

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

FOURCHON LNG LLC

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FE DOCKET NO. 17-105-LNG

ORDER GRANTING LONG-TERM, MULTI-CONTRACT AUTHORIZATION
TO EXPORT LIQUEFIED NATURAL GAS BY VESSEL FROM
THE PROPOSED FOURCHON LNG FACILITY
IN LAFOURCHE PARISH, LOUISIANA,
TO FREE TRADE AGREEMENT NATIONS

DOE/FE ORDER NO. 4162

MARCH 11, 2018

I. DESCRIPTION OF REQUEST

On August 17, 2017, Fourchon LNG LLC (Fourchon LNG) filed an Application¹ with the Office of Fossil Energy (FE) of the Department of Energy (DOE) under section 3 of the Natural Gas Act (NGA)² for long-term, multi-contract authorization to export domestically produced liquefied natural gas (LNG) in a volume equivalent to approximately 260 billion cubic feet per year (Bcf/yr) of natural gas (0.71 Bcf per day). Fourchon LNG seeks to export the LNG by vessel from its proposed natural gas liquefaction facility to be located on Port Fourchon at Belle Pass in Lafourche Parish, Louisiana (Fourchon LNG Facility or Facility).³

Fourchon LNG seeks authorization to export this LNG for: (i) a 30-year term to any country with which the United States currently has, or in the future will have, a free trade agreement (FTA) requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (FTA countries);⁴ and (ii) for a 20-year term to any other country with which trade is not prohibited by U.S. law or policy (non-FTA countries). Fourchon LNG states that the requested FTA and non-FTA export volumes would not be additive.

Fourchon LNG also requests a three-year “make-up period” following the end of the respective term of FTA or non-FTA authorization, such that it may continue exporting amounts of LNG as may be necessary to bring total exports up to the full volume authorized, if Fourchon LNG is unable to export all volumes during the original export period.⁵

¹ Fourchon LNG LLC, Application for Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas, FE Docket No. 17-105-LNG (Aug. 17, 2017) [hereinafter App.].

² The authority to regulate the imports and exports of natural gas, including liquefied natural gas, under section 3 of the NGA (15 U.S.C. § 717b) has been delegated to the Assistant Secretary for FE in Redelegation Order No. 00-006.02 issued on November 12, 2014.

³ See App. at 2.

⁴ 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.

⁵ See App. at 6.

Fourchon LNG seeks to export this LNG on its own behalf and as agent for other entities that will hold title to the LNG at the time of export. Fourchon LNG requests that the authorization commence on the earlier of the date of first export following the commencement of operations from the proposed Fourchon LNG Facility or seven years from the date this authorization is issued.

The portion of Fourchon LNG's Application that seeks authorization to export domestically produced LNG to FTA countries is being reviewed pursuant to NGA section 3(c), 15 U.S.C. § 717b(c), and approved in this Order. The portion of the Application that seeks authorization to export domestically produced LNG to non-FTA countries will be reviewed pursuant to NGA section 3(a), 15 U.S.C. § 717b(a), and addressed in a separate order.⁶

II. BACKGROUND

Applicant. Fourchon LNG states that it is a Delaware limited liability company with its principal place of business in Fort Pierce, Florida. Fourchon LNG is a wholly-owned direct subsidiary of Energy World (USA) Incorporated (Energy World), a Delaware corporation. The controlling interest in Energy World is held by Mr. Stewart Elliot.

Proposed Liquefaction Facility. Fourchon LNG proposes to construct, own, and operate the Fourchon LNG Facility on the southern tip of Port Fourchon at Belle Pass, in Lafourche Parish. Fourchon LNG states that the Facility will utilize domestic sources of natural gas, and will receive, liquefy, store, and deliver LNG to LNG carriers for export in overseas markets and domestically to LNG-fueled marine vessels.⁷

⁶ See Fourchon LNG LLC; Application for Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations, 82 Fed. Reg. 49,201 (Oct. 24, 2017).

⁷ See App. at 2-3.

Fourchon LNG states that the Facility will occupy approximately 40 acres of land that is currently leased by Energy World from the Greater Lafourche Port Commission.⁸ The lease has a term of 10 years with the right and option to renew and extend the lease for an additional 25 years.⁹ According to Fourchon LNG, the lease agreement provides Energy World the right to sublease the premises. Energy World intends to sublet to Fourchon LNG all of the land and pipeline rights of way required for the Facility. Alternatively, the Port Commission has indicated its willingness to substitute Fourchon LNG as the direct lessee upon request.¹⁰

Fourchon LNG states that the Facility will have a peak capacity of approximately 260 Bcf/yr of natural gas, or 5 million metric tons per annum (mtpa) of LNG. Fourchon LNG further states that the Facility will be developed in phases. The first phase will have a capacity of 2 mtpa of LNG, to be followed by the remaining LNG trains as demand develops (each with a capacity of 0.5 mtpa).¹¹ The LNG will be stored onsite in two tanks, each designed to store a nominal working volume of 88,000 m³ of LNG. The marine loading facility, to be located along Belle Pass, will consist of both a single ship berth and a maneuvering basin.¹²

Fourchon LNG states that, for the first phase of the Facility, natural gas delivery to the site will occur through a short pipeline spur that will consist of a pipeline built to run approximately 600 yards to the west of the Fourchon LNG Facility. The pipeline will connect to an existing pipeline operated by Kinetica Partners, LLC (Kinetica). Fourchon LNG states that

⁸ See *id.* at 2, see also *id.* at Appendix C (site map).

⁹ See *id.* at 2; see also *id.* Appendix D (proof of site control).

¹⁰ See App. at 2.

¹¹ Fourchon LNG states that the first phase of the Facility will consist of installation of two natural gas pre-treatment units and four liquefaction trains equal to an approximate, nominal output capacity of 2 mtpa. Subsequent phases will include the installation of the remaining three gas pre-treatment units and six liquefaction trains, equal to an approximate additional output capacity of 3 mtpa as demand develops. See *id.* at 3.

¹² See *id.*

the pipeline system will be upgraded as necessary for subsequent phases. Fourchon LNG expects to finalize an agreement with Kinetica for the use of the Kinetica pipeline as necessary.¹³

DOE/FE notes that the proposed Fourchon LNG Facility is currently under review by the Federal Energy Regulatory Commission (FERC) in FERC Docket No. PF17-9.¹⁴

Source of Supply. Fourchon LNG states that natural gas for the Fourchon LNG Facility will include supplies available from various producing regions throughout the eastern United States. Additionally, the Facility will have the capability to access the entire national natural gas pipeline grid through various interconnections.

Business Model. Fourchon LNG requests this authorization on its own behalf and as agent for other entities that will hold title to the LNG at the time of export. Fourchon LNG states that, to date, it has not entered into contracts for the proposed exports from the Facility. However, Fourchon LNG states that it will file all long-term, binding contracts associated with the export of LNG from the Facility, once executed, in accordance with DOE's established policy and will comply with all DOE/FE requirements for exporters and agents, including registration requirements. Fourchon LNG further states that, when acting as agent, it will register with DOE/FE each LNG title holder for which it seeks to export LNG as agent, and will comply with other registration requirements as set forth in recent DOE/FE orders.¹⁵

III. 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 a FTA requiring national treatment for trade in natural gas, and/or (b) the import of LNG from other

¹³ See *id.* at 3-4.

¹⁴ *Fourchon LNG LLC*, FERC Docket No. PF17-9-000; see also App. at 18.

¹⁵ App. at 5-6.

international sources, be deemed consistent with the public interest and granted without modification or delay. This Application falls within section 3(c), as amended, and therefore, DOE/FE is charged with granting the requested FTA authorization without modification or delay.¹⁶

(2) In light of DOE's statutory obligation to grant this Application without modification or delay, there is no need for DOE/FE to review other arguments asserted by Fourchon LNG in support of the Application. The instant grant of authority should not be read to indicate DOE/FE's views on those arguments or on Fourchon LNG's request for non-FTA export authorization.

(3) The countries with which the United States has a FTA requiring national treatment for trade in natural gas currently are: Australia, Bahrain, Canada, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Republic of Korea, and Singapore.

(4) As described above, Fourchon LNG requests authorization to export LNG on its own behalf and as agent for other entities who hold title to the LNG at the time of export. DOE/FE previously addressed the issue of Agency Rights in DOE/FE Order No. 2913,¹⁷ which granted Freeport LNG Expansion, L.P., *et al.* (collectively, FLEX) authority to export LNG to FTA countries. In that order, DOE/FE approved a proposal by FLEX to register each LNG title holder for whom FLEX sought to export LNG as agent. DOE/FE found that this proposal was an acceptable alternative to the non-binding policy adopted by DOE/FE in *The Dow Chemical*

¹⁶ DOE further finds that the requirement for public notice of applications and other hearing-type procedures in 10 C.F.R. Part 590, are applicable only to applications seeking to export natural gas, including LNG, to countries with which the United States does not have a FTA requiring national treatment for trade in natural gas.

¹⁷ *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No 2913, FE Docket No. 10-160-LNG, Order Granting Long-Term Authorization to Export Liquefied Natural Gas from Freeport LNG Terminal to Free Trade Nations (Feb. 10, 2011).

Company, which established that the title for all LNG authorized for export must be held by the authorization holder at the point of export.¹⁸ We find that the same policy considerations that supported DOE/FE's acceptance of the alternative registration proposal in DOE/FE Order No. 2913 apply here as well.

DOE/FE reiterated its policy on Agency Rights procedures in other authorizations, including *Cameron LNG, LLC*, DOE/FE Order No. 3680.¹⁹ In that order, DOE/FE determined that, in LNG export orders in which Agency Rights have been granted, DOE/FE shall require registration materials filed for, or by, an LNG title-holder (Registrant) to include the same company identification information and long-term contract information of the Registrant as if the Registrant had filed an application to export LNG on its own behalf.²⁰

To ensure that the public interest is served, the authorization granted herein shall require that where Fourchon LNG proposes to export LNG as agent for other entities who hold title to the LNG (Registrants), Fourchon LNG must register with DOE/FE those entities on whose behalf it will export LNG in accordance with the procedures and requirements described herein.

(5) Section 590.202(b) of DOE's regulations requires applicants to supply transaction-specific factual information "to the extent practicable."²¹ Additionally, DOE regulations at 10 C.F.R. § 590.202(e) allow confidential treatment of the information supplied in support of or in opposition to an application if the submitting party requests such treatment, shows why the

¹⁸ *The Dow Chemical Company*, DOE/FE Order No. 2859, FE Docket No. 10-57-LNG, Order Granting Blanket Authorization to Export Liquefied Natural Gas, at 7-8 (Oct. 5, 2010), discussed in *Freeport LNG*, DOE/FE Order No. 2913, at 7-8.

¹⁹ *Cameron LNG, LLC*, DOE/FE Order No. 3680, FE Docket No. 15-36-LNG, Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas By Vessel from the Cameron LNG Terminal in Cameron and Calcasieu Parishes, Louisiana, to Free Trade Agreement Nations) (July 10, 2015).

²⁰ *See id.* at 7-8.

²¹ 10 C.F.R. § 590.202(b).

information should be exempted from public disclosure, and DOE determines it will be afforded confidential treatment in accordance with 10 C.F.R. § 1004.11.

(6) DOE/FE will require that Fourchon LNG file or cause to be filed with DOE/FE any relevant long-term commercial agreements (contracts) pursuant to which Fourchon LNG exports LNG as agent for a Registrant once those agreements have been executed. DOE/FE finds that the submission of all such agreements or contracts within 30 days of their execution using the procedures described below will be consistent with the “to the extent practicable” requirement of section 590.202(b). By way of example and without limitation, a “relevant long-term commercial agreement” would include an agreement with a minimum term of two years, such as a long-term purchase and sales agreement involving LNG stored or liquefied at the Fourchon LNG Facility.

(7) DOE/FE also will require Fourchon LNG to file any long-term contracts Fourchon LNG enters into providing for the long-term export of LNG on its own behalf from the Fourchon LNG Facility. DOE/FE finds that the submission of these contracts within 30 days of their execution using the procedures described below will be consistent with the “to the extent practicable” requirement of section 590.202(b).

(8) In addition, DOE/FE finds that section 590.202(c) of DOE/FE’s regulations²² requires that Fourchon LNG file, or cause to be filed, all long-term contracts associated with the long-term supply of natural gas to the Fourchon LNG Facility, whether signed by Fourchon LNG or the Registrant, within 30 days of their execution.

(9) DOE/FE recognizes that some information in Fourchon LNG’s or a Registrant’s long-term commercial agreements associated with the export of LNG, and/or long-term contracts

²² *Id.* § 590.202(c).

associated with the long-term supply of natural gas to the Fourchon LNG Facility, may be commercially sensitive. DOE/FE therefore will provide Fourchon LNG the option to file or cause to be filed either unredacted contracts, or in the alternative: (A) Fourchon LNG may file, or cause to be filed, long-term contracts under seal, but it also will file either: i) a copy of each long-term contract with commercially sensitive information redacted, or ii) a summary of all major provisions of the contract(s) including, but not limited to, the parties to each contract, contract term, quantity, any take or pay or equivalent provisions/conditions, destination, re-sale provisions, and other relevant provisions; and (B) the filing must demonstrate why the redacted or non-disclosed information should be exempted from public disclosure.

To ensure that DOE/FE destination and reporting requirements included in the Order are conveyed to subsequent title holders, DOE/FE will include as a condition of this authorization that future contracts for the sale or transfer of LNG exported pursuant to the Order shall include an acknowledgement of these requirements.

(10) Fourchon LNG will be permitted to continue exporting for a total of three years following the end of the 30-year term established in this Order, solely to export any Make-Up Volume that it was unable to export during the original export period. The three-year term during which the Make-Up Volume may be exported shall be known as the “Make-Up Period.” The Make-Up Period does not affect or modify the total volume of LNG authorized in this Order. Insofar as Fourchon LNG may seek to export additional volumes not previously authorized for export, it will be required to obtain appropriate authorization from DOE/FE.

ORDER

Pursuant to section 3 of the NGA, it is ordered that:

A. Fourchon LNG LLC is authorized to export domestically produced LNG by vessel from the Fourchon LNG Facility, to be located on Port Fourchon at Belle Pass in Lafourche

Parish, Louisiana. The volume authorized in this Order is equivalent to approximately 260 Bcf/yr of natural gas for a 30-year term, beginning on the earlier of the date of first export or seven years from the date the authorization is issued. Fourchon LNG is authorized to export this LNG on its own behalf and as agent for other entities who hold title to the natural gas, pursuant to one or more long-term contracts (a contract greater than two years).

Fourchon LNG may continue exporting for a total of three years following the end of the 30-year export term, solely to export any Make-Up Volume that it was unable to export during the original export period. The three-year Make-Up Period allowing the export of Make-Up Volumes does not affect or modify the maximum volume of LNG authorized for export in this Order. Insofar as Fourchon LNG may seek to export additional volumes not previously authorized for export, it will be required to obtain appropriate authorization from DOE/FE.

B. This LNG may be exported to Australia, Bahrain, Canada, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Republic of Korea, and Singapore, and to any nation with which the United States subsequently enters into a FTA requiring national treatment for trade in natural gas, provided that the destination nation has the capacity to import LNG via ocean going vessels. FTA countries are currently identified by DOE/FE at:

<http://www.fossil.energy.gov/programs/gasregulation/index.html>

C. Fourchon LNG shall ensure that all transactions authorized by this Order 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 United States Department of the Treasury and FERC. Failure to comply with this requirement could result in rescission of this authorization and/or other civil or criminal remedies.

D. (1) Fourchon LNG shall file, or cause others to file, with the Office of Regulation and International Engagement a non-redacted copy of all executed long-term contracts associated with the long-term export of LNG on its own behalf or as agent for other entities from the Fourchon LNG Facility. The non-redacted copies may be filed under seal and must be filed within 30 days of their execution. Additionally, if Fourchon LNG has filed the contracts described in the preceding sentence under seal or subject to a claim of confidentiality or privilege, within 30 days of their execution, Fourchon LNG shall also file, or cause others to file, for public posting either: a) a redacted version of the contracts described in the preceding sentence, or b) major provisions of the contracts. In these filings, Fourchon LNG shall state why the redacted or non-disclosed information should be exempted from public disclosure.

(2) Fourchon LNG shall file, or cause others to file, with the Office of Regulation and International Engagement a non-redacted copy of all executed long-term contracts associated with the long-term supply of natural gas to the Fourchon LNG Facility. The non-redacted copies may be filed under seal and must be filed within 30 days of their execution. Additionally, if Fourchon LNG has filed the contracts described in the preceding sentence under seal or subject to a claim of confidentiality or privilege, within 30 days of their execution, Fourchon LNG shall also file, or cause others to file, for public posting either: a) a redacted version of the contracts described in the preceding sentence, or b) major provisions of the contracts. In these filings, Fourchon LNG shall state why the redacted or non-disclosed information should be exempted from public disclosure.

E. Fourchon LNG shall include, and require others for whom Fourchon LNG acts as agent to include, the following provision in any agreement or other contract for the sale or transfer of LNG exported pursuant to this Order:

Customer or purchaser acknowledges and agrees that it will resell or transfer LNG purchased hereunder for delivery only to countries identified in Ordering Paragraph B of DOE/FE Order No. 4162, issued March 11, 2018, in FE Docket No. 17-105-LNG, and/or to purchasers that have agreed in writing to limit their direct or indirect resale or transfer of such LNG to such countries. Customer or purchaser further commits to cause a report to be provided to Fourchon LNG LLC that identifies the country (or countries) into which the LNG or natural gas was actually delivered and/or received for end use, and to include in any resale contract for such LNG the necessary conditions to ensure that Fourchon LNG LLC is made aware of all such countries.

F. Fourchon LNG is permitted to use its authorization in order to export LNG as agent for other entities, after registering the other parties with DOE/FE. Registration materials shall include an acknowledgement and agreement by the Registrant to supply LNG with all information necessary to permit Fourchon LNG to register that person or entity with DOE/FE, including: (1) the Registrant's agreement to comply with this Order and all applicable requirements of DOE's regulations at 10 C.F.R. Part 590, including but not limited to destination restrictions; (2) the exact legal name of the Registrant, state/location of incorporation/registration, primary place of doing business, and the Registrant's ownership structure, including the ultimate parent entity if the Registrant is a subsidiary or affiliate of another entity; (3) the name, title, mailing address, e-mail address, and telephone number of a corporate officer or employee of the Registrant to whom inquiries may be directed; (4) within 30 days of execution, a copy of any long-term contracts not previously filed with DOE/FE, described in Ordering Paragraph D of this Order.

G. Each registration submitted pursuant to this Order shall have current information on file with DOE/FE. Any changes in company name, contact information, length of the long-term contract, termination of the long-term contract, or other relevant modification, shall be filed with DOE/FE within 30 days of such change(s).

H. As a condition of this authorization, Fourchon LNG shall ensure that all persons required by this Order to register with DOE/FE have done so.

I. Within two weeks after the first export of domestically produced LNG occurs from the Fourchon LNG Facility, Fourchon LNG shall provide written notification of the date that the first export of LNG authorized in Ordering Paragraph A above occurred.

J. Fourchon LNG shall file with the Office of Regulation and International Engagement, on a semi-annual basis, written reports describing the status of the Fourchon LNG Facility. 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 Fourchon LNG Facility, the date the Fourchon LNG Facility is expected to be operational, and the status of the long-term contracts associated with the long-term export of LNG and any related long-term supply contracts.

K. With respect to any change in control of the authorization holder, Fourchon LNG must comply with DOE/FE Procedures for Change in Control Affecting Applications and Authorizations to Import or Export Natural Gas.²³ For purposes of this Ordering Paragraph, a “change in control” shall include any change, directly or indirectly, of the power to direct the management or policies of Fourchon LNG, 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.²⁴

²³ 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).

²⁴ See *id.* at 65,542.

L. Monthly Reports: With respect to the LNG exports authorized by this Order, Fourchon LNG shall file with the Office of Regulation and International Engagement, within 30 days following the last day of each calendar month, a report indicating whether exports of LNG have been made. The first monthly report required by this Order is due not later than the 30th day of the month following the month of first export. In subsequent months, if exports have not occurred, a report of “no activity” for that month must be filed. If exports of LNG have occurred, the report must give the following details of each LNG cargo: (1) the name(s) of the authorized exporter registered with DOE/FE; (2) the name of the U.S. export terminal; (3) the name of the LNG tanker; (4) the date of departure from the U.S. export terminal; (5) the country (or countries) into which the LNG or natural gas is actually delivered and/or received for end use; (6) the name of the supplier/seller; (7) the volume in thousand cubic feet (Mcf); (8) the price at point of export per million British thermal units (MMBtu); (9) the duration of the supply agreement (indicate spot sales); and (10) the name(s) of the purchaser(s).

(Approved by the Office of Management and Budget under OMB Control No. 1901-0294)

M. All monthly report filings shall be made to the Division of Natural Gas Regulation, Office of Regulation and International Engagement, Office of Fossil Energy, U.S. Department of Energy (FE-34), P.O. Box 44375, Washington, D.C. 20026-4375, Attention: Natural Gas Reports. Alternatively, reports may be e-mailed to ngreports@hq.doe.gov, or may be faxed to Natural Gas Reports at (202) 586-6050.

Issued in Washington, D.C., on March 11, 2018.

Robert J. Smith
Deputy Assistant Secretary for Oil and Natural Gas (Acting)