervene and Protest of Public Citizen

On July 6, 2022, Public Citizen filed a “Motion to Intervene and Protest.”³⁴ Public Citizen states that it is a national, not-for-profit, non-partisan, research and advocacy organization representing the interests of household consumers.³⁵ Public Citizen argues that LCE has applied to extend its current 30-year authorization to export LNG to 50 years, which is not in the public interest.³⁶ Public Citizen argues that the increase in LNG exports is “radically upending domestic natural gas markets, resulting in a direct and punishing correlation between exports and increased energy price burdens for American families.”³⁷ Public Citizen argues that denying the requested extension to 50 years will not result in any harm to LCE, but granting “a blanket authorization to export LNG for 50 years is inconsistent with the public interest, as it unnecessarily threatens American families with prolonged exposure to higher domestic price risk.”³⁸

C. Answer of LCE

In its Answer to IECA and Public Citizen’s pleadings, LCE asks DOE to reject the respective protests of IECA and Public Citizen and approve the Application to extend export terms through December 31, 2050 as requested.³⁹ LCE argues that IECA disregarded the limitation set forth by DOE that only comments or protests that directly bear on the requested

³³ *Id.*

³⁴ *See generally* Public Citizen Motion.

³⁵ *See id.* at 1.

³⁶ *See id.*

³⁷ *Id.*

³⁸ *Id.* at 2.

³⁹ Answer at 5.

term extension and not the existing non-FTA Order will be considered by DOE. Therefore, IECA's arguments that LCE's existing authorizations to export LNG to non-FTA countries were not in the public interest should be rejected.⁴⁰ LCE also asserts that Public Citizen's protest should be rejected because it erroneously argued that LCE seeks to extend the export term to 50 years.⁴¹ LCE notes that it has requested an amendment to its export terms for existing long-term authorizations through December 31, 2050 in accordance with DOE's 2050 Policy Statement and did not seek a 50-year export term as alleged by Public Citizen.⁴²

D. IECA's Response to LCE's Answer

IECA responded to LCE's Answer on August 5, 2022.⁴³ IECA argues that LNG export volumes have direct and negative impacts on natural gas and electric power prices nationwide, "increasing inflation and endangering national economic [sic] and national security."⁴⁴ IECA argues that these impacts qualify as "unforeseen developments of such significant consequence to put the public interest at risk" that justify DOE's rejection of the term extension application.⁴⁵

IV. DISCUSSION FOR REQUESTED NON-FTA TERM EXTENSION

A. Procedural Matters

We find that the evidence presented in this proceeding could affect the interests of IECA and Public Citizen and their respective members. LCE was afforded an opportunity to respond to the motions of IECA and Public Citizen pursuant to 10 C.F.R. § 590.304(f), and it did so.

⁴⁰ *Id.* at 3.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *See* IECA Response to Answer.

⁴⁴ *Id.* at 2 (citing Policy Statement regarding Long-Term Authorizations to Export Natural Gas to Non-Free Trade Agreement Countries, 83 Fed. Reg. 28,841 (June 21, 2018) [hereinafter Policy Statement on Non-FTA Long-Term Authorizations]).

⁴⁵ *Id.* (citing Policy Statement on Non-FTA Long-Term Authorizations, 83 Fed. Reg. at 28,842).

Accordingly, DOE will grant the requests for intervention by each of IECA and Public Citizen in this proceeding.

B. Standard of Review

Section 3(a) of the NGA sets forth the applicable standard of review for the non-FTA portion of the Application. Section 3(a) provides:

[N]o person shall export any natural gas from the United States to a foreign country or import any natural gas from a foreign country without first having secured an order of the [Secretary of Energy] authorizing it to do so. The [Secretary] shall issue such order upon application, unless after opportunity for hearing, [she] finds that the proposed exportation or importation will not be consistent with the public interest. The [Secretary] may by [the Secretary's] order grant such application, in whole or part, with such modification and upon such terms and conditions as the [Secretary] may find necessary or appropriate.⁴⁶

DOE, as affirmed by the U.S. Court of Appeals for the District of Columbia Circuit, has consistently interpreted NGA section 3(a) as creating a rebuttable presumption that a proposed export of natural gas is in the public interest.⁴⁷ Accordingly, DOE will conduct an informal adjudication and grant a non-FTA application unless DOE finds that the proposed exportation will not be consistent with the public interest.⁴⁸

NGA section 3(a) does not define “public interest” or identify criteria that must be considered in evaluating the public interest. In prior decisions, DOE has identified a range of factors that it evaluates when reviewing an application for export authorization. These factors include economic impacts, international impacts, security of natural gas supply, and

⁴⁶ 15 U.S.C. § 717b(a).

⁴⁷ See *Sierra Club v. U.S. Dep't of Energy*, 867 F.3d 189, 203 (D.C. Cir. 2017) (“We have construed [NGA section 3(a)] as containing a ‘general presumption favoring [export] authorization.’”) (quoting *W. Va. Pub. Serv. Comm'n v. U.S. Dep't of Energy*, 681 F.2d 847, 856 (D.C. Cir. 1982)).

⁴⁸ See *id.* (“there must be ‘an affirmative showing of inconsistency with the public interest’ to deny the application” under NGA section 3(a)) (quoting *Panhandle Producers & Royalty Owners Ass'n v. Econ. Regulatory Admin.*, 822 F.2d 1105, 1111 (D.C. Cir. 1987)).

environmental impacts, among others. To conduct this review, DOE looks to record evidence developed in the application proceeding.

Before reaching a final decision, DOE must also comply with the National Environmental Policy Act of 1969 (NEPA).⁴⁹ DOE's environmental review process under NEPA may result in the preparation or adoption of an environmental impact statement (EIS) or environmental assessment (EA) describing the potential environmental impacts associated with the application. In other cases, DOE may determine that an application is eligible for a categorical exclusion from the preparation or adoption of an EIS or EA, pursuant to DOE's regulations implementing NEPA.

C. Background on 2050 Policy Statement

In the 2050 Policy Statement, DOE discontinued its practice of granting a standard 20-year export term for long-term authorizations to export domestically produced natural gas, including LNG, from the lower-48 states to non-FTA countries.⁵⁰ On the basis of the record evidence, DOE adopted a term through December 31, 2050, as the standard export term for long-term non-FTA authorizations.⁵¹ DOE implemented this policy change after considering its obligations under NGA section 3(a), the public comments supporting and opposing the proposed 2050 Policy Statement,⁵² and a wide range of information bearing on the public interest—including the 2018 LNG Export Study that analyzed exports of U.S. LNG through the year 2050, the U.S. Energy Information Administration's (EIA) then-most recent projections for U.S. natural gas, and relevant environmental issues, including a new environmental analysis, entitled

⁴⁹ 42 U.S.C. § 4321 *et seq.*

⁵⁰ 2050 Policy Statement, 85 Fed. Reg. at 52,247.

⁵¹ *Id.*; *see also id.* at 52,239-40 (summarizing reasons supporting the term extension).

⁵² *See* U.S. Dep't of Energy, Extending Natural Gas Export Authorizations to Non-Free Trade Agreement Countries Through the Year 2050; Notice of Proposed Policy Statement and Request for Comments, 85 Fed. Reg. 7672 (Feb. 11, 2020) [hereinafter Proposed 2050 Policy Statement].

Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States: 2019 Update,⁵³ which used the most current available science, methodology and data from the U.S. natural gas system to assess emissions of GHGs associated with U.S. LNG exports.⁵⁴ DOE stated that, for applications to amend existing authorizations submitted pursuant to this 2050 Policy Statement, DOE would provide notice and an opportunity for comment on the requested term extension. DOE further stated that, following the notice and comment period, it would conduct a public interest analysis under NGA section 3(a) limited to the requested term extension.⁵⁵

An intervenor or protestor may challenge the requested extension but not the existing non-FTA order.⁵⁶ DOE notes that extensions of term proceedings are not an invitation to reopen the underlying dockets. DOE's inquiry when reviewing a request for a term extension is narrow—it is not an opportunity to revisit the determinations made in Natural Gas Act authorizations after orders have become final and unappealable. There is no question here of whether the public interest determinations made in the underlying authorization order remain valid.

D. Public Interest Review Under NGA Section 3(a)

LCE asks DOE to amend the export term in its non-FTA orders, Order Nos. 3324-A and 4011, both as amended, through December 31, 2050, pursuant to the 2050 Policy Statement. DOE notes that this term extension will increase LCE's total potential volume of exports over the life of the authorizations (by extending the duration of Order No. 3324-A and the non-FTA

⁵³ *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States: 2019 Update – Response to Comments*, 85 Fed. Reg. 72 (Jan. 2, 2020) [hereinafter 2019 Update].

⁵⁴ See 2050 Policy Statement, 85 Fed. Reg. at 52,247; see also *id.* at 52,240 (discussing the 2018 LNG Export Study and DOE's most recent life cycle analysis of greenhouse gas emissions associated with exports of U.S. LNG), 52,243-44 (discussing EIA's Annual Energy Outlook 2020), 52,244-45 (discussing additional environmental issues).

⁵⁵ See *id.* at 52,239, 52,247. See also Notice of Application, 87 Fed. Reg. at 36,842.

⁵⁶ See 2050 Policy Statement, 85 Fed. Reg. at 52,247.

portion of Order No. 4011, both as amended, through December 31, 2050), but it will not affect the day-to-day liquefaction and export operations of the Liquefaction Project.⁵⁷

As set forth in each order, the 20-year term begins when the authorization holder commences commercial export from its facility. DOE allows a term for commercial LNG export operations to commence—typically seven years from the date the order is issued—and a three-year “make-up period” following the end of the 20-year export term, during which the authorization holder may continue to export any “make-up volume” that it was unable to export during the 20-year export term.⁵⁸ LCE’s 20-year term must commence no later than December 16, 2025,⁵⁹ and will end on December 16, 2048, after taking into account the three-year make-up period. The requested term extension at issue is the two-years and 15-day period between December 17, 2048 and December 31, 2050.⁶⁰

E. Non-Environmental Issues

1. Price Impacts

Intervenors IECA and Public Citizen generally assert that the link between domestic gas prices and global market prices of LNG exports harm American households and energy-intensive industry, citing the June 2022 explosion of the Freeport LNG facility and high winter natural gas prices in 2021-2022⁶¹ to support denying the requested term extension and/or to revisit the 2050

⁵⁷ *Id.*

⁵⁸ *See id.* at 52,239.

⁵⁹ *Lake Charles Exports, LLC*, DOE/FE Order Nos. 2987-A, 3324-B, and 4011-A, Docket Nos. 11-59-LNG and 16-110-LNG, Order Granting Application to Amend Long-Term Authorizations, at 7-10 (Oct. 6, 2020) (extending the commencement of export operations to December 16, 2025 for the non-FTA authorizations).

⁶⁰ *See id.* As LCE is authorized to export beginning no later than December 16, 2025 for 20 years plus the three-year make-up period, the latest date its current authorizations can expire is December 16, 2048. The 20-year term begins when exports begin, and that date is not fixed. By contrast, the extension to December 31, 2050 would be to a fixed date, and the term would expire on that date regardless of when exports began, although the required commencement deadline of December 16, 2025 would still apply. Because LNG project development and construction is often a lengthy process, DOE believes it prudent to use the latest possible start date—that is, December 16, 2025.

⁶¹ *See* IECA Pleading at 2-5; Public Citizen Motion at 1-2.

Policy Statement. These intervenors have used these isolated circumstances that are specific in time and regional application to generalize more broadly about natural gas pricing – which inherently will fluctuate depending on season and other factors. They have not explained how these events in 2021-2022 apply to LCE nor to the roughly two-year term extension at issue. As DOE has explained, “the 2018 [LNG Export] Study shows that U.S. natural gas prices will not rise to the same levels as global natural gas prices as a result of increased LNG exports.”⁶² DOE added that “[t]his result is consistent with the 2015 Study’s analysis of the linkages between U.S. and global natural gas prices, as [DOE] previously discussed.”⁶³ Further, DOE has analyzed price projections through 2050 in the Annual Energy Outlook 2023 (AEO2023) to evaluate any differences from AEO2017, which formed the basis of the 2018 LNG Export Study. The AEO2023 indicates that “[g]iven the combination of relatively little growth in domestic consumption and continued growth in production, [EIA] project[s] that the United States will remain a net exporter of [] natural gas through 2050 in all AEO2023 cases” while the Henry Hub price remains below \$4 per million British thermal units (MMBtu) [in real dollars] through the projection period in most cases.⁶⁴ For the year 2050, the AEO2023 Reference case projects an average Henry Hub natural gas price [in real dollars] that is lower than the AEO2017 Reference case without the Clean Power Plan by 41%.⁶⁵ None of the intervenors have cited evidence or projections applicable to the relevant two-year period that would indicate a contrary long-term

⁶² 2018 Study Response to Comments, 83 Fed. Reg. at 67,268 (citing 2018 LNG Export Study at 55).

⁶³ *Id.*

⁶⁴ U.S. Energy Info. Admin., Annual Energy Outlook 2023 with projections to 2050 Narrative, at 6 [hereinafter AEO2023]; *see also* AEO2023 Data Tables (“Table 1”), <https://www.eia.gov/outlooks/aeo/data/browser/>.

⁶⁵ AEO2017 included two versions of the Reference case—one with, and one without, the implementation of a rulemaking by the U.S. Environmental Protection Agency (EPA) called the Clean Power Plan (CPP). EPA repealed the CPP in 2019. In this Order, we refer only to the AEO2017 Reference case without the CPP. The AEO2023 Reference Case does not include the CPP, so the comparisons between AEO2017 and AEO2023 are consistent in that regard.

trajectory. Therefore, they have not demonstrated that the two-year term extension would lead to any long-term price impacts that would be inconsistent with the public interest.

As noted above, IECA opposes the LCE extension of the export term, expressing its concern that increasing the term for LNG exports does not actually help consumer prices due to uncertainties with production capacity and opening access to the domestic LNG market to foreign countries. In this regard, we are not persuaded by IECA's arguments. Rather, IECA's broad challenges to DOE's approvals of applications to export domestically produced LNG to non-FTA countries are not supported by sufficient evidence. In addition, IECA's related arguments to the 2018 LNG Export Study fail to address LCE's term extension application. For example, IECA asserts that, "[i]f not for LNG exports, the U.S. Henry Hub natural gas price would have never increased"⁶⁶ in 2022 as compared to 2021. DOE notes that, although Henry Hub natural gas prices in 2022 nearly doubled from their historic lows in 2020 to 2021 and periodically exceeded \$8/MMBtu,⁶⁷ as noted earlier, prices are projected to average below \$4/MMBtu, in real dollars, throughout the projection period in most projection cases, according to the latest AEO2023. Further, DOE already found that LCE's proposed exports had not been shown to be inconsistent with the public interest and, consequently, authorized those exports in Order No. 3324-A and in the non-FTA portion of Order No. 4011, both as amended. In addition, as IECA states, it raised the arguments against the 2018 LNG Export Study during the comment period for the study. DOE considered those comments at that time and summarized its

⁶⁶ IECA Pleading at 3.

⁶⁷ Henry Hub prices averaged \$2.03/MMBtu in 2020, \$3.89/MMBtu in 2021, and \$6.45/MMBtu in 2022. *See* U.S. Energy Info. Admin., Table, "Henry Hub Natural Gas Spot Price (Dollars per Million Btu)" (viewing annual history), <https://www.eia.gov/dnav/ng/hist/rngwhhdA.htm> (last accessed Nov. 1, 2023).

conclusions in the final 2018 LNG Export Study.⁶⁸ For these reasons, DOE finds that arguments concerning domestic price increases are not supported by record evidence.

Finally, Public Citizen erroneously argues that LCE seeks “to extend its current 30-year authorization to export LNG to 50 years.”⁶⁹ LCE requested an amendment to its export terms for existing long-term authorizations through December 31, 2050, an addition of slightly more than two years in accordance with DOE’s 2050 Policy Statement, and did not seek a 50-year export term as alleged by Public Citizen. Therefore, Public Citizen’s protest is based on a false premise and is rejected. For these reasons, and as explained in DOE’s Response to Comments on the 2018 LNG Export Study, we find that arguments concerning domestic price increases are not supported by the record evidence.

F. Environmental Review Under NEPA

On November 1, 2023, DOE issued a supplement analysis (SA)⁷⁰ examining whether the proposed modification—an addition of over two years to the total time period allowed—or new circumstances or information, would represent a significant change that would require a supplement to the existing EIS.⁷¹ DOE analyzed the following resource areas: (1) Geologic hazards; (2) Threatened, endangered, and other special status species; and (3) Air quality and noise.⁷² However, DOE determined that the following resource areas did not have to be

⁶⁸ See Study on Macroeconomic Outcomes of LNG Exports: Response to Comments Received on Study, 83 Fed. Reg. 67,251, 67,261-67,272 (Dec. 28, 2018).

⁶⁹ Public Citizen Motion at 1.

⁷⁰ U.S. Dep’t of Energy, Supplement Analysis for the Application of Lake Charles LNG Export Company, LLC and Lake Charles Exports, LLC to Extend Their Authorized Export Term Through December 31, 2050, DOE/EIS-0491-SA-01 (Nov. 2023) [hereinafter SA].

⁷¹ U.S. Dep’t of Energy, Docket Nos. 11-59-LNG and 13-04-LNG, Final Environmental Impact Statement for Lake Charles Liquefaction Project, FERC/EIS-0258F and DOE/EIS-0491 (Aug. 2015) [hereinafter EIS].

⁷² The SA evaluated information presented by Sierra Club, in connection with its intervention in the proceeding involving LCE’s affiliate Lake Charles LNG Export, Docket Nos. 13-04-LNG and 16-109-LNG, that Sierra Club claimed would warrant supplementation of the EIS or preparation of a new EIS. Sierra Club did not intervene in the present proceeding involving LCE, Docket Nos. 11-59-LNG and 16-110-LNG. However, because Sierra Club presented information DOE used to evaluate the EIS for the Liquefaction Project that both LCE and Lake Charles

analyzed in the SA because they would not be significantly affected by the changes to the proposed action or new circumstances or information presented: (1) Soils; (2) Water resources; (3) Wetlands; (4) Vegetation; (5) Wildlife and aquatic resources; (6) Land use, recreation, and visual resources; (5) Socioeconomics; (6) Cultural resources; and (7) Reliability and safety.⁷³ The EIS, prepared by FERC and adopted by DOE, thoroughly addresses each of these resource areas. DOE concludes in the SA that no supplement to the EIS is required.⁷⁴ This Order grants the non-FTA portion of the Application, in part, on the basis of this SA and the existing EIS, which supports DOE's determination that the proposed term extension is not inconsistent with the public interest under the NGA.

V. **FINDINGS**

(1) Section 3(c) of the NGA was amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486) to require that applications requesting authority for (a) the import and export of natural gas, including LNG, from and to a nation with which there is in effect an FTA requiring national treatment for trade in natural gas, and/or (b) the import of LNG from other international sources, be deemed consistent with the public interest and granted without modification or delay. The portion of LCE's Application requesting an amendment to its FTA authorization, Order No. 2987, and the FTA portion of Order No. 4011, both as amended, falls within NGA section 3(c), as amended.⁷⁵ Therefore, DOE is charged with granting the requested term extension for these orders without modification or delay.

LNG Export would use to export LNG, the SA is referenced in both the LCE proceeding and the Lake Charles LNG Export proceeding.

⁷³ See SA at 5.

⁷⁴ See *id* at 14.

⁷⁵ 15 U.S.C. § 717b(c).

(2) Upon a review of the record, DOE finds that a grant of the non-FTA portion of the Application has not been shown to be inconsistent with the public interest under NGA section 3(a).⁷⁶ Additionally, based on DOE's analysis in the SA, the non-FTA portion of the Application requires no additional environmental review under NEPA at this time. DOE therefore grants the requested term extension for LCE's non-FTA authorizations, Order No. 3324-A, and the non-FTA portion of Order No. 4011, both as amended.

ORDER

Pursuant to section 3 of the Natural Gas Act, it is ordered that:

A. The Application filed by Lake Charles Exports, LLC to amend the respective export terms set forth in DOE/FE Order Nos. 2987, 3324-A, and 4011, in each case, as amended, is granted.

B. In DOE/FE Order No. 2987, as amended by Order No. 2987-A (Docket No. 11-59-LNG), the relevant sentence in Ordering Paragraph A is further amended to state:

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 730 Bcf/yr of natural gas for a term commencing on the date of first export and extending through December 31, 2050.

This term extension supersedes any references to a 25-year or 30-year export term in the Ordering Paragraphs of DOE/FE Order No. 2987, as amended by Order No. 2987-A.

⁷⁶ *Id.* § 717b(a).

C. In DOE/FE Order No. 3324-A, as amended by Order Nos. 3324-B and 3324-C (Docket No. 11-59-LNG), the relevant sentence in Ordering Paragraph A is further amended to state:

Lake Charles Exports, LLC (LCE) is authorized to export domestically produced LNG by vessel from the Lake Charles Terminal located in Lake Charles, Calcasieu Parish, Louisiana, in a volume equivalent to 730 Bcf/yr of natural gas for a term commencing on the date of first export and extending through December 31, 2050.

This term extension supersedes any references to a 20-year export term in the Terms and Conditions and Ordering Paragraphs of DOE/FE Order No. 3324-A, as amended by Order Nos. 3324-B and 3324-C.

D. In DOE/FE Order No. 4011, as amended by Order Nos. 4011-A and 4011-B (Docket No. 16-110-LNG), the relevant sentence in Ordering Paragraph A is further amended to state:

Lake Charles Exports, LLC (LCE) is authorized to export domestically produced LNG by vessel from the Lake Charles Terminal located in Lake Charles, Louisiana, in a volume equivalent to 121 Bcf/yr of natural gas for a term commencing on the date of first export and extending through December 31, 2050.

This term extension supersedes any references to a 25-year or 30-year term, in the case of the FTA portion, or a 20-year term, in the case of the non-FTA portion, in the Terms and Conditions and Ordering Paragraphs of DOE/FE Order No. 4011, as amended by Order Nos. 4011-A and 4011-B.

E. These export terms, lasting through December 31, 2050, are inclusive of any make-up period previously authorized in the orders, during which the authorization holder may continue to export any make-up volume that it was unable to export during the original export term.⁷⁷ Accordingly, as relevant here, any references to make-up periods and make-up volumes in the Terms and Conditions or Ordering Paragraphs of DOE/FE Order Nos. 2987, 3324-A, and 4011, in each case, as amended, are now moot.

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

Issued in Washington, D.C., on November 1, 2023.

BRADFORD
CRABTREE

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BRADFORD CRABTREE
Date: 2023.11.01
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Bradford Crabtree
Assistant Secretary
Office of Fossil Energy and Carbon Management

⁷⁷ See Section IV.D, *supra*; see also 2050 Policy Statement, 85 Fed. Reg. at 52,247.