

August 12, 2016

VIA ELECTRONIC DELIVERY

Larine A. Moore
U.S. Department of Energy
FE-34
P.O. Box 44375
1000 Independence Avenue, S.W.
Washington, D.C. 20026-4375

RE: Lake Charles Exports, LLC, Docket No. 16- **110** - LNG
Application for Long-Term Authorization to Export Liquefied Natural Gas to Free Trade
Agreement and Non-Free Trade Agreement Countries

Dear Ms. Moore:

Please find enclosed for filing on behalf of Lake Charles Exports, LLC (“LCE”), an application for long-term, multi-contract authorization to export domestically-produced liquefied natural gas (“LNG”) in an amount up to an equivalent of approximately 121 Bcf/year. LCE is seeking authority to export LNG from the Lake Charles Terminal to Free Trade Agreement (“FTA”) countries for a period of 25 years and Non-FTA countries for a period of 20 years as set forth in the attached application.

LCE is currently authorized to export up to the equivalent of 730 Bcf/year of natural gas from the Lake Charles Terminal to FTA and Non-FTA countries.¹ Through this application, LCE seeks to align the volumes authorized for export with the liquefaction production capacity of the Lake Charles Terminal, as already approved by the Federal Energy Regulatory Commission.

LCE is transmitting a check in the amount of \$50.00 in payment of the applicable filing fee pursuant to 10 C.F.R. § 590.207. Please contact the undersigned at (202) 220-6922 if you have any questions regarding this filing.

Respectfully submitted,

/s/ Thomas E. Knight
Thomas E. Knight
Counsel to Lake Charles Exports, LLC

¹ *Lake Charles Exports, LLC*, DOE/FE Order No. 3324-A (issued Jul. 29, 2016) and *Lake Charles Exports, LLC*, DOE/FE Order No. 2987 (issued Jul. 22, 2011).

**UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY**

Lake Charles Exports, LLC

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Docket No. 16 - ~~110~~ LNG

**APPLICATION OF LAKE CHARLES EXPORTS, LLC FOR
LONG-TERM AUTHORIZATION TO EXPORT LIQUEFIED NATURAL GAS TO
FREE TRADE AGREEMENT AND NON- FREE TRADE AGREEMENT COUNTRIES**

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**UNITED STATES OF AMERICA
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Docket No. 16 - ___ - LNG

**APPLICATION OF LAKE CHARLES EXPORTS, LLC FOR
LONG-TERM AUTHORIZATION TO EXPORT LIQUEFIED NATURAL GAS TO
FREE TRADE AGREEMENT AND NON-FREE TRADE AGREEMENT COUNTRIES**

Pursuant to Section 3 of the Natural Gas Act (“NGA”), 15 U.S.C. § 717b, and Part 590 of the regulations of the Department of Energy (“DOE”), 10 C.F.R. § 590, Lake Charles Exports, LLC (“LCE”) submits this application (“Application”) to the DOE Office of Fossil Energy (“DOE/FE”) for long-term multi-contract authorization to export up to an additional 121 Bcf/year of liquefied natural gas (“LNG”) produced from domestic sources. LCE seeks this authorization to export LNG from the terminal in Lake Charles, Louisiana (“Lake Charles Terminal”) to (1) any country with which the United States currently has, or in the future may enter into, a free trade agreement (“FTA”) requiring national treatment for trade in natural gas¹ for a 25-year period as set forth herein and (2) to any country with which the United States does not have a FTA requiring national treatment for trade in natural gas with which trade is not prohibited by United States law or policy (“Non-FTA countries”) for a 20-year period as set forth herein.

LCE is currently authorized to export up to the equivalent of 730 Bcf/year of natural gas from the Lake Charles Terminal to FTA countries for a 25-year period and to Non-FTA

¹ 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.

countries for a 20-year period.² Through this application, LCE seeks to align the volumes authorized for export to FTA and Non-FTA countries with the liquefaction production capacity of the Lake Charles Terminal, as already approved by the Federal Energy Regulatory Commission (“FERC”) in 2015.³ The liquefaction project is currently under construction by Lake Charles LNG Export Company, LLC at the existing Lake Charles Terminal. The instant application requires no new construction or modification of authorized facilities. In granting the existing Non-FTA authorization to LCE, DOE/FE expressly acknowledged that “FERC has authorized a design production capacity for the Liquefaction Project of 16.45 mtpa of LNG, which is a quantity greater than the requested export authority in the Application” and stated that “[s]hould LCE wish to export additional volumes from the Liquefaction Project, it will be required to apply to DOE/FE for new export authorization.”⁴ DOE/FE recently granted similar requests by Sabine Pass Liquefaction, LLC and Cameron LNG, LLC to align the export volumes authorized by DOE/FE with the maximum liquefaction production capacity of the LNG export terminal as approved by FERC.⁵

In support of this Application, LCE respectfully states the following:

² See *Lake Charles Exports, LLC*, DOE/FE Order No. 3324-A (issued Jul. 29, 2016) (“Non-FTA Order”) and *Lake Charles Exports, LLC*, DOE/FE Order No. 2987 (issued Jul. 22, 2011) (“FTA Order”), as amended by Letter Order, DOE/FE Docket No. 11-59-LNG (Jul. 26, 2016).

³ See *Trunkline Gas Company, LLC, et al.*, 153 FERC ¶ 61,300 at n.13 (2015), *order denying reh’g*, 155 FERC ¶ 61,328 (2016) (issuing NGA Section 3 authorization for the Lake Charles Terminal liquefaction project and stating: “The NGA section 3 authorization requested here reflects the design production capacity (16.45 MTPA of liquefied natural gas) of the Liquefaction Project, while DOE/FE’s authorized export quantity (15.0 MTPA of LNG or 730 Bcf/y) reflects allowance for design margins, maintenance, and outages. Additional authorization may be sought in the future from DOE/FE for the design production capacity of the Liquefaction Project.”) (“FERC Order”).

⁴ Non-FTA Order at n.297.

⁵ See, e.g., *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 3792 at 198 (Mar. 11, 2016) (“2016 Sabine Order”); *Cameron LNG, LLC*, DOE/FE Order No. 3797 at 35 (Mar. 18, 2016).

I. 10 C.F.R. § 590.202(a)

1. Legal Name Of Applicant

The exact legal name of the applicant is Lake Charles Exports, LLC. LCE is a limited liability company formed under the laws of Delaware with its principal place of business at 1300 Main Street, Houston, Texas 77002.

2. Service List Contacts

All correspondence and communications concerning this Application should be directed to the following persons:⁶

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3. Statement Of Action Sought From DOE/FE

LCE hereby respectfully requests that DOE/FE grant long-term, multi-contract authorization for the export of 121 Bcf/year of LNG from the Lake Charles Terminal⁷ to (1) FTA

⁶ LCE respectfully requests a waiver of Section 590.202(a) of the DOE/FE regulations, 10 C.F.R. § 590.202(a) (2016), to the extent necessary to include more than two persons on the official service list.

⁷ FERC originally certificated the Lake Charles Terminal in 1977, with the original construction completed in July 1981. *Trunkline LNG Co., et al.*, 58 FPC 726 (Opinion No. 796), *order on reh'g*, 58 FPC 2935 (1977) (Opinion No. 796-A).

countries for a 25-year period commencing on the earlier of the date of first export or ten years from the date of the FTA Order and (2) Non-FTA countries for a 20-year period commencing on the earlier of the date of first export or seven years from the date of the Non-FTA Order.⁸

LCE is requesting this authorization both on its own behalf and as agent for other parties who will hold title to the LNG at the time of export. LCE anticipates that the title holder at the point of export⁹ may be LCE or one of LCE's customers, or another party that has purchased LNG from a customer pursuant to a long-term contract. LCE requests authorization to register each LNG title holder for whom LCE seeks to export as agent, with such registration including a written statement by the title holder acknowledging and agreeing to comply with all applicable requirements included by DOE/FE in LCE's export authorization, and to include those requirements in any subsequent purchase or sale agreement entered into by that title holder. In addition to the registration of any LNG title holder for whom LCE seeks to export as agent, LCE will file under seal with DOE/FE any relevant long-term commercial agreements between LCE and such LNG title holder once they have been executed. This approach will conform to DOE/FE's goal of ensuring that all authorized exports are permitted and lawful under U.S. laws and policies, including the rules, regulations, orders, policies and other determinations of the Office of Foreign Assets Control of the U.S. Department of the Treasury.¹⁰

This approach has been consistently approved by DOE/FE, including for LCE in its existing FTA and Non-FTA authorizations.¹¹ In *Freeport LNG Expansion, L.P. and FLNG*

⁸ LCE's existing authorizations granted in DOE/FE Order Nos. 2987 and 3324-A have identical export terms and commencement dates. See FTA Order at 8; Non-FTA Order at 151.

⁹ "LNG exports occur when the LNG is delivered to the flange of the LNG export vessel." See *Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC*, DOE/FE Order No. 2913 at n.4 (Feb. 10, 2011); *Dow Chemical Company*, FE Order No. 2859 at 7 (Oct. 5, 2010).

¹⁰ See *The Dow Chemical Company*, DOE/FE Opinion and Order No. 2859 at 7-8 (Oct. 5, 2010).

¹¹ See, e.g., *Cameron LNG, LLC*, DOE/FE Order No. 3797 (Mar. 18, 2016); FTA Order at 7; Non-FTA Order at 151.

Liquefaction, LLC (“FLEX”),¹² DOE/FE found that “FLEX has requested an acceptable process by which FLEX can act as agent for others who want to export LNG” and that “FLEX’s agency rights and registration procedures are an alternative to the non-binding policy adopted by DOE/FE in DOE Opinion and Order No. 2859 . . . which set forth a non-binding policy that the title for all LNG authorized to be exported shall be held by the authorization holder at the point of export.”¹³ DOE/FE also accepted FLEX’s proposal to file the relevant long-term commercial agreements under seal once they have been executed.¹⁴ DOE/FE stated that by “accepting FLEX’s requested registration process and contract terms, DOE/FE will ensure that the title holder is aware of all requirements in the Order, including destination restrictions, that DOE will have a record of all authorized exports, and that DOE will have direct contact information and point of contact with the title holder.”¹⁵ DOE/FE concluded that “[t]his process is responsive to current LNG markets and provides an expedited process by which companies seeking to export LNG can do so.”¹⁶ DOE/FE should approve LCE’s proposed procedure as it is identical to that approved for FLEX and previously for LCE.

As explained below, no new facilities are proposed to be constructed in connection with the requested authorization and, accordingly, DOE/FE may fulfill its requirements under the National Environmental Policy Act (“NEPA”) through a categorical exclusion.¹⁷

¹² DOE/FE Order No. 2913 (Feb. 10, 2011).

¹³ *Id.* at 7 citing *The Dow Chemical Company*, DOE/FE Opinion and Order No. 2859 at 7-8 (Oct. 5, 2010).

¹⁴ *Id.* at 8. The practice of filing contracts after the DOE/FE has granted export authorization is well established. See *Yukon Pacific Corporation*, ERA Docket No. 87-68-LNG, Order No. 350 (Nov. 16, 1989); *Distrigas Corporation*, FE Docket No. 95-100-LNG, Order No. 1115 at 3 (Nov. 7, 1995).

¹⁵ DOE/FE Order No. 2913 at 8.

¹⁶ *Id.*

¹⁷ 10 C.F.R. Part 1021, Subpart D, Appendix B, B5.7 (Import or export of natural gas with operational changes) (2016).

4. Justification For Action Sought From DOE/FE

(i) FTA Countries

NGA Section 3(c), as amended by Section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486), provides that:

[T]he exportation of natural gas to a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas, shall be deemed to be consistent with the public interest, and applications for such importation or exportation shall be granted without modification or delay.¹⁸

Under this statutory presumption, that portion of this Application that seeks to export LNG to nations with which the United States currently has, or in the future may enter into, an FTA requiring national treatment for trade in natural gas, shall be deemed to be consistent with the public interest and should be granted by DOE/FE without modification or delay. Indeed, DOE/FE promptly grants authorization for export to FTA nations as a matter of statutory requirement.¹⁹

(ii) Non-FTA Countries

Section 3(a) of the NGA sets forth the general standard for review of export applications:

[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, [the Secretary] 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 in part, with such modification and upon such terms and conditions as the [Secretary] may find necessary or appropriate.²⁰

¹⁸ 15 U.S.C. § 717b(c).

¹⁹ See, e.g., *Cameron LNG, LLC*, DOE/FE Order No. 3680 (Jul. 10, 2015); *Port Arthur LNG, LLC*, DOE/FE Order No. 3698 (Aug. 20, 2015).

²⁰ 15 U.S.C. § 717b(a) (emphasis added). This authority has been delegated to the Assistant Secretary for Fossil Energy pursuant to Redelegation Order No. 00-002.04D (Nov. 6, 2007).

According to the DOE/FE, “[a]pplying the foregoing statutory language, DOE has consistently ruled that Section 3(a) of the NGA creates a rebuttable presumption that proposed exports of natural gas are in the public interest.”²¹ To overcome this rebuttable presumption an opponent must affirmatively demonstrate that the proposal is inconsistent with the public interest.²²

In addition to the statutory presumption in favor of approval of this Application, there is ample evidence in the public record that exports of LNG, such as requested herein, are in the public interest. In granting LCE’s request for export authorization to Non-FTA countries, DOE/FE concluded that the exports proposed from the Lake Charles Terminal “are likely to generate net economic benefits to the United States.”²³ Such conclusion is equally applicable here.

Furthermore, LCE incorporates herein by reference the substantial information developed in support of its application in DOE/FE Docket No. 11-59-LNG as well as the studies commissioned by DOE/FE noting the benefits of LNG exports from the United States.²⁴ As discussed more fully below, the proposed export of LNG from the Lake Charles Terminal is

²¹ *Sabine Pass Liquefaction, LLC*, DOE/FE Docket 10-111-LNG, Opinion and Order Denying Request for Review Under Section 3(c) of the NGA (Oct. 21, 2010) (“Sabine Section 3(c) Order”); *see also Panhandle Producers and Royalty Owners Assoc. v. ERA*, 822 F.2d 1105, 1111 (D.C. Cir. 1987) (“A presumption favoring import authorization, then, is completely consistent with, if not mandated by, the statutory directive.”).

²² Sabine Section 3(c) Order at 5; *see also Phillips Alaska Natural Gas Corp. and Marathon Oil Co.*, DOE/FE Order No. 1473 (Apr. 2, 1999) (“Section 3 creates a statutory presumption in favor of approval of an export application and the Department must grant the requested export [application] unless it determines the presumption is overcome by evidence in the record of the proceeding that the proposed export will not be consistent with the public interest.”).

²³ Non-FTA Order at 122.

²⁴ Center for Energy Studies at Rice University and Oxford Economics, *The Macroeconomics of LNG Increasing LNG Exports*, October 29, 2015, available at http://energy.gov/sites/prod/files/2015/12/f27/20151113_macro_impact_of_lng_exports_0.pdf (“2015 LNG Export Study”); U.S. Energy Information Administration, *Effect of Increased Natural Gas Exports on Domestic Energy Markets* (Oct. 2014), available at <https://www.eia.gov/analysis/requests/fe/pdf/lng.pdf> (“2014 EIA Study”); U.S. Energy Information Administration, *Effect of Increased Natural Gas Exports on Domestic Energy Markets* (Jan. 2012), available at http://energy.gov/sites/prod/files/2013/04/f0/fe_eia_lng.pdf (“2012 EIA Study”); NERA Economic Consulting, *Macroeconomic Impacts of LNG Exports from the United States* (Dec. 2012), available at http://fossil.energy.gov/programs/gasregulation/reports/nera_lng_report.pdf (“NERA Study”).

consistent with the public interest as the domestic supply of natural gas far exceeds domestic natural gas demand.

II. 10 C.F.R. § 590.202(b)

1. The scope of the project, including the volumes of natural gas involved, the dates of commencement and completion of the proposed export, and the facilities to be utilized or constructed

LCE herein requests authorization to export LNG in an amount up to the equivalent of an additional 121 Bcf/year of LNG from the Lake Charles Terminal. The liquefaction project export facilities at the Lake Charles Terminal are currently under construction and no additional construction or modification of authorized facilities is required for the export of the additional volumes as requested herein. LCE anticipates that exports will commence in 2021.

2. The source and security of the natural gas supply to be exported, including contract volumes and a description of the gas reserves supporting the project during the term of the requested authorization

LCE seeks authorization to export natural gas available in the United States natural gas pipeline system. While LCE anticipates that sources of natural gas will include Texas and Louisiana producing regions and the offshore gulf producing regions, the natural gas to be exported may be produced throughout the Lower 48, which is the world's most liquid natural gas market with an unparalleled transportation infrastructure. LCE will enter into a long-term LNG export contract on a date closer to the date of first export.

3. Identification of all the participants in the transaction, including the parent company, if any, and identification of any corporate or other affiliations among the participants

LCE is a jointly-owned subsidiary of Royal Dutch Shell plc ("Shell")²⁵ and Energy Transfer Equity, L.P. ("ETE").

²⁵ On February 15, 2016, Royal Dutch Shell plc ("Shell") acquired all of the share capital of BG Group plc ("Transaction"). Prior to the Transaction, LCE was owned by subsidiaries of BG and Energy Transfer Equity, L.P.,

Shell is one of the world's largest LNG shipping operators, managing and operating more than 40 carriers in an industry-wide fleet comprising around 400 carriers. Shell has LNG supply projects either in operation or under construction in seven countries. Shell has a major interest in one regasification plant in Hazira in India, and long-term access to capacity in several others in Europe, the Middle East and North America. BG LNG Services, LLC, an indirect, wholly-owned subsidiary of Shell, has contracted for 100% of the storage capacity in the Lake Charles Terminal.

ETE, through its wholly-owned subsidiaries, including Lake Charles LNG Export Company, LLC, Lake Charles LNG Company, LLC²⁶ and Trunkline Gas Company, LLC, is constructing the liquefaction project to provide export facilities at the existing Lake Charles Terminal.

4. The terms of the transaction

LCE will enter into a long-term LNG export contract on a date closer to the date of first export.

LCE will file, or cause others to file with DOE/FE, all executed long-term contracts associated with the long-term export of LNG on its own behalf or as agent for others, from the Lake Charles Terminal. LCE also will file, or cause others to file with DOE/FE, all executed long-term contracts associated with the long-term supply of natural gas to the Lake Charles Terminal.

LCE will file, or cause others to file with DOE/FE, a non-redacted copy of each contract for public posting. Alternatively, LCE will file, or cause others to file, both a non-redacted copy

and BG LNG Services, LLC was an indirect wholly-owned subsidiary of BG. As a result of the Transaction, LCE is now owned by subsidiaries of Shell and ETE.

²⁶ On September 19, 2014, Trunkline LNG Export, LLC and Trunkline LNG Company, LLC changed their company names to Lake Charles LNG Export Company, LLC and Lake Charles LNG Company, LLC, respectively.

of the contract filed under seal and either: i) a redacted version of the contract, or ii) major provisions of the contract, for public posting, within 30 days of their execution.

5. The lack of a national or regional need for the gas

DOE/FE has already concluded that exports from the Lake Charles Terminal are not inconsistent with the public interest.²⁷ This finding was based primarily on the conclusion that domestic supplies of natural gas exceed projected demand.²⁸ DOE/FE has historically compared the total volume of natural gas reserves and recoverable resources available to be produced during the proposed export period to total gas demand during the export period to determine whether there is a domestic need for the gas to be exported.²⁹ To this end, in the Non-FTA Order, DOE/FE relied on the 2015 LNG Export Study, as well as updated data from the Energy Information Administration, to conclude that there exist sufficient natural gas supplies in the U.S. to support the proposed exports.³⁰

In reaching this conclusion, DOE/FE reviewed three measures of supply: (1) U.S. Energy Information Administration (“EIA”) Annual Energy Outlook natural gas estimates of production, price and other domestic industry fundamentals; (2) proved reserves of natural gas; and (3) technically recoverable resources.³¹ All three measures of supply confirm that U.S. natural gas reserves are more than sufficient to meet domestic demand and support the proposed exports.

- EIA Annual Energy Outlook natural gas estimates: DOE/FE noted that EIA’s projection of dry natural gas production in 2035 “increased significantly (by 37.3 Bcf/d)” in the Annual Energy Outlook (“AEO”) 2016 analysis as compared to

²⁷ Non-FTA Order at 140.

²⁸ *Id.* at 121.

²⁹ *Phillips Alaska Natural Gas Corp. & Marathon Oil Co.*, DOE/FE Order No. 1473 at 29, 40, 46 (Apr. 2, 1999).

³⁰ Non-FTA Order at 63-66, 121.

³¹ *Id.* at 63-64.

AEO 2011.³² Similarly, the projections of domestic natural gas consumption in 2035 increased by 16.6 Bcf/d in AEO 2016 as compared to the AEO 2011.³³ DOE/FE stated that “[e]ven with higher production and consumption, the 2035 projected natural gas market price in the Reference Case declined from \$7.72/MMBtu (2015\$) in AEO 2011 to \$4.91/MM Btu (2015\$) in AEO 2016.”³⁴ The 2016 EIA projection is “that a greater quantity of natural gas is projected to be available at a lower cost than estimated five years ago.”³⁵

- Proved reserves of natural gas: According to DOE/FE, “[p]roved reserves of natural gas have been increasing.”³⁶ Proved reserves are defined as “those volumes of oil and natural gas that geologic and engineering data demonstrate with reasonable certainty to be recoverable in future years from known reservoirs under existing economic and operating conditions.”³⁷ DOE/FE noted the 108% increase in proved reserves since 2000 and stated that there is a “growing supply of natural gas available under existing economic and operating conditions.”³⁸
- Technically recoverable resources: Significant increases in technically recoverable resources have also been noted by DOE/FE.³⁹ Technically recoverable resources are resources in accumulations producible using current recovery technology but without reference to economic profitability.⁴⁰ Such estimates include proved and unproved resources. EIA’s estimates of lower-48

³² *Id.* at 63.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.* at 63-64.

³⁹ *Id.* at 64.

⁴⁰ *Id.*

technically recoverable resources “have increased from 1,816 Tcf in AEO 2010 to 1,996 Tcf in AEO 2015.”⁴¹

The export of domestic LNG, as proposed by LCE, should be considered to be in the public interest as U.S. natural gas available for supply exceeds demand. EIA estimates that domestic natural gas supply will grow from 27.84 tcf per year in 2016 to 34.63 tcf per year in 2040.⁴² EIA further estimates that cumulative domestic gas consumption from 2016 through 2040 will be 763 tcf.⁴³ In the Non-FTA Order, DOE/FE stated that “EIA’s projections in AEO 2016 continue to show market conditions that will accommodate increased exports of natural gas.”⁴⁴ Reviewing the latest figures, DOE/FE concluded that “when compared to the AEO 2014 Reference Case, the AEO 2016 Reference Case projects increases in domestic natural gas production—well in excess of what is required to meet projected increases in domestic consumption.”⁴⁵ According to the latest EIA data, the United States is projected to become a net exporter of natural gas by 2017 due to increasing natural gas production outpacing demand.⁴⁶

As demonstrated herein and consistently affirmed by DOE/FE, recoverable natural gas resources in the U.S. are sufficient to meet demand for domestic consumption and the proposed export over the long-term. Accordingly, the proposed export authorization will not have a detrimental impact on the domestic supply of natural gas and, therefore, is not inconsistent with the public interest.

⁴¹ *Id.*

⁴² U.S. Energy Information Administration, Annual Energy Outlook 2016, Table 13 Natural Gas Supply, Disposition, and Prices (Jul. 2016), *available at* http://www.eia.gov/forecasts/aeo/tables_ref.cfm.

⁴³ U.S. Energy Information Administration, Annual Energy Outlook 2016, Table 13 Natural Gas Supply, Disposition, and Prices (Jul. 2016), *available at* http://www.eia.gov/forecasts/aeo/tables_ref.cfm.

⁴⁴ Non-FTA Order at 126.

⁴⁵ *Id.*

⁴⁶ U.S. Energy Information Administration, Annual Energy Outlook 2016, Executive Summary (Jul. 2016), *available at* https://www.eia.gov/forecasts/aeo/executive_summary.cfm.

The domestic need for the natural gas proposed to be exported is the “only explicit criterion that must be considered in determining the public interest.”⁴⁷ However, DOE/FE has “identified a range of factors that it evaluates when reviewing an application for export authorization” including “economic impacts, international impacts, security of natural gas supply, and environmental impacts, among others.”⁴⁸ DOE/FE thoroughly reviewed each of these factors in approving exports by LCE from the Lake Charles Terminal. In the Non-FTA Order, DOE/FE confirmed that the most recent data supports the conclusion that “substantial economic and public benefits, including reductions to the U.S. trade deficit and the generation of significant tax revenues for federal, state, and local governmental entities, will follow from a grant of the Application.”⁴⁹ In light of the fact that the newly proposed exports will increase exports from the Lake Charles Terminal by only 121 Bcf/year, the same analysis is applicable here.

With respect to the impact of exports on natural gas prices, the DOE/FE Policy Guidelines make clear that it is not the policy of the federal government to manipulate domestic energy prices by approving or disapproving import and export applications.⁵⁰ U.S. policy is that markets, and not the government, should allocate resources, determine supply and demand, and set prices. Nonetheless, as noted above, the AEO 2016 Reference Case predicts substantially lower natural gas prices than the AEO 2014 Reference Case did for 2040. Comparing the key results from AEO 2016 to AEO 2014, DOE has concluded that AEO 2016’s results are “more

⁴⁷ *Phillips Alaska Natural Gas Corp. & Marathon Oil Co.*, DOE/FE Order No. 1473 at 14 (Apr. 2, 1999).

⁴⁸ Non-FTA Order at 13-14.

⁴⁹ *Id.* at 121.

⁵⁰ Policy Guidelines and Delegation Orders Relating to the Regulation of Imported Natural Gas, 49 Fed. Reg. 6,684, 6,685 (Feb. 22, 1984) (“The market, not government, should determine the price and other contract terms of imported [or exported] gas. . . .”) (“Policy Guidelines”). While the Policy Guidelines deal specifically with imports, DOE/FE has found that the principles are applicable to exports. *Phillips Alaska Natural Gas Corp. & Marathon Oil Co.*, DOE/FE Order No. 1473 at 14.

supportive of LNG exports on the same basis of higher production and demand with lower prices relative to AEO 2014.”⁵¹

With respect to economic impacts of LNG exports, the 2014 EIA Study recently analyzed the impacts of natural gas exports ranging from 12 to 20 Bcf/d on the U.S. energy markets. It supports LCE’s requested export authorization. The EIA concludes that “increasing LNG exports leads to higher economic output, as measured by real gross domestic product (GDP), as increased energy production spurs investment.”⁵²

The 2015 LNG Export Study, which analyzed the macroeconomic impact of LNG exports in the range of 12-20 Bcf/d, also supports LCE’s requested authorization. Utilizing the Rice World Gas Trade Model to simulate various alternative scenarios for the future of the global natural gas market and the Oxford Economics Global Economic Model and Global Industry Model to simulate broad macroeconomic and sectoral impacts under the scenarios considered, the 2015 LNG Export Study concludes that increasing U.S. exports from 12 Bcf per day to 20 Bcf per day would increase U.S. gross domestic product by \$7.3 billion to \$20.5 billion annually from 2026 to 2040.⁵³

DOE has determined that the 2014 EIA Study and the 2015 LNG Export Study are “fundamentally sound” and support the proposition that additional export authorizations are not inconsistent with the public interest.⁵⁴ LCE’s proposed export level is within the quantities studied in the 2014 EIA Study and the 2015 LNG Export Study, and these exports and the Lake Charles Terminal itself will have a positive economic impact, consistent with the 2014 EIA Study and the 2015 LNG Export Study.

⁵¹ Non-FTA Order at 124.

⁵² 2014 EIA Study at 12.

⁵³ 2015 LNG Export Study at 17.

⁵⁴ Non-FTA Order at 126; *see also Cameron LNG, LLC*, DOE/FE Order No. 3846 at 110 (Jul. 15, 2016).

6. The potential environmental impact of the project.

LCE respectfully submits that a categorical exclusion applies to the authorization requested in this Application. A categorical exclusion is appropriate because the request for authorization to export additional volumes of LNG from the Lake Charles Terminal does not involve *any* new construction or modification to existing facilities. Pursuant to the DOE/FE NEPA implementing regulations, a categorical exclusion applies for “Approvals or disapprovals of new authorizations or amendments of existing authorizations to import or export natural gas under section 3 of the Natural Gas Act that involve minor operational changes (such as changes in natural gas throughput, transportation, and storage operations) but not new construction.”⁵⁵ The action sought by LCE here falls squarely within this categorical exclusion because LCE is seeking authorization to export natural gas involving only a change in the export quantity and no new construction. DOE/FE has recently applied such a categorical exclusion where, like here, applicants sought to export additional quantities from LNG facilities and no construction is required.⁵⁶

In addition, potential environmental impacts were fully studied by FERC as the lead agency for NEPA review and affirmed by DOE/FE in issuing the final Non-FTA export authorization to LCE. The FERC authorization applicable to the Lake Charles Terminal liquefaction project is for the full design production capacity of the facilities, which includes the

⁵⁵ 10 C.F.R. Part 1021, Subpart D, Appendix B, B5.7 (2016); *see also* 40 C.F.R. § 1508.4 (2016) (Council on Environmental Quality NEPA implementing regulations stating that categorical exclusions apply to categories of actions the implementing agency has determined are not expected to have individually or cumulatively significant environmental impacts).

⁵⁶ *See, e.g., ConocoPhillips Alaska Natural Gas Corp., Categorical Exclusion Determination, DOE/FE Docket No. 15-149-LNG (Feb. 4, 2016) (applying a categorical exclusion to LNG terminal operator’s application to export additional quantities of LNG from its existing terminal, requiring no new construction of facilities); Cameron LNG, LLC, Categorical Exclusion Determination, DOE/FE Docket No. 15-67-LNG (Mar. 18, 2016) (applying a categorical exclusion to LNG terminal operator’s application to align DOE authorized export volumes with the maximum liquefaction capacity of the LNG terminal, requiring no new construction of facilities).*

export quantity requested here.⁵⁷ The authorization sought here is simply to align the volumes authorized by DOE/FE for export with the capacity of the facility already approved by FERC. Accordingly, a complete NEPA review for the full export amount requested has already been completed with DOE/FE as a cooperating agency. In that NEPA review, including a full Environmental Impact Statement, FERC concluded that “approval of the proposed facilities, if constructed and operated as described in the final EIS, is an environmentally acceptable action.”⁵⁸

Such environmental review was recently thoroughly analyzed and affirmed by DOE/FE in issuing the final Non-FTA export authorization to LCE in Order No. 3324-A.⁵⁹ As no new construction is proposed, DOE/FE should make the same findings here.⁶⁰

III. APPENDICES

The following appendices are included with this Application:

Appendix A	Verification
Appendix B	Opinion of Counsel

IV. CONCLUSION

WHEREFORE, for the reasons set forth above, Lake Charles Exports, LLC respectfully requests that the DOE/FE issue an order granting LCE long-term authorization to export an additional 121 Bcf/year of domestic LNG to (1) any country with which the United States

⁵⁷ FERC Order at n.13.

⁵⁸ *Id.* at P 139.

⁵⁹ Non-FTA Order at 127-28 (“For the reasons set forth below, DOE/FE has not found that the arguments raised in the FERC proceeding, the current proceeding, or the 2014 and 2015 LNG Export Study proceedings detract from the reasoning and conclusions contained in the final EIS. Accordingly, DOE has adopted the EIS (DOE/EIS-0491), and hereby incorporates FERC’s reasoning and findings in this Order.”).

⁶⁰ DOE/FE recently issued a Finding of No Significant Impact for Sabine Pass Liquefaction, LLC’s application to export additional quantities of LNG where no construction of facilities was required. In issuing the Finding, DOE/FE noted that “[t]he requested authorization was based on optimized design of previously authorized facilities and will not require the construction or modification of facilities not previously authorized.” *See Finding of No Significant Impact for Sabine Pass Liquefaction Project*, DOE/FE Docket No. 15-63-LNG (Mar. 11, 2016), available at <http://energy.gov/sites/prod/files/2016/03/f30/Sabine%20Pass%20FONSI.pdf>.

currently has, or in the future may enter into, a FTA requiring national treatment for trade in natural gas for a 25-year period commencing on the earlier of the date of first export or ten years from the date of the FTA Order and (2) any country with which the United States does not have a FTA requiring national treatment for trade in natural gas with which trade is not prohibited by United States law or policy for a 20-year period commencing on the earlier of the date of first export or seven years from the date of the Non-FTA Order. As demonstrated herein, the authorization requested is not inconsistent with the public interest and, accordingly, should be granted pursuant to Section 3 of the Natural Gas Act.

Respectfully submitted,

/s/ Todd Carpenter

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Dated: August 12, 2016

**APPENDIX A
VERIFICATION**

VERIFICATION

County of Harris

State of Texas

BEFORE ME, the undersigned authority, on this day personally appeared Todd Carpenter, who, having been by me first duly sworn, on oath says that he is duly authorized to make this Verification on behalf of Lake Charles Exports, LLC; that he has read the foregoing instrument and that the facts therein stated are true and correct to the best of his knowledge, information and belief.



SWORN TO AND SUBSCRIBED before me on:


Notary Public

APPENDIX B
OPINION OF COUNSEL

August 12, 2016

Mr. John A. Anderson
Director, Office of Regulation & International Engagement
Office of Fossil Energy
U.S. Department of Energy
Docket Room 3F-056, FE-50
1000 Independence Avenue, S.W.
Washington, DC 20585

Re: Lake Charles Exports, LLC
Application for Long-Term Authorization to Export Liquefied Natural Gas to Free Trade
Agreement and Non-Free Trade Agreement Countries
Opinion of Counsel

Dear Mr. Anderson:

This opinion of counsel is submitted pursuant to Section 590.202(c) of the regulations of the U.S. Department of Energy, 10 C.F.R. § 590.202(c) (2016). The undersigned is counsel to Lake Charles Exports, LLC. I have reviewed the corporate documents of Lake Charles Exports, LLC and it is my opinion that the proposed export of natural gas as described in the application filed by Lake Charles Exports, LLC to which this Opinion of Counsel is attached as Appendix B, is within the limited liability company powers of Lake Charles Exports, LLC.

Respectfully submitted,

/s/ Todd Carpenter
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