

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

LOUISIANA LNG ENERGY, LLC

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FE DOCKET NO. 14-19-LNG
FE DOCKET NO. 14-29-LNG

ORDER TO SHOW CAUSE

I. BACKGROUND

On August 28, 2014, in FE Docket No. 14-19-LNG, the U.S. Department of Energy, Office of Fossil Energy (DOE/FE) issued DOE/FE Order No. 3482 to Louisiana LNG Energy, LLC (LLNG).¹ This order, issued under section 3(c) of the Natural Gas Act (NGA),² authorized LLNG to export domestically produced liquefied natural gas (LNG) from LLNG's proposed facility to be constructed in Plaquemines Parish, Louisiana, in a volume equivalent to approximately 103.4 billion cubic feet per year (Bcf/yr) of natural gas to countries with which the United States has 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 (FTA countries).

¹ *Louisiana LNG Energy, LLC*, DOE/FE Order No. 3482, FE Docket No. 14-19-LNG, Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Proposed Louisiana LNG Energy Project in Plaquemines Parish, Louisiana, to Free Trade Agreement Nations (Aug. 28, 2014).

² 15 U.S.C. § 717b(c). Authority to regulate the imports and exports of natural gas, including liquefied natural gas, under section 3 of the NGA has been delegated to the Assistant Secretary for FE in Redelegation Order No. 00-006.02 issued on November 17, 2014.

Additionally, on February 18, 2014, in FE Docket No. 14-29-LNG, LLNG filed an application with DOE/FE requesting authorization to export the same volume of LNG (103.4 Bcf/yr) from LLNG's proposed facility to countries with which the United States does not have a FTA requiring national treatment for trade in natural gas (non-FTA countries).³ That application, filed under section 3(a) of the NGA,⁴ remains pending before DOE/FE.

II. DISCUSSION

A. Failure to Comply with Reporting Requirements for FTA Authorization

Under the terms of DOE/FE Order No. 3482, LLNG is required to comply with semi-annual reporting requirements, which commenced upon issuance of that authorization.

Ordering Paragraph J states:

LLNG shall file with the Office of Oil and Gas Global Security and Supply, on a semi-annual basis, written reports describing the progress of the Project. The reports shall be filed on or by April 1 and October 1 of each year, and shall include information on the progress of the Project, the date the facility is expected to be operational, and the status of the long-term contracts associated with the long-term export of LNG and any long-term supply contracts.

LLNG's last report in compliance with this provision occurred more than 18 months ago, on November 4, 2015 (which itself was late).⁵ LLNG failed to file the semi-annual reports due on April 1 and October 1, 2016, and April 1, 2017. Throughout this time period, DOE/FE's continued efforts to reach LLNG have been unsuccessful.⁶ In sum, LLNG has now been in

³ Louisiana LNG Energy, LLC, Application for Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Countries, FE Docket No. 14-29-LNG (Feb. 18, 2014).

⁴ 15 U.S.C. § 717b(a).

⁵ Louisiana LNG Energy, LLC, Semi-Annual Report, FE Docket No. 14-19-LNG (Nov. 4, 2015), *available at*: <https://www.energy.gov/fe/downloads/semi-annual-reports-louisiana-lng-energy-llc-fe-dkt-no-14-19-lng-order-3482>.

⁶ DOE/FE has attempted to contact the person listed on LLNG's filings as its official contact, as well as LLNG's counsel of record. Emails to LLNG's contact person bounced back, and LLNG's counsel of record informed DOE/FE that they are no longer representing LLNG. DOE/FE's efforts to contact other individuals associated with LLNG have not been successful.

violation of DOE/FE Order No. 3482 since November 2015, and has provided no explanation for its lack of compliance.

B. Failure to Notify DOE/FE of Termination of Environmental Review Process for Proposed LLNG Facility

Under DOE/FE's regulations governing LNG export authorizations (including DOE/FE Order No. 3482), LLNG has a continuing obligation to notify DOE/FE of any "changes to the information submitted during the application process upon which the authorization was based, including ... the place of entry or exit."⁷ This notification must be made in writing "as soon as practicable."⁸

Additionally, with respect to LLNG's pending non-FTA application, LLNG is required to "amend or supplement the application, whenever there are changes in material facts or conditions upon which the proposal is based."⁹ Notably, in light of DOE/FE's obligation to evaluate the environmental impact of any project to export natural gas, "[t]he application shall be updated as the status of any environmental assessments changes."¹⁰

DOE takes administrative notice that, on December 13, 2016, the Federal Energy Regulatory Commission (FERC) issued a letter to LLNG terminating the pre-filing review of LLNG's proposed LNG facility in Plaquemines Parish, Louisiana (called the Mississippi River LNG Project by FERC).¹¹ In explaining its termination action, FERC stated:

Louisiana LNG Energy, LLC has not filed any responses to our latest environmental data request (February 25, 2016) or filed the application needed for staff to continue the environmental review of your project. The pre-filing record also indicates that it has been over one year since Louisiana LNG Energy, LLC engaged any

⁷ 10 C.F.R. § 590.407.

⁸ *Id.*

⁹ *Id.* § 590.204(a).

¹⁰ *Id.* § 590.202(b)(7).

¹¹ See Letter from Ann Miles, Director of FERC's Office of Energy Projects, to Martin Houston, Chairman of LLNG, Re: Pre-Filing Review Termination of the Mississippi River LNG Project, FERC Docket No. PF14-17-000 (Dec. 13, 2016).

regulatory authorities or potentially affected stakeholders, which is the intended purpose of the pre-filing process. Since March 1, 2016, the project has been reported in the monthly progress reports as being on hold. In addition, the latest monthly progress report, filed on September 8, 2016 stated that the submission of Section 3 and Section 7 applications has been deferred due to pending legal action and insolvency.¹²

Thus, due to LLNG's inaction, FERC is no longer reviewing the proposed LNG export facility upon which both LLNG's FTA authorization (DOE/FE Order No. 3482) and pending non-FTA application are based.

LLNG has failed to notify DOE/FE of FERC's pre-filing review termination notice. As a result, LLNG has failed to comply with any of the above-referenced regulations intended to keep DOE/FE up to date, either with respect to LLNG's FTA authorization or its pending non-FTA application.

We further note that FERC's description of LLNG's lack of engagement is consistent with DOE/FE's experience, described above. For all of these reasons, DOE/FE sees no evidence that LLNG is moving forward with its proposed LNG export facility, intends to maintain its FTA authorization, or wishes to advance its pending non-FTA application.

III. FINDINGS

DOE/FE is authorized to issue an order to show cause "against any ... person alleged to be in contravention or violation of any authorization, statute, rule, order, or law administered by FE applicable to the import and export of natural gas."¹³ The purpose of such an order is to "identify the matters of interest," to which the respondent "shall respond orally or in writing, or both, as required by the order."¹⁴

¹² *Id.* at 1.

¹³ *Id.* § 590.401.

¹⁴ *Id.*

ORDER

For the foregoing reasons, and pursuant to section 3 of the Natural Gas Act and DOE/FE's regulations at 10 C.F.R. § 590.401, DOE/FE orders as follows:

(1) Louisiana LNG Energy, LLC (LLNG) is ordered to show cause, in writing, why its authorization granted in DOE/FE Order No. 3482 (FE Docket No. 14-19-LNG) should not be vacated without prejudice.

(2) LLNG is ordered to show cause, in writing, why its pending non-FTA application in FE Docket No. 14-29-LNG should not be dismissed without prejudice.

(3) LLNG must file the requested responses within 30 days of the issuance of this order. If LLNG fails to file a timely response, DOE/FE will vacate DOE/FE Order No. 3482 and dismiss the pending application in FE Docket No. 14-29-LNG without prejudice.

Issued in Washington, D.C., on June 12, 2017.



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