UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

| | | |
|---|---|---|
| MEXICO PACIFIC LIMITED LLC | ) ) ) | FE DOCKET NO. 18-70-LNG |

OPINION AND ORDER GRANTING LONG-TERM, MULTI-CONTRACT AUTHORIZATION TO EXPORT U.S.-SOURCED NATURAL GAS BY PIPELINE TO MEXICO FOR LIQUEFACTION AND RE-EXPORT IN THE FORM OF LIQUEFIED NATURAL GAS TO NON-FREE TRADE AGREEMENT COUNTRIES

DOE/FE ORDER NO. 4312

DECEMBER 14, 2018

## TABLE OF CONTENTS

## FREQUENTLY USED ACRONYMS

| | |
|---|---|
| AEO | Annual Energy Outlook |
| Bcf/d | Billion Cubic Feet per Day |
| Bcf/yr | Billion Cubic Feet per Year |
| CPP | Clean Power Plan |
| DOE | U.S. Department of Energy |
| EIA | U.S. Energy Information Administration |
| EPA | U.S. Environmental Protection Agency |
| FE | Office of Fossil Energy, U.S. Department of Energy |
| FTA | Free Trade Agreement |
| GHG | Greenhouse Gas |
| LNG | Liquefied Natural Gas |
| Mcf | Thousand Cubic Feet |
| MMBtu | Million British Thermal Units |
| MPL | Mexico Pacific Limited LLC |
| mtpa | Million Metric Tons per Annum |
| NEPA | National Environmental Policy Act |
| NERA | NERA Economic Consulting |
| NGA | Natural Gas Act |
| Tcf | Trillion Cubic Feet |

## I. INTRODUCTION

Mexico Pacific Limited LLC (MPL) filed an Application with the Office of Fossil Energy (FE) of the Department of Energy (DOE) on June 18, 2018,[1] and a Supplement to the Application on December 12, 2018.[2] In the Application, MPL requests authorization under section 3 of the Natural Gas Act (NGA)[3] to export domestically produced natural gas from the United States to Mexico, and after liquefaction in Mexico, to deliver and consume the liquefied natural gas (LNG) in Mexico and/or to re-export[4] the LNG as follows:

(i) under section 3(c) of the NGA, to countries with which the United States has entered into 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);[5] and

(ii) under section 3(a) of the NGA, to any other country with which trade is not prohibited by U.S. law or policy (non-FTA countries).[6]

MPL seeks this authorization in a volume of LNG up to 12 million metric tons per annum (mtpa), which is equivalent to 621 billion cubic feet per year (Bcf/yr) of natural gas (1.7 Bcf per day (Bcf/d)).[7]

---

[1] *Mexico Pacific Limited LLC*, Application for Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas to Free Trade Agreement and Non-Free Trade Agreement Nations, FE Docket No. 18-70-LNG (June 18, 2018) [hereinafter MPL App.].

[2] *Mexico Pacific Limited LLC*, Supplement to Application, FE Docket No. 18-70-LNG (Dec. 12, 2018) [hereinafter MPL Supp.].

[3] 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 17, 2014.

[4] For purposes of this Order, "re-export" means to ship or transmit U.S.-sourced natural gas in its various forms (gas, compressed, or liquefied) subject to DOE/FE's jurisdiction under the NGA, 15 U.S.C. § 717b, from one foreign country (*i.e.*, a country other than the United States) to another foreign country.

[5] 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.

[6] 15 U.S.C. § 717b(a). *See* MPL App. at 3 (requesting authorization "[t]o convert such natural gas to [LNG] for re-export" to both FTA and non-FTA countries "and for consumption in Mexico.").

[7] *See* MPL App. at 3; *see also* U.S. Dep't of Energy, Small-Scale Natural Gas Exports; Notice of Proposed Rulemaking, 82 Fed. Reg. 41,570, 41,573 (Sept. 1, 2017) ("When converting from million metric tons to billion cubic feet, DOE uses a conversion factor of 51.75 Bcf per million metric tons of dry natural gas.").

MPL states that the U.S.-sourced natural gas will be exported to Mexico at the United States-Mexico border via existing cross-border transmission pipelines, including an interstate pipeline owned by Sierrita Gas Pipeline LLC that extends to the United States-Mexico border near Sasabe, Arizona.[8] MPL further states that it is developing a LNG production and storage facility to be located in the State of Sonora, Mexico (the MPL Facility). According to MPL, the proposed MPL Facility will be located on the Gulf of California adjacent to Puerto Libertad, Mexico, approximately 160 miles south of the United States-Mexico border at Sasabe.[9] Once constructed, the MPL Facility will be capable of receiving, processing, and liquefying the U.S.-sourced natural gas, storing the resulting LNG, and loading the LNG onto ocean-going LNG carriers for re-export to other countries and/or delivery to other markets elsewhere in Mexico—particularly Mexican markets that are remote from Mexico's natural gas pipeline grid but that can be served through waterborne LNG deliveries.[10]

MPL requests both FTA and non-FTA authorizations for a period of 20 years, commencing on the earlier of the date of first export or five years from the date of the final order granting export authorization. Additionally, MPL requests authorization on its own behalf and as agent for other entities that will hold title to the natural gas or LNG at the time it is exported to Mexico and/or re-exported as LNG, respectively.[11]

On September 19, 2018, DOE/FE granted the FTA portion of MPL's Application in DOE/FE Order No. 4248.[12] Under that order, MPL is authorized to export natural gas to Mexico by pipeline and

[8] *See* MPL App. at 6-7; *see also infra* at 5-6.
[9] *See* MPL App. at 6. MPL provided an "MPL LNG Project Overview" as Attachment 1 of its Application, showing the location of the site on pages 3-4.
[10] *See id.* at 3-4.
[11] *See id*. at 8-9.
[12] *Mexico Pacific Limited, LLC,* DOE/FE Order No. 4248, FE Docket No. 18-70-LNG, Order Granting Long-Term, Multi-Contract Authorization to Export Natural Gas to Mexico and to Other Free Trade Agreement Nations (Sept. 19, 2018).

to re-export the resulting LNG from the proposed MPL Facility to FTA countries for end use in FTA countries, in a volume of 621 Bcf/yr of natural gas.[13]

On August 10, 2018, DOE/FE published a Notice of the non-FTA portion of MPL's Application in the *Federal Register* (Notice of Application).[14] The Notice of Application called on interested persons to submit protests, motions to intervene, notices of intervention, and comments by October 9, 2018. One comment in favor of the Application was submitted to DOE/FE.[15] *See infra* § VII. No protests or comments in opposition to the Application were filed, and therefore the non-FTA portion of the Application is uncontested.[16]

DOE/FE has reviewed the non-FTA portion of MPL's Application under NGA section 3(a), and for the reasons discussed below, grants the requested authorization in the volume of 621 Bcf/yr of natural gas. Because the source of LNG for the FTA order (DOE/FE Order No. 4248) and this Order are the same proposed MPL Facility with an expected liquefaction capacity of 12 mtpa of LNG (621 Bcf/yr of natural gas), the approved FTA and non-FTA volumes are not additive. DOE/FE is issuing this Opinion and Order subject to the additional conditions set forth below.

The non-FTA re-export volume approved in this Order—equivalent to 1.7 Bcf/d of natural gas—brings DOE/FE's cumulative total of approved non-FTA exports of LNG and compressed natural gas (CNG) to 23.05 Bcf/d of natural gas.

---

[13] *See id*.

[14] Mexico Pacific Limited, LLC, Application for Long-Term, Multi-Contract Authorization To Export Domestically Produced Natural Gas Through Mexico to Non-Free Trade Agreement Countries After Liquefaction to Liquefied Natural Gas; Notice of Application, 83 Fed. Reg. 39,737 (Aug. 10, 2018).

[15] *See* Comment of Diego Ponce (Sept. 28, 2018), *available at*: https://www.energy.gov/sites/prod/files/2018/10/f57/comment_egov.pdf.

[16] DOE finds that the requirement for public notice of applications in 10 C.F.R. Part 590 is applicable only to non-FTA applications under NGA section 3(a).

## II. BACKGROUND

### A. DOE's LNG Export Studies

In 2011, DOE/FE engaged the U.S. Energy Information Administration (EIA) and NERA Economic Consulting (NERA) to conduct a two-part study of the economic impacts of U.S. LNG exports, which together was called the "2012 LNG Export Study." In relevant part, the 2012 EIA Study examined how prescribed levels of natural gas exports (at 6 Bcf/d and 12 Bcf/d) above baseline cases could affect domestic energy markets. The NERA Study projected that, across all scenarios studied—assuming either 6 Bcf/d or 12 Bcf/d of LNG export volumes—the United States would experience net economic benefits from allowing LNG exports. DOE/FE published a notice of availability of the 2012 LNG Export Study in the *Federal Register* for public comment.[17] DOE/FE responded to the public comments in connection with the LNG export proceedings identified in that notice.[18]

By May 2014, in light of the volume of LNG exports to non-FTA countries then-authorized by DOE/FE and the number of non-FTA export applications still pending, DOE/FE determined that an updated study was warranted to consider the economic impacts of exporting LNG from the lower-48 states to non-FTA countries.[19] On May 29, 2014, DOE announced plans to undertake new economic studies to gain a better understanding of how potentially higher

[17] *See* 2012 LNG Export Study, 77 Fed. Reg. 73,627 (Dec. 11, 2012), *available at*: http://energy.gov/sites/prod/files/2013/04/f0/fr_notice_two_part_study.pdf (Notice of Availability of the LNG Export Study).

[18] *See, e.g.*, *Sabine Pass Liquefaction, LLC,* DOE/FE Order No. 3792, FE Docket No. 15-63-LNG, Final Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel From the Sabine Pass LNG Terminal Located in Cameron Parish, Louisiana, to Non-Free Trade Agreement Nations, at 66-121 (Mar. 11, 2016).

[19] Because there is no natural gas pipeline interconnection between Alaska and the lower 48 states, DOE/FE generally views those LNG export markets as distinct. DOE/FE therefore focuses on LNG exports from the lower-48 states for purposes of determining macroeconomic impacts.

levels of U.S. LNG exports—at levels between 12 and 20 Bcf/d of natural gas—would affect the public interest.[20]

DOE/FE commissioned two new macroeconomic studies. The first, *Effect of Increased Levels of Liquefied Natural Gas Exports on U.S. Energy Markets*, was performed by EIA and published in October 2014 (2014 LNG Export Study or 2014 Study).[21] The 2014 Study assessed how specified scenarios of increased natural gas exports could affect domestic energy markets. At DOE's request, this 2014 Study served as an update of EIA's January 2012 study of LNG export scenarios and used baseline cases from EIA's *Annual Energy Outlook* 2014 (AEO 2014).[22]

The second study, *The Macroeconomic Impact of Increasing U.S. LNG Exports*, was performed jointly by the Center for Energy Studies at Rice University's Baker Institute and Oxford Economics under contract to DOE/FE (together, Rice-Oxford) and published in October 2015 (2015 LNG Export Study or 2015 Study).[23] The 2015 Study is a scenario-based assessment of the macroeconomic impact of levels of U.S. LNG exports, sourced from the lower-48 states in volumes ranging from 12 to 20 Bcf/d of natural gas under a range of assumptions, including U.S. resource endowment, U.S. natural gas demand, international LNG market dynamics, and other factors. The 2015 Study considered export volumes ranging from 12 to 20 Bcf/d of natural gas,

---

[20] *See* U.S. Dep't of Energy, Office of Fossil Energy, Request for an Update of EIA's January 2012 Study of Liquefied Natural Gas Export Scenarios, *available at*: http://energy.gov/fe/downloads/request-update-eia-s-january-2012-study-liquefied-natural-gas-export-scenarios (May 29, 2014) (memorandum from FE to EIA).

[21] U.S. Energy Info. Admin., *Effect of Increased Levels of Liquefied Natural Gas Exports on U.S. Energy Markets* (Oct. 2014), *available at*: https://www.eia.gov/analysis/requests/fe/pdf/lng.pdf.

[22] Each Annual Energy Outlook (AEO) presents EIA's long-term projections of energy supply, demand, and prices. It is based on results from EIA's National Energy Modeling System model. *See infra* § VIII.A.

[23] Center for Energy Studies at Rice University Baker Institute and Oxford Economics, *The Macroeconomic Impact of Increasing U.S. LNG Exports* (Oct. 29, 2015), *available at*: http://energy.gov/sites/prod/files/2015/12/f27/20151113_macro_impact_of_lng_exports_0.pdf.

as well as a high resource recovery case examining export volumes up to 28 Bcf/d of natural gas. The analysis covers the 2015 to 2040 time period.

On December 29, 2015, DOE/FE published a Notice of Availability of the 2014 and 2015 LNG Export Studies in the *Federal Register*, and invited public comment on those Studies.[24] DOE/FE has carefully examined the comments in a series of non-FTA LNG export decisions,[25] and the precedents established in those decisions have been considered in our review of MPL's Application.[26] *See infra* § VIII.

### B. DOE's Environmental Studies

On June 4, 2014, DOE/FE issued two notices in the *Federal Register* proposing to evaluate different environmental aspects of the LNG production and export chain. First, DOE/FE announced that it had conducted a review of existing literature on potential environmental issues associated with unconventional natural gas production in the lower-48 states. The purpose of this review was to provide additional information to the public concerning the potential environmental impacts of unconventional natural gas exploration and production activities, including hydraulic fracturing. DOE/FE published its draft report for public review and comment, entitled *Draft Addendum to Environmental Review Documents Concerning*

---

[24] U.S. Dep't of Energy, Macroeconomic Impacts of LNG Exports Studies; Notice of Availability and Request for Comments, 80 Fed. Reg. 81,300, 81,302 (Dec. 29, 2015).

[25] *See, e.g.*, *Lake Charles LNG Export Co., LLC*, DOE/FE Order No. 3868, FE Docket No. 13-04-LNG, 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, at 43-81 (July 29, 2016).

[26] On June 12, 2018, DOE announced the availability of a new macroeconomic study, entitled *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports* (2018 LNG Export Study). The 2018 LNG Export Study, conducted by NERA, examines the probability and macroeconomic impact of various U.S. LNG export scenarios and includes alternative baseline scenarios based on the U.S. Energy Information Administration's (EIA) *Annual Energy Outlook 2017*. DOE/FE is currently reviewing public comments received on the 2018 LNG Export Study, and thus does not rely on the 2018 Study in this Order. *See* U.S. Dep't of Energy, Study on Macroeconomic Outcomes of LNG Exports; Notice of Availability of the 2018 LNG Export Study and Request for Comments, 83 Fed. Reg. 27,314 (June 12, 2018); *see also* 2018 LNG Export Study, *available at*: https://www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf.

*Exports of Natural Gas from the United States* (Draft Addendum).[27] DOE/FE received comments on the Draft Addendum, and on August 15, 2014, issued the final Addendum with its response to the public comments contained in Appendix B.[28]

Second, DOE/FE commissioned the National Energy Technology Laboratory (NETL), a DOE applied research laboratory, to conduct an analysis calculating the life cycle greenhouse gas (GHG) emissions for LNG exported from the United States. The purpose of this analysis was to determine: (i) how domestically-produced LNG exported from the United States compares with regional coal (or other LNG sources) for electric power generation in Europe and Asia from a life cycle GHG perspective, and (ii) how those results compare with natural gas sourced from Russia and delivered to the same markets via pipeline. DOE/FE published NETL's report entitled, *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States* (LCA GHG Report).[29] DOE/FE also received public comment on the LCA GHG Report, and provides its response to those comments in this Order.

With respect to both the Addendum and the LCA GHG Report, DOE/FE has taken all public comments into consideration in this decision and has made those comments, as well as the underlying studies, part of the record in this proceeding.

### C. Judicial Decisions Upholding DOE's Non-FTA Authorizations

In 2015 and 2016, Sierra Club petitioned the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) for review of five long-term LNG export authorizations issued

---

[27] Dep't of Energy, Draft Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States, 79 Fed. Reg. 32,258 (June 4, 2014). DOE/FE announced the availability of the Draft Addendum on its website on May 29, 2014.

[28] Dep't of Energy, Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States, 79 Fed. Reg. 48,132 (Aug. 15, 2014) [hereinafter Addendum]; *see also* http://energy.gov/fe/addendum-environmental-review-documents-concerning-exports-natural-gas-united-states.

[29] Dep't of Energy, Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States, 79 Fed. Reg. 32,260 (June 4, 2014) [hereinafter LCA GHG Report]. DOE/FE announced the availability of the LCA GHG Report on its website on May 29, 2014.

by DOE/FE under the standard of review discussed below. Sierra Club challenged DOE/FE's approval of LNG exports from projects proposed or operated by the following authorization holders: Freeport LNG Expansion, L.P., *et al*.; Dominion Cove Point LNG, LP; Sabine Pass Liquefaction, LLC; and Cheniere Marketing, LLC, *et al*. The D.C. Circuit subsequently denied four of the five petitions for review: one in a published decision issued on August 15, 2017 (*Sierra Club I*),[30] and three in a consolidated, unpublished opinion issued on November 1, 2017 (*Sierra Club II*).[31] Sierra Club did not seek further judicial review of either decision. In January 2018, Sierra Club voluntarily withdrew its fifth and remaining petition for review.[32]

In *Sierra Club I,* the D.C. Circuit concluded that DOE/FE had complied with both section 3(a) of the NGA and NEPA in issuing the challenged non-FTA authorizations. Freeport LNG Expansion, L.P. and its related entities (collectively, Freeport) had applied to DOE/FE for authorization to export LNG to non-FTA countries from the Freeport Terminal located on Quintana Island, Texas. DOE/FE granted the application in 2014 in a volume equivalent to 0.4 Bcf/d of natural gas, finding that Freeport's proposed exports were in the public interest under NGA section 3(a). DOE/FE also considered and disclosed the potential environmental impacts of its decision under NEPA. Sierra Club petitioned for review of the Freeport authorization, arguing that DOE fell short of its obligations under both the NGA and NEPA. The D.C. Circuit rejected Sierra Club's arguments in a unanimous decision, holding that, "Sierra Club has given

[30] *Sierra Club v. U.S. Dep't of Energy*, 867 F.3d 189 (Aug. 15, 2017) (denying petition for review of the LNG export authorization issued to Freeport LNG Expansion, L.P., *et al*.).

[31] *Sierra Club v. U.S. Dep't of Energy,* 703 Fed. Appx. 1 (D.C. Cir. Nov. 1, 2017) (denying petitions for review in Nos. 16-1186, 16-1252, and 16-1253 of the LNG export authorizations issued to Dominion Cove Point LNG, LP, Sabine Pass Liquefaction, LLC, and Cheniere Marketing, LLC, *et al*., respectively).

[32] *See Sierra Club v. U.S. Dep't of Energy*, No. 16-1426, Per Curiam Order (D.C. Cir. Jan. 30, 2018) (granting Sierra Club's unopposed motion for voluntarily dismissal)

us no reason to question the Department's judgment that the [Freeport] application is not inconsistent with the public interest."[33]

First, the Court rejected Sierra Club's principal NEPA argument concerning the alleged indirect effects of LNG exports, such as the effects related to the likely increase in natural gas production and usage that would result from the Freeport export authorization.[34] The Court found that DOE "offered a reasonable explanation as to why it believed the indirect effects pertaining to increased [natural] gas production were not reasonably foreseeable."[35] The Court thus held that, "[u]nder our limited and deferential review, we cannot say that the Department failed to fulfill its obligation under NEPA by declining to make specific projections about environmental impacts stemming from specific levels of export-induced [natural] gas production."[36]

Second, the Court rejected Sierra Club's challenge to DOE's examination of the potential "downstream" GHG emissions resulting from the indirect effects of exports—*i.e.*, those resulting from the transport and usage of U.S. LNG abroad.[37] The Court pointed to DOE's LCA GHG Report, finding there was "nothing arbitrary" about the scope of DOE's analysis of GHG emissions in that Report.[38]

Finally, in reviewing Sierra Club's claims under the NGA, the Court found that Sierra Club "repeats the same argument it made to support its NEPA claim—namely, that the Department arbitrarily failed to evaluate foreseeable indirect effects of exports."[39] Having

---

[33] *Sierra Club I,* 867 F.3d at 203.
[34] *Id.* at 192.
[35] *Id*. at 198.
[36] *Id*. at 201.
[37] *Id*.
[38] *Id*. at 202.
[39] *Sierra Club I,* 867 F.3d at 203.

"already rejected this argument" under NEPA, the Court determined that "Sierra Club offers no basis for reevaluating the scope of DOE's evaluation for purposes of the Natural Gas Act."[40]

Subsequently, in the consolidated *Sierra Club II* opinion issued on November 1, 2017, the D.C. Circuit ruled that "[t]he court's decision in [*Sierra Club I*] largely governs the resolution of the [three] instant cases."[41] Upon its review of the remaining "narrow issues" in those cases, the Court again rejected Sierra Club's arguments under the NGA and NEPA, and upheld DOE/FE's actions in issuing the non-FTA authorizations in those proceedings.[42] The D.C. Circuit's decisions in *Sierra Club I and II* guide our review in this proceeding.

### D. DOE/FE's Categorical Exclusion Under NEPA

On December 13, 2018, DOE/FE issued a categorical exclusion from the preparation of an environmental impact statement or environmental assessment under NEPA for MPL's Application (Categorical Exclusion).[43] Specifically, DOE/FE applied categorical exclusion B5.7 of DOE/FE's regulations (10 C.F.R. Part 1021, Subpart D, Appendix B5). This exclusion applies to natural gas import or export activities requiring minor operational changes to existing projects, but no new construction. This Order grants the non-FTA portion of the Application, in part, on the basis of this Categorical Exclusion.

## III. SUMMARY OF FINDINGS AND CONCLUSIONS

This Order presents DOE/FE's findings and conclusions on all issues associated with MPL's requested non-FTA authorization, including both environmental and non-environmental issues. As the basis for this Order, DOE/FE has reviewed a substantial administrative record that includes (but is not limited to) the following: MPL's Application and Supplement to the

---

[40] *Id.*
[41] *Sierra Club II*, 703 Fed. Appx. 1, at *2.
[42] *Id.*
[43] U.S. Dep't of Energy, Categorical Exclusion Determination, *Mexico Pacific Limited LLC,* FE Docket No. 18-70-LNG (Dec. 13, 2018) [hereinafter Categorical Exclusion].

Application, the comment supporting the Application, the 2014 and 2015 LNG Export Studies, the Addendum, the LCA GHG Report, and the comments received on DOE/FE's various analyses.

On the basis of this record and for the reasons set forth below, DOE/FE has determined that it has not been shown that MPL's proposed exports and re-exports will be inconsistent with the public interest, as would be required to deny MPL's Application under NGA section 3(a). DOE/FE therefore grants the non-FTA portion of MPL's Application in a total volume equivalent to 621 Bcf/yr of natural gas. Because the authorization issued by this Order falls within the scope of a categorical exclusion under NEPA, it is subject to the Terms and Conditions and Ordering Paragraphs set forth herein, but is not conditioned on additional environmental analysis or review. *See infra* §§ IX-XI.

## IV. STANDARD OF REVIEW

Section 3(a) of the NGA sets forth the standard for review of the Application:

> [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[44]] authorizing it to do so. The [Secretary] shall issue such order upon application, unless after opportunity for hearing, [he] 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.

[44] The Secretary's authority was established by the Department of Energy Organization Act, 42 U.S.C. § 7172, which transferred jurisdiction over imports and export authorizations from the Federal Power Commission to the Secretary of Energy.

15 U.S.C. § 717b(a). DOE has consistently interpreted section 3 of the NGA as creating a rebuttable presumption that a proposed export of natural gas is in the public interest.[45] 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.[46] Before reaching a final decision, DOE must also comply with NEPA, 42 U.S.C. 4321 *et seq*.

Although NGA section 3(a) establishes a broad public interest standard and a presumption favoring export authorizations, the statute 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 environmental impacts, among others. To conduct this review, DOE looks to record evidence developed in the application proceeding.

DOE's prior decisions have also looked to certain principles established in its 1984 Policy Guidelines.[47] The goals of the Policy Guidelines are to minimize federal control and involvement in energy markets and to promote a balanced and mixed energy resource system. The Guidelines provide that:

> The market, not government, should determine the price and other contract terms of imported [or exported] natural gas …. The federal government's primary responsibility in authorizing imports [or exports] will be to evaluate the need for the gas and whether the import [or export] arrangement will provide the gas on a competitively priced basis for the

[45] *See Sierra Club*, 867 F.3d at 203 ("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)).
[46] *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)).
[47] New Policy Guidelines and Delegations Order Relating to Regulation of Imported Natural Gas, 49 Fed. Reg. 6684 (Feb. 22, 1984) [hereinafter 1984 Policy Guidelines].

> duration of the contract while minimizing regulatory impediments to a freely operating market.[48]

While the Policy Guidelines are nominally applicable to natural gas import cases, DOE subsequently held in Order No. 1473 that the same Policy Guidelines should be applied to natural gas export applications.[49]

In Order No. 1473, DOE stated that it was further guided by DOE Delegation Order No. 0204-111. That delegation order, which authorized the Administrator of the Economic Regulatory Administration (ERA) to exercise the agency's review authority under NGA section 3, directed the Administrator to regulate exports "based on a consideration of the domestic need for the gas to be exported and such other matters as the Administrator finds in the circumstances of a particular case to be appropriate."[50] In February 1989, the Assistant Secretary for Fossil Energy assumed the delegated responsibilities of the ERA Administrator.[51]

Although DOE Delegation Order No. 0204-111 is no longer in effect, DOE's review of export applications has continued to focus on: (i) the domestic need for the natural gas proposed to be exported, (ii) whether the proposed exports pose a threat to the security of domestic natural gas supplies, (iii) whether the arrangement is consistent with DOE's policy of promoting market competition, and (iv) any other factors bearing on the public interest, as determined by DOE.

---

[48] *Id*. at 6685.

[49] *Phillips Alaska Natural Gas*, DOE/FE Order No. 1473, at 14 (citing *Yukon Pacific Corp.*, DOE/FE Order No. 350, Order Granting Authorization to Export Liquefied Natural Gas from Alaska, 1 FE ¶ 70,259, at 71,128 (1989)).

[50] DOE Delegation Order No. 0204-111, at 1; *see also* 1984 Policy Guidelines, 49 Fed. Reg. at 6690.

[51] *See* Applications for Authorization to Construct, Operate, or Modify Facilities Used for the Export or Import of Natural Gas, 62 Fed. Reg. 30,435, 30,437 n.15 (June 4, 1997) (citing DOE Delegation Order No. 0204-127, 54 Fed. Reg. 11,436 (Mar. 20, 1989)).

## V. DESCRIPTION OF REQUEST

In relevant part, MPL requests long-term, multi-contract authorization to export domestically produced natural gas by pipeline to Mexico, and to convert the natural gas to LNG at the proposed MPL Facility, for re-export by vessel to non-FTA countries. MPL seeks to export the natural gas and to re-export the LNG in a volume up to 12 mtpa of LNG, which is equivalent to 621 Bcf/yr of natural gas, on its own behalf and as agent for other entities that will hold title to the natural gas or LNG at the time it is exported or re-exported, respectively.[52] MPL requests this authorization for a 20-year term, commencing on the earlier of the date of first export or five years from the date of the issuance of this Order.[53]

### A. Description of Applicant

MPL is a Delaware limited liability company with its principal place of business in Houston, Texas. MPL is owned by MPL Pacific Limited LLC, which is jointly owned by DKRW Energy Sonora Holding LLC and ACAP Sonora Energy, LLC. DKRW Sonora Holding LLC is a wholly owned subsidiary of DKRW Energy LLC. ACAP Sonora Energy, LLC is owned by AECOM Capital Inc., which is a subsidiary of AECOM.[54]

### B. Proposed Facility

MPL states that it is currently developing the MPL Facility in the State of Sonora, Mexico.[55] The proposed location, adjacent to Puerto Libertad, Mexico, is a coastal site that has been permitted for LNG storage and related marine activities for a decade.[56] MPL states that, through its affiliate Mexico Pacific Assets Holding S. de R.L. de C.V. (MPL Assets Holding),

---

[52] MPL App. at 8-9.
[53] *Id.* at 9.
[54] *Id*. at 5.
[55] *Id.*
[56] *Id*. at 6.

MPL owns in excess of 1,000 acres surrounding the MPL Facility project site in fee.[57] Approximately 300 acres of this total have been designated for LNG development and originally were permitted for a LNG import facility. MPL states that it has obtained a shoreline concession permit, and is in the process of securing modifications to existing environmental and construction permits that will authorize the construction and operation of the liquefaction facility and exports of LNG from the proposed MPL Facility. These permits are held by MPL Assets Holding through two subsidiaries.[58]

MPL states that it plans to construct the MPL Facility in stages. The initial phase of the Facility will have liquefaction capacity of 4 mtpa of LNG, equivalent to 207 Bcf/yr of natural gas.[59] MPL states that it will expand this capacity in increments of 4 mtpa, matching market offtake commitments, to yield total liquefaction capacity of approximately 12 mtpa of LNG—equivalent to the requested export volume of 621 Bcf/yr of natural gas.[60] The resulting U.S.-sourced natural gas in the form of LNG will be loaded onto ocean-going LNG carriers for delivery to markets in Mexico and for re-export to (in relevant part) both FTA and non-FTA countries.[61] MPL states that it expects to commence construction of the MPL Facility in 2019 or early 2020, and to place the Facility into commercial operation in 2023.[62]

### D. Existing Pipelines

MPL plans to receive natural gas produced in the United States and exported to Mexico via existing cross-border gas transmission pipelines.[63] The pipelines include an interstate natural

---

[57] *Id*.
[58] MPL App. at 5-6.
[59] MPL Supp, *supra* note 2, at 2.
[60] *Id*.
[61] *Id*.
[62] MPL App. at 9; MPL Supp. at 1-2.
[63] MPL App. at 6.

gas pipeline owned by Sierrita Gas Pipeline LLC (Sierrita Pipeline). MPL states that the Sierrita Pipeline extends from an interconnection with the El Paso Natural Gas Pipeline Company, L.L.C. system just west of Tucson, Arizona, to the United States-Mexico border near Sasabe, Arizona.[64] According to MPL, the Sierrita Pipeline interconnects with the Gasoducto Sonora Pipeline, operated by Infrastructure Energética Nova, S.A.B. de C.V. (the IEnova Pipeline).[65] MPL states that the IEnova Pipeline will serve the proposed MPL Facility via a short lateral.[66]

MPL identifies other existing pipelines through which natural gas may be transported to the IEnova Pipeline, including the Comanche Trail, Roadrunner, and Trans Pecos intrastate natural gas pipelines in west Texas.[67] MPL further states that more than 4 Bcf/d of pipeline capacity will be available to export natural gas from west Texas to Mexico by the end of 2018 alone, and that "there is ample existing cross-border capacity" to support delivery of the quantities of U.S.-sourced natural gas that MPL plans to liquefy.[68]

### E. Business Model

MPL requests authorization to export natural gas and LNG on its own behalf and as an agent for customers that may wish to procure natural gas from their own sources and have that gas liquefied in the MPL Facility for re-export or delivery into Mexican markets.[69] MPL states that it intends to enter into long-term agreements to export natural gas and to re-export LNG—specifically, either LNG sales and purchase agreements or LNG tolling arrangements.[70] Under

---

[64] MPL App. at 6.
[65] *Id*. at 6-7.
[66] *Id*.
[67] *Id*. at 7.
[68] *Id*.; *see id*. at Attachment 1, at 6 (possible pipeline routes to the MPL Facility). Additionally, DOE notes that EIA maintains a list of natural gas pipeline projects announced or under construction. *See* U.S. Energy Info. Admin., Natural Gas: Pipeline Projects, *available at*: https://www.eia.gov/naturalgas/data.php#pipelines (follow link) (Aug. 21, 2018).
[69] MPL App. at 9.
[70] *Id*. at 10.

LNG sales and purchase agreements, MPL states that it will procure the natural gas to be processed through the proposed MPL Facility, take title to the natural gas no later than the time it is received at the proposed MPL Facility, and transfer title of the produced LNG to customers upon loading of oceangoing LNG carriers for re-export. In transactions structured as LNG tolling arrangements, MPL states that it will process natural gas to which the tolling party has title through the proposed MPL Facility and will deliver the resulting LNG to the tolling party in exchange for the payment of a tolling fee.[71]

MPL states that it is currently engaged in substantive discussions concerning both the tolling of natural gas through the MPL Facility and the purchase of LNG produced in the Facility with a number of major U.S. natural gas producers, participants in Asian LNG markets, and commodity trading houses. According to MPL, "its negotiations with these prospective LNG offtakers has led it to conclude with great confidence that the market will support [its] plans to develop the MPL Facility with the capacity to produce at least 12 mtpa of LNG."[72]

MPL states that it will comply with all DOE/FE requirements for exporters and agents, including registration requirements. MPL further states that, when acting as agent, it will register with DOE/FE each LNG title holder for which it seeks to re-export LNG as agent, and will comply with other registration requirements, as set forth in prior DOE/FE orders.[73]

### F. Source of Natural Gas

MPL contends that the existing available supply of natural gas is "vastly in excess of what is needed to service MPL's planned 12 mtpa production target."[74] Specifically, MPL states

---

[71] *Id*. at 10-11.
[72] MPL Supp. at 2.
[73] MPL App. at 9-10.
[74] MPL Supp. at 2.

that it will receive natural gas produced in the United States or Mexico via existing cross-border gas transmission pipelines, as well as natural gas that may be sourced from Mexican oil and gas wells.[75] The U.S. sources of this natural gas will include natural gas producing regions located throughout the southwestern United States (*e.g.*, the Permian Basin, the San Juan Basin, the Eagle Ford Formation, and the Barnett Shale), and could include natural gas produced in the Mid-continent region, the Gulf Coast region, and the shale plays of the Appalachian region. MPL states that this natural gas will be accessed via the U.S. national pipeline grid through various interconnections, such as the San Juan Hub, the Waha Hub, and the Henry Hub.[76]

### G. Environmental Review

MPL states that its proposed natural gas and LNG exports do not involve or require the construction of any facilities within the United States, and therefore there will be no environmental effects cognizable under NEPA.[77] MPL asks DOE/FE to apply categorical exclusion B5.7, *Import or export natural gas, with operational changes*, which applies to "[a]pprovals … of new authorizations … [to] export natural gas under section 3 of the [NGA] that involve minor operational changes (such as changes in natural gas throughput, transportation, and storage) but not new construction."[78] According to MPL, this categorical exclusion applies to its requested authorization for the following reasons: (i) no MPL facilities will be constructed in the United States, (ii) quantities of natural gas initially required to support MPL's planned export activities can be accommodated by existing U.S.-Mexico border crossing pipeline capacity, and (iii) the precise nature of any modifications or expansions of U.S.

---

[75] MPL App. at 11.
[76] *Id.* at 11-12.
[77] MPL App. at 30.
[78] *Id*. (quoting 30 C.F.R. Part 1021, Subpt. D, App. B, Categorical Exclusion B5.7).

pipelines that might later be made to support expanded exports of natural gas to the MPL Facility are currently unknown.[79] MPL further states that its Facility will comply with the applicable requirements of Mexican environmental law and regulations.[80]

## VI. APPLICANT'S PUBLIC INTEREST ANALYSIS

### A. Overview

MPL asserts that its requested authorization is in the public interest under NGA section 3(a), citing the abundance of the U.S. natural gas supply base, the excess of available natural gas deliverability over domestic demand, and the benefits associated with increased trade in U.S. natural gas.[81]

### B. Adequacy of Domestic Supply

MPL states that domestic supplies of natural gas have been growing at a faster rate than growth in domestic demand, with natural gas reserves in the United States "sufficient to meet domestic demand for decades."[82] MPL maintains that there will be plentiful natural gas resources to accommodate both domestic demand for natural gas and its proposed exports and re-exports.[83] For this reason, MPL states that its requested non-FTA authorization will not cause any significant damage in domestic supply, demand, or prices for natural gas.[84]

In support of this position, MPL cites a variety of data from EIA, including the *Annual Energy Outlook 2018* (AEO 2018)[85] and *Annual Energy Outlook 2017* (AEO 2017).[86]

---

[79] *See id*.
[80] *Id*. at 31.
[81] *Id*. at 16.
[82] MPL App. at 17-18.
[83] *Id*. at 17.
[84] *Id*. at 16.
[85] *Id.* at 17 n.25, citing U.S. Energy Info. Admin., *Annual Energy Outlook 2018* (Feb. 6, 2018) at 62, *available at*: https://www.eia.gov/outlooks/aeo/pdf/AEO2018.pdf.
[86] *Id.* n.26, citing U.S. Energy Info. Admin., *Annual Energy Outlook 2017* (Jan. 5, 2017) at 50 and 54, *available at*: http://www.eia.gov/outlooks/aeo/pdf/0383(2017).pdf.

According to MPL, AEO 2018 estimates that U.S. consumption of natural gas will grow at an annual rate of 0.8% from 2017 to 2050, while U.S. dry gas production during the same time period is projected to grow at an annual rate of 1.4%.[87] MPL also cites EIA's projection that, even as the United States transitions from being a net importer of natural gas to a net exporter in 2018, U.S. natural gas production will be sufficient to meet increases in demand for both domestic consumption and net exports through 2040.[88]

Next, MPL points to DOE/FE's LNG export studies and recent LNG export authorizations (including *Delfin LNG, LLC* (DOE/FE Order No. 4028) and *Golden Pass Products, LLC* (DOE/FE Order No. 3818)) in asserting the EIA's projections in AEO 2017 continue to support the proposition that "domestic natural gas supplies will be adequate both to meet domestic needs and to support additional LNG exports and other final non-FTA LNG exports it has previously authorized."[89] MPL asserts that, given the quantities of LNG that MPL proposes to re-export, the same conclusion is appropriate in this proceeding.[90]

### C. Impact on Domestic Natural Gas Prices

Because of the growth in domestic natural gas supply in recent years, MPL asserts that domestic natural gas prices have fallen since 2008 from approximately $11.00 per million British thermal units (MMBtu) to the current wellhead price levels in the range of $2.00 to $3.00 per MMBtu.[91] According to MPL, several analyses show that LNG exports will have no more than a moderate impact on these domestic natural gas price levels.[92] Even assuming more than

[87] *Id*. at 18, citing AEO 2018 at Table 13.
[88] MPL App. at 16, n.25, *citing* AEO 2016 at MT-24.
[89] *Id*. at 24.
[90] *Id*.
[91] *Id*. at 18.
[92] *Id.* at 19, nn.39 & 40 (citing a study by the Peterson Institute for International Economics (Gary Clyde Hufbauer), *Liquefied Natural Gas Exports: An Opportunity for America* (Feb. 2013) at 13, and a study by ICF International, entitled *U.S. LNG Exports: Impacts on Energy Markets and the Economy* (May 13, 2013)).

moderate price impacts, MPL contends that the 2012 and 2014 LNG Export Studies show that the United States will experience increasing net economic benefits from increased LNG exports under several supply and demand scenarios (including scenarios with unlimited LNG exports), while price changes will remain in a relatively narrow range.[93] MPL also points to the conclusion of the 2015 LNG Export Study that macroeconomic impacts of LNG exports are "marginally positive" and will exceed the negative impacts of higher domestic natural gas prices.[94]

### D. Public Benefits

MPL asserts that its requested authorization will result in the following economic and environmental benefits consistent with the public interest:

- Economic stimulus through the creation of jobs, increased economic activity, increased tax revenues, and exports;
- Promotion of the use of domestic natural gas for environmentally beneficial applications, including marine bunkering and vehicle fueling; and
- Promotion of the use of LNG to customers outside of the United States who currently burn coal, diesel, or other high carbon fuels.[95]

In particular, MPL states that, although its Facility will be located in Mexico, construction of the Facility will create and promote U.S. jobs because MPL will draw on individuals and entities in the United States for design, equipment fabrication, construction services, and equity capital.[96]

MPL discusses several other benefits associated with its proposed re-exports that it contends will accrue to the United States. First, MPL asserts that its proposed re-exports will

---

[93] *Id*. at 20-21.
[94] *Id*. at 23, quoting the 2014 LNG Export Study at 16. MPL also cites to and incorporates by reference several other publicly available studies which "similarly find" economic benefits associated with LNG exports. *Id*. at 23-24.
[95] MPL App. at 25.
[96] *Id.* at 26.

help to reduce the U.S. trade deficit with Mexico.[97] MPL asserts that, if its Facility were to operate at full capacity (12 mtpa) and assuming today's natural gas prices, the value of U.S.-sourced natural gas exported for liquefaction in a single year would exceed $1,265,664,000.[98] This amount, MPL contends, would reduce the trade deficit with Mexico on a dollar-for-dollar basis for every year that the MPL Facility operates.[99]

Second, MPL asserts that its proposed re-exports will help to improve economic trade and ties between the United States and the destination countries. According to MPL, promoting this trade is consistent with the National Export Initiative, DOE/FE's policy of promoting competition in the marketplace, and the obligations of the United States under the General Agreement on Tariffs and Trade (GATT).[100]

Third, MPL argues that the proposed re-exports will have wider geopolitical benefits. Specifically, MPL contends that the U.S.-sourced LNG will benefit the global LNG market by improving the liquidity of international natural gas markets and providing a predictable supply of natural gas. This, in turn, could help to reduce European reliance on Russian natural gas supplies and provide Asia with increased energy security and pricing relief by helping to decouple LNG prices from oil prices.[101]

[97] *Id.*
[98] *Id*. at 29.
[99] *Id.*
[100] *Id*. at 27-28.
[101] *Id*. at 28, *citing* Ebbinger, *et al., Liquid Markets: Assessing the Case for U.S. Exports of Liquefied Natural Gas,* Energy Security Initiative at Brookings, at 42 (May 2012). MPL states that it has gathered pricing information indicating that, due to the location of the MPL Facility on the west coast of North America, its proposed exports will be price competitive in Asia with natural gas delivered into China by the Public Joint Stock Company Gazprom's Power of Siberia Pipeline. *Id.* at 28-29.

## VII. CURRENT PROCEEDING BEFORE DOE/FE

In response to the Notice of Application published in the *Federal Register*,[102] DOE/FE received one comment supporting MPL's Application. The comment, filed by Diego Ponce, states Mr. Ponce's view that MPL's Application is both reasonable and provides substantial evidence as to MPL's interests in transporting LNG.[103]

## VIII. DISCUSSION AND CONCLUSIONS

In reviewing the non-FTA portion of MPL's Application, DOE/FE has considered both its obligations under NEPA and its obligation under NGA section 3(a) to ensure that the proposed LNG exports are not inconsistent with the public interest. To accomplish these purposes, DOE/FE has examined a wide range of information addressing environmental and non-environmental factors, including:

- MPL's uncontested Application, Supplement, and the comment in support;
- The Draft Addendum, comments received in response to the Draft Addendum, and the final Addendum;
- The LCA GHG Report (and the supporting NETL document), including comments submitted in response to those documents; and
- The 2014 and 2015 EIA LNG Export Studies, including comments received in response to those Studies.

To avoid repetition, the following discussion focuses on arguments and evidence presented by MPL to the extent that DOE/FE has not already addressed the same or substantially similar arguments in its responses to comments on the Addendum, the LCA GHG Report, and/or the 2014 and 2015 Studies.

---

[102] *See* Notice of Application, 83 Fed. Reg. 39,737; *supra* note 14.
[103] *See* Comment of Diego Ponce, *supra* note 15.

### A. Non-Environmental Issues

In considering non-environmental issues in this proceeding, we have reviewed the uncontested Application, the 2014 and 2015 LNG Export Studies and the comments on those Studies. We also take administrative notice of EIA's recent authoritative projections for natural gas supply, demand, and prices, set forth in AEO 2017 and 2018.[104]

The Reference case for AEO 2017 includes the effects of the Clean Power Plan (CPP) final rule,[105] which was intended to reduce carbon emissions from the power sector. DOE/FE assessed AEO 2017 to evaluate any differences from AEO 2014, which formed the basis for the 2014 Study. AEO 2017 also included a Reference case without implementation of the CPP. Both Reference cases show natural gas production levels that favor exports, but that also have lower net LNG exports in 2040 (12.5 Bcf/d for the Reference case with the CPP and 12 Bcf/d for the Reference case without the CPP). As discussed below, AEO 2018—which does not include the CPP in its Reference case—is even more supportive of exports than AEO 2017.

#### 1. MPL's Application

Upon review, we find that several factors identified in the Application support a grant of MPL's requested authorization to non-FTA countries in a requested volume equivalent to 621 Bcf/yr of natural gas.

---

[104] U.S. Energy Info. Admin., *Annual Energy Outlook 2017* (Jan. 5, 2017), *available at*: http://www.eia.gov/outlooks/aeo/pdf/0383(2017).pdf.

[105] U.S. Envtl. Prot. Agency, Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units; Final Rule, 80 FR 64662 (Oct. 23, 2015). On February 9, 2016, the U.S. Supreme Court issued a stay of the effectiveness of the CPP final rule pending review by the U.S. Court of Appeals for the District of Columbia Circuit in consolidated cases challenging the rule. See *Chamber of Commerce, et al. v. EPA, et al*., No. 15A787, Order in Pending Case (U.S. Feb. 9, 2016). The litigation over the CPP final rule pending in the D.C. Circuit has been held in abeyance as the U.S. Environmental Protection Agency (EPA) reviews the rule and considers an alternative regulatory approach. *See West Virginia, et al. v. EPA, et al*., Case Nos. 15-1363 *et al*., EPA Status Report, at 2-3 (D.C. Cir. Nov. 1, 2018). Specifically, on October 10, 2017, EPA issued a notice proposing to repeal the CPP final rule. U.S. Envtl. Prot. Agency, Repeal of Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units; Proposed Rule, 82 FR 48035 (Oct. 16, 2017). That rulemaking is on-going, and EPA has asked for the consolidated cases to remain in abeyance pending the conclusion of the rulemaking. *See* EPA Status Report at 3.

First, we find that MPL's requested volume of natural gas for both export to Mexico and re-export in the form of LNG—equivalent to 1.7 Bcf/d—will have no practical impact on the domestic supply of natural gas in the United States or on natural gas markets, as evidenced by the 2014 and 2015 LNG Export Studies, as well as by AEO 2018.

Second, the 2014 and 2015 LNG Export Studies project that exports of LNG will generate net economic benefits to the broader U.S. economy.

Third, as discussed below, over the 20-year term of the authorization, the proposed exports and re-exports will benefit the liquidity of international natural gas markets and, as MPL points out, will make a positive contribution to the United States' trade balance. For this reason, we agree with MPL that its proposed exports and re-exports are consistent with U.S. policy under the National Export Initiative.[106]

### 2. Price Impacts

As discussed above, the 2014 and 2015 LNG Export Studies projected the economic impacts of LNG exports in a range of scenarios, including scenarios that exceeded the current amount of LNG exports authorized in the final non-FTA export authorizations to date (equivalent to a total of 23.05 Bcf/d of natural gas with the issuance of this Order). The 2015 Study concluded that LNG exports at these levels (in excess of 12 Bcf/d of natural gas) would result in higher U.S. natural gas prices, but that these price changes would remain in a relatively narrow range across the scenarios studied. However, even with these estimated price increases, the 2015 Study found that the United States would experience net economic benefits from increased LNG exports in all cases studied.[107]

---

[106] MPL App. at 27; *see* National Export Initiative, 75 Fed. Reg. 12,433 (Mar. 16, 2010).
[107] *See* 2015 Study at 8, 82.

We have also reviewed EIA's AEO 2017. The Reference case of this projection includes the effects of the CPP, discussed *supra*, which was intended to reduce carbon emissions from the power sector. DOE/FE assessed AEO 2017 to evaluate any differences from AEO 2014, which formed the basis for the 2014 LNG Export Study.

Comparing key results from 2040 (the end of the projection period in Reference case projections from AEO 2014) shows that the Reference case Outlook in AEO 2017 foresees lower-48 market conditions that would be even more supportive of LNG exports, including higher production and demand coupled with notably lower prices. Results from AEO 2017 no-CPP case, which is the same as the Reference case but does not include the CPP, are also more supportive of LNG exports on the basis of higher production with lower prices relative to AEO 2014.

For the year 2040, the AEO 2017 Reference case anticipates 3% more natural gas production in the lower-48 than AEO 2014. It also projects an average Henry Hub natural gas price that is lower than AEO 2014 by 38%. In the AEO 2017 no-CPP case, for the year 2040, lower-48 production is 2% higher than in AEO 2014, with the price differential being roughly the same. Both higher production and lower prices in both AEO 2017 cases illustrate a market environment supportive of LNG exports.

On February 6, 2018, EIA issued AEO 2018. For this Order, DOE has considered AEO 2018 to determine whether EIA's most recent projections present any material difference in terms of price impacts. AEO 2018, which does not include the CPP in its base Reference case, is even more supportive of exports than AEO 2017 and AEO 2014, showing Henry Hub prices of $4.50 in 2040, which is 46% lower than AEO 2014 and 13% lower than AEO 2017 in 2017$. Production levels are also increased in 2040 in AEO 2018 over AEO 2014 and AEO 2017—with

AEO 2018 showing lower-48 dry production at 109.1 Bcf/d over lower-48 production levels of 99.4 and 102.3 in AEO 2014 and the 2017 Reference Case, respectively, as shown in the table below.

**Table 1: Year 2040 Reference Case Comparisons in AEO 2014, AEO 2017, and AEO 2018**

| | **AEO 2014 Reference Case** | **AEO 2017 Reference Case**<br>**With Clean Power Plan** | **AEO 2017 Reference Case**<br>**Without Clean Power Plan** | **AEO 2018 Reference Case**<br>**Without Clean Power Plan** | **AEO 2018 Reference Case**<br>**With Clean Power Plan** |
|---|---|---|---|---|---|
| **Lower-48 Dry Natural Gas Production (Bcf/d)** | 99.4 | 102.3 | 101.4 | 109.1 | 110.2 |
| **Total Natural Gas Consumption (Bcf/d)** | 86.4 | 87.2 | 85.6 | 89.0 | 89.6 |
| **Electric Power Sector Consumption (Bcf/d)** | 30.7 | 30.2 | 28.5 | 29.3 | 29.9 |
| **<u>Net</u> Exports by Pipeline (Bcf/d)** | 6.6 | 3.7 | 3.8 | 6.2 | 6.2 |
| **<u>Net</u> LNG Exports (Bcf/d)** | 9.2 | 12.0 | 12.5 | 14.5 | 15.0 |
| **LNG Exports – Total (Bcf/d)** | 9.6 | 12.1 | 12.7 | 14.7 | 15.2 |
| **Henry Hub Spot Price** | $8.27<br>(2017$) | $5.18(2017$)<br>$5.07 (2016$) | $5.12(2017$)<br>$5.01 (2016$) | $4.50 (2017$) | $4.51 (2017$) |

| | | | | | |
|---|---|---|---|---|---|
| **($/MMBtu)** **(Note 1)** | $7.65 (2012$) | | | | |

Note 1: Prices adjusted to 2017$ with the AEO 2014 projection of a Gross Domestic Product price index.

### 3. Significance of the 2014 and 2015 LNG Export Studies

For the reasons discussed above, DOE/FE commissioned the 2014 LNG Export Study and the 2015 LNG Export Study, and invited the submission of responsive comments on both Studies. DOE/FE has analyzed this material and determined that these two Studies provide substantial support for granting the requested non-FTA authorization. Specifically, the conclusion of the 2015 LNG Export Study is that the United States will experience net economic benefits from issuance of authorizations to export domestically produced LNG.

We have evaluated the public comments submitted in response to the 2014 and 2015 LNG Export Studies. Certain commenters have criticized aspects of the models, assumptions, and design of the Studies. As discussed above, however, EIA's projections in AEO 2017 and AEO 2018 continue to show market conditions that will accommodate increased exports of natural gas. When compared to the AEO 2014 Reference case, the AEO 2018 Reference case projects increases in domestic natural gas production—well in excess of what is required to meet projected increases in domestic consumption. Accordingly, we find that the 2014 and 2015 LNG Export Studies are fundamentally sound and support the proposition that the proposed authorization will not be inconsistent with the public interest.

### 4. Benefits of International Trade

We have not limited our review to the contents of the 2014 and 2015 LNG Export Studies and the data from AEO 2018, but have considered a wide range of other information. For example, the National Export Initiative, established by Executive Order, sets a goal to "improve conditions that directly affect the private sector's ability to export" and to "enhance and coordinate Federal efforts to facilitate the creation of jobs in the United States through the promotion of exports."[108]

We have also considered the international consequences of our decision. We review applications to export LNG to non-FTA nations under section 3(a) of the NGA. The United States' commitment to free trade is one factor bearing on that review. An efficient, transparent international market for natural gas with diverse sources of supply provides both economic and strategic benefits to the United States and our allies. Indeed, increased production of domestic natural gas has significantly reduced the need for the United States to import LNG. In global trade, LNG shipments that would have been destined to U.S. markets have been redirected to Europe and Asia, improving energy security for many of our key trading partners. To the extent U.S. exports can diversify global LNG supplies, and increase the volumes of LNG available globally, it will improve energy security for many U.S. allies and trading partners. As such, authorizing U.S. exports may advance the public interest for reasons that are distinct from and additional to the economic benefits identified in the 2014 and 2015 LNG Export Studies.

[108] 75 Fed. Reg. at 12,433, *supra*.

### B. Environmental Issues

#### 1. Issuance of a Categorical Exclusion

DOE's regulations at 10 C.F.R. Part 1021, Subpart D, Appendix B, list categorical exclusions that apply to DOE actions. Item B5.7 provides a categorical exclusion where approvals or disapprovals of authorizations to import or export natural gas under NGA section 3 involve minor operational changes, but not new construction. We find that the present authorization falls within the scope of the B5.7 categorical exclusion for two reasons. First, MPL will construct the natural gas liquefaction facility at issue in this case—the proposed MPL Facility—in Mexico. This construction outside of the United States is beyond the scope of DOE's environmental review under NEPA. Second, the requested authorization only authorizes exports of U.S.-sourced natural gas on existing cross-border transmission pipelines, and therefore will not lead to any future construction or operational changes to expand the capacity of the Sierrita Pipeline or other facilities located within the United States. On this basis, DOE/FE issued the Categorical Exclusion on December 13, 2018.[109]

The issuance of the Categorical Exclusion supports a determination that no further environmental review of the non-FTA portion of MPL's Application is required under NEPA. Therefore, we find that no environmental conditions need to be imposed on this authorization.

#### 2. Environmental Impacts Associated with Induced Production of Natural Gas

The current rapid development of natural gas resources in the United States likely will continue, with or without the export of natural gas to non-FTA nations.[110] Nevertheless, a decision by DOE/FE to authorize exports to non-FTA nations could accelerate that development

---

[109] *See supra* at note 43.
[110] Addendum at 2.

by some increment. As discussed above, the Addendum reviewed the academic and technical literature covering the most significant issues associated with unconventional gas production, including impacts to water resources, air quality, greenhouse gas emissions, induced seismicity, and land use.

The Addendum shows that there are potential environmental issues associated with unconventional natural gas production that need to be carefully managed, especially with respect to emissions of volatile organic compounds (VOCs) and methane, and the potential for groundwater contamination. These environmental concerns do not lead us to conclude, however, that exports of natural gas to non-FTA nations should be prohibited. Rather, we believe the public interest is better served by addressing these environmental concerns directly—through federal, state, or local regulation, or through self-imposed industry guidelines where appropriate—rather than by prohibiting exports of natural gas. Unlike DOE, environmental regulators have the legal authority to impose requirements on natural gas production that appropriately balance benefits and burdens, and to update these regulations from time to time as technological practices and scientific understanding evolve.

By comparison, section 3(a) of the NGA is too blunt an instrument to address these environmental concerns efficiently. A decision to prohibit exports of natural gas would cause the United States to forego entirely the economic and international benefits discussed herein, but would have little more than a modest, incremental impact on the environmental issues identified by intervenors. For these reasons, we conclude that the environmental concerns associated with natural gas production do not establish that exports of natural gas to non-FTA nations are inconsistent with the public interest.

We note that, beginning in 2015, Sierra Club filed several petitions for review in the D.C. Circuit, challenging this same conclusion in other LNG export authorizations issued by DOE/FE (as well as other issues under NEPA and the NGA). *See infra* § II.C (discussing the *Sierra Club* cases). In those proceedings, Sierra Club had argued that DOE/FE failed to quantify the impacts from export-induced natural gas production or tailor them to specific levels of exports or export-induced production. Sierra Club further asserted that these impacts are reasonably foreseeable, and that NEPA and the NGA require DOE/FE to consider the effects of this additional natural gas production. DOE/FE disagreed, pointing out that the Addendum was intended to addresses unconventional natural gas production in the nation as a whole. DOE/FE further explained its determination that such incremental environmental impacts are: (i) not reasonably foreseeable under NEPA, and (ii) cannot be analyzed with any particularity due to fundamental uncertainty as to where any additional natural gas production would occur and in what quantity. In both the *Sierra Club I* case issued on August 15, 2017, and in the consolidated *Sierra Club II* decision issued on November 1, 2017, the D.C. Circuit unanimously ruled in DOE's favor, denying Sierra Club's petitions for review with respect to this and all other arguments.[111]

### 3. Greenhouse Gas Impacts Associated with U.S. LNG Exports

Certain commenters on the LCA GHG Report, the Addendum, and the 2014 and 2015 LNG Export Studies expressed concern that exports of natural gas could have a negative effect on the GHG intensity and total amount of energy consumed in foreign nations.

[111] *See Sierra Club I*, 867 F.3d at 198 (holding that DOE "offered a reasoned explanation as to why it believed the indirect effects pertaining to increased gas production were not reasonably foreseeable."); *see generally id*. at 196-200; *see also Sierra Club II*, 703 Fed. Appx. 1, *2-3 ("Given the speculative and nonspecific nature of the additional information about the location of incremental gas production, it was neither arbitrary nor capricious for the Department not to engage in a more localized analysis.").

The LCA GHG Report estimated the life cycle GHG emissions of U.S. LNG exports to Europe and Asia, compared with certain other fuels used to produce electric power in those importing countries. The key findings for U.S. LNG exports to Europe and Asia are summarized in Figures 1 and 2 below:

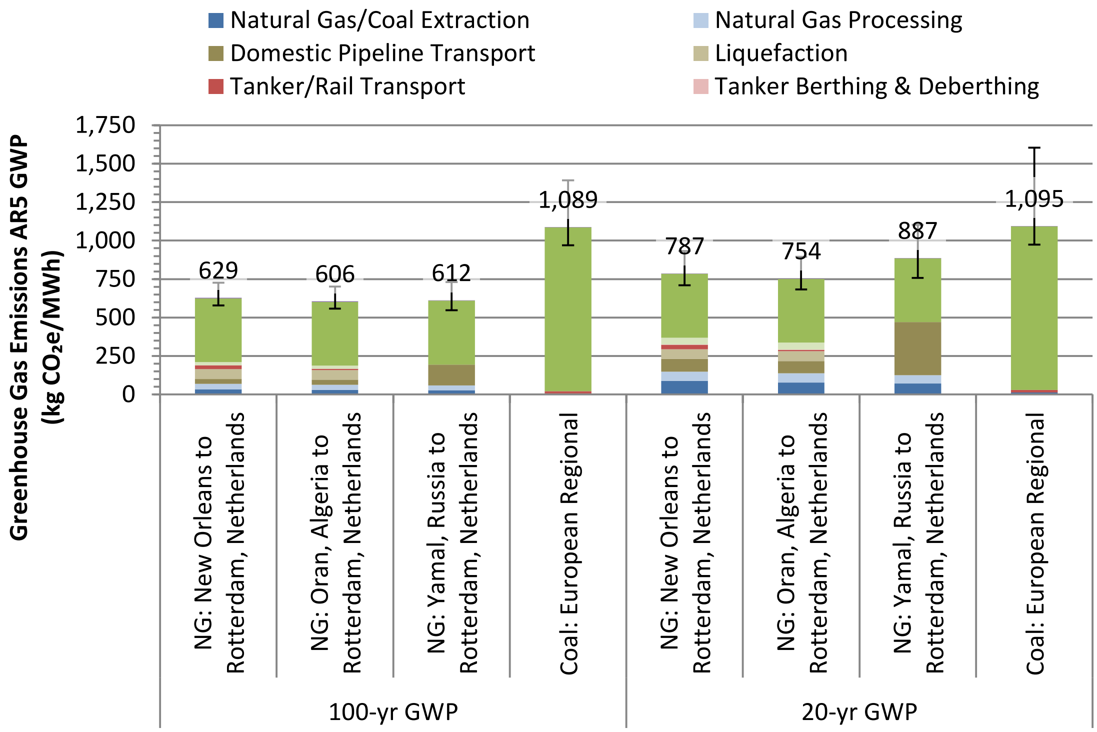


**Figure 1: Life Cycle GHG Emissions for Natural Gas and Coal Power in Europe**[112]

[112] LCA GHG Report at 9 (Figure 6-1).

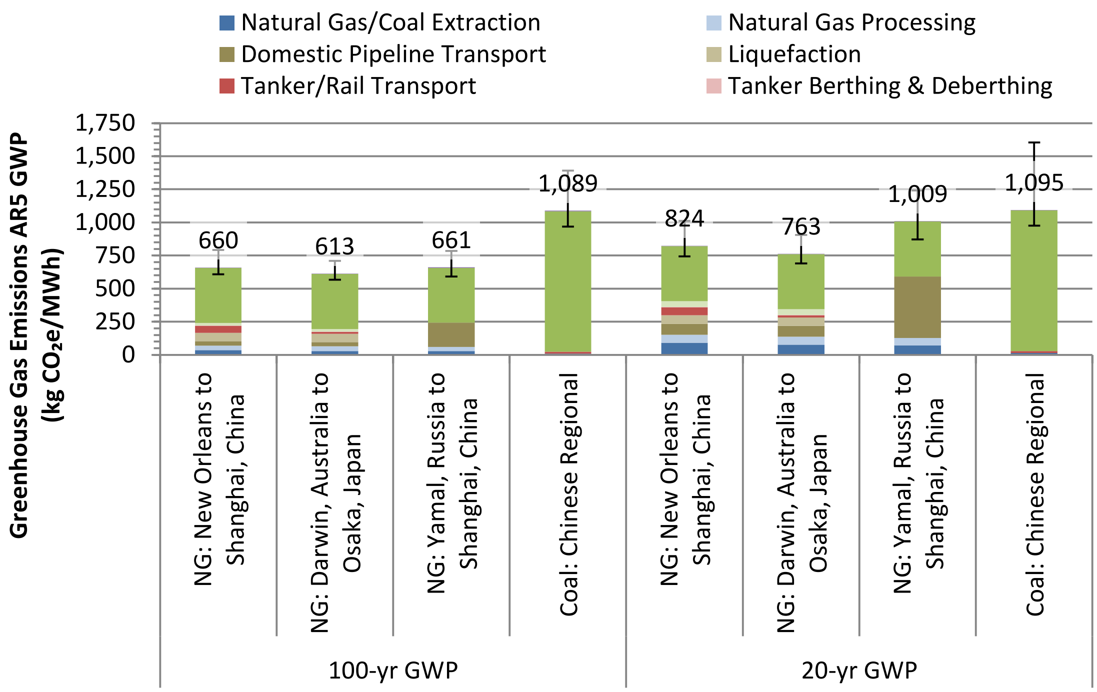


**Figure 2: Life Cycle GHG Emissions for Natural Gas and Coal Power in Asia**[113]

While acknowledging substantial uncertainty, the LCA GHG Report shows that to the extent U.S. LNG exports are preferred over coal in LNG-importing nations, U.S. LNG exports are likely to reduce global GHG emissions. Further, to the extent U.S. LNG exports are preferred over other forms of imported natural gas, they are likely to have only a small impact on global GHG emissions.[114]

The LCA GHG Report does not answer the ultimate question whether authorizing exports of natural gas to non-FTA nations will increase or decrease global GHG emissions, because regional coal and imported natural gas are not the *only* fuels with which U.S.-exported LNG would compete. U.S. LNG exports may also compete with renewable energy, nuclear energy, petroleum-based liquid fuels, coal imported from outside East Asia or Western Europe, indigenous natural gas, synthetic natural gas derived from coal, and other resources, as well as

[113] LCA GHG Report at 10 (Figure 6-2).
[114] *Id*. at 9, 18.

efficiency and conservation measures. To model the effect that U.S. LNG exports would have on net global GHG emissions would require projections of how each of these fuel sources would be affected in each LNG-importing nation. Such an analysis would not only have to consider market dynamics in each of these countries over the coming decades, but also the interventions of numerous foreign governments in those markets.

The uncertainty associated with estimating each of these factors would likely render such an analysis too speculative to inform the public interest determination in this or other non-FTA LNG export proceedings. Accordingly, DOE/FE elected to focus on the discrete question of how U.S. LNG compares on a life cycle basis to regional coal and other sources of imported natural gas in key LNG-importing countries. The conclusions of the LCA GHG Report, combined with the observation that many LNG-importing nations rely heavily on fossil fuels for electric generation, suggests that exports of U.S. LNG may decrease global GHG emissions, although there is substantial uncertainty on this point as indicated above. In any event, the record does not support the conclusion that U.S. LNG exports will increase global GHG emissions in a material or predictable way. Based on the current record evidence, we do not see a reason to conclude that U.S. LNG exports will significantly exacerbate global GHG emissions.[115]

### C. Other Considerations

Our decision is not premised on an uncritical acceptance of the general conclusion of the 2014 and 2015 LNG Export Studies of net economic benefits from LNG exports. Both of those Studies and many public comments identify significant uncertainties and even potential negative

[115] We note that the D.C. Circuit likewise ruled in DOE's favor on the argument that DOE should have evaluated additional variables in the LCA GHG Report, such as the potential for LNG to compete with renewable energy sources in certain import markets. The D.C. Circuit rejected Sierra Club's argument, saying it fell "under the category of flyspecking" and that the Court "[saw] nothing arbitrary about the Department's decision." *Sierra Club I*, 867 F.3d at 202 (internal quotations and citation omitted).

impacts from LNG exports. The economic impacts of higher natural gas prices and potential increases in natural gas price volatility are two of the factors that we view most seriously. Yet we also have taken into account factors that could mitigate such impacts, such as the current oversupply situation and data indicating that the natural gas industry would increase natural gas supply in response to increasing exports. Further, we note that it is far from certain that all or even most of the proposed LNG export projects will ever be realized because of the time, difficulty, and expense of commercializing, financing, and constructing LNG export terminals, as well as the uncertainties inherent in the global market demand for LNG. On balance, we find that the potential negative impacts of MPL's proposed exports are outweighed by the likely net economic benefits and by other non-economic or indirect benefits.

More generally, DOE/FE continues to subscribe to the principle set forth in our 1984 Policy Guidelines[116] that, under most circumstances, the market is the most efficient means of allocating natural gas supplies. However, agency intervention may be necessary to protect the public in the event there is insufficient domestic natural gas for domestic use. There may be other circumstances as well that cannot be foreseen that would require agency action.[117] Given these possibilities, DOE/FE recognizes the need to monitor market developments closely as the impact of successive authorizations of LNG exports unfolds.

[116] 49 Fed. Reg. at 6684 (Feb. 22, 1984).

[117] Some commenters previously asked DOE to clarify the circumstances under which the agency would exercise its authority to revoke (in whole or in part) previously issued LNG export authorizations. In past orders, DOE/FE stated that it could not precisely identify all the circumstances under which such action would be taken. More recently, on June 15, 2018, DOE/FE issued a policy statement addressing this issue. *See* U.S. Dep't of Energy, Policy Statement Regarding Long-Term Authorizations to Export Natural Gas to Non-Free Trade Agreement Countries, 83 Fed. Reg. 28,841 (June 21, 2018). DOE/FE noted that it has never rescinded a long-term non-FTA export authorization and stated that it "does not foresee a scenario where it would rescind one or more non-FTA authorizations." *Id*. at 28,843.

## D. Conclusion

We have reviewed the evidence in the record and relevant precedent in earlier non-FTA export decisions and have not found an adequate basis to conclude that MPL's proposed export of U.S.-sourced natural gas to Mexico and re-export in the form of LNG from Mexico for delivery to non-FTA countries will be inconsistent with the public interest. For that reason, we are authorizing the non-FTA portion of MPL's Application subject to the limitations and conditions described in this Order.

In deciding whether to grant a final non-FTA export authorization, we consider in our decision-making the cumulative impacts of the total volume of all final non-FTA export authorizations. With the issuance of this Order, DOE/FE has now issued final non-FTA authorizations in a cumulative volume of exports totaling 23.05 Bcf/d of natural gas, or approximately 8.41 Tcf per year, for the 30 final authorizations issued to date—Sabine Pass Liquefaction, LLC (2.2 Bcf/d),[118] Carib Energy (USA) LLC (0.04 Bcf/d),[119] Cameron LNG, LLC (1.7 Bcf/d),[120] FLEX I (1.4 Bcf/d),[121] FLEX II (0.4 Bcf/d),[122] Dominion Cove Point LNG,

[118] *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 2961-A, FE Docket No. 10-111-LNG, Final Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas From Sabine Pass LNG Terminal to Non-Free Trade Agreement Nations (Aug. 7, 2012).

[119] *Carib Energy (USA) LLC*, DOE/FE Order No. 3487, FE Docket No. 11-141-LNG, Final Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas in ISO Containers by Vessel to Non-Free Trade Agreement Nations in Central America, South America, or the Caribbean (Sept. 10, 2014).

[120] *Cameron LNG, LLC*, DOE/FE Order No. 3391-A, FE Docket No. 11-162-LNG, Final Opinion and Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Cameron LNG Terminal in Cameron Parish, Louisiana, to Non-Free Trade Agreement Nations (Sept. 10, 2014).

[121] *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 3282-C, FE Docket No. 10-161-LNG, Final Opinion and Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Freeport LNG Terminal on Quintana Island, Texas, to Non-Free Trade Agreement Nations (Nov. 14, 2014) (FLEX I Final Order).

[122] *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 3357-B, FE Docket No. 11-161-LNG, Final Opinion and Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Freeport LNG Terminal on Quintana Island, Texas, to Non-Free Trade Agreement Nations (Nov. 14, 2014) (FLEX II Final Order).

LP (0.77 Bcf/d),[123] Cheniere Marketing, LLC and Corpus Christi Liquefaction, LLC (2.1 Bcf/d),[124] Sabine Pass Liquefaction, LLC Expansion Project (1.38 Bcf/d),[125] American Marketing LLC (0.008 Bcf/d),[126] Emera CNG, LLC (0.008 Bcf/d),[127] Floridian Natural Gas Storage Company, LLC,[128] Air Flow North American Corp. (0.002 Bcf/d),[129] Bear Head LNG Corporation and Bear Head LNG (USA), LLC (0.81 Bcf/d),[130] Pieridae Energy (USA) Ltd.,[131] Sabine Pass Liquefaction, LLC Design Increase (0.56 Bcf/d),[132] Cameron LNG, LLC Design

---

[123] *Dominion Cove Point LNG, LP*, DOE/FE Order No. 3331-A, FE Docket No. 11-128-LNG, Final Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas from the Cove Point LNG Terminal in Calvert County, Maryland, to Non-Free Trade Agreement Nations (May 7, 2015).
[124] *Cheniere Marketing, LLC and Corpus Christi Liquefaction, LLC*, DOE/FE Order No. 3638, FE Docket No. 12-97-LNG, Final Order and Opinion Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Proposed Corpus Christi Liquefaction Project to Be Located in Corpus Christi, Texas, to Non-Free Trade Agreement Nations (May 12, 2015).
[125] *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 3669, FE Docket Nos. 13-30-LNG, 13-42-LNG, & 13-121-LNG, Final Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Sabine Pass LNG Terminal Located in Cameron Parish, Louisiana, to Non-Free Trade Agreement Nations (June 26, 2015).
[126] *American LNG Marketing LLC*, DOE/FE Order No. 3690, FE Docket No. 14-209-LNG, Final Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas in ISO Containers Loaded at the Proposed Hialeah Facility Near Medley, Florida, and Exported by Vessel to Non-Free Trade Agreement Nations (Aug. 7, 2015).
[127]*Emera CNG, LLC*, DOE/FE Order No. 3727, FE Docket No. 13-157-CNG, Final Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Compressed Natural Gas by Vessel From a Proposed CNG Compression and Loading Facility at the Port of Palm Beach, Florida, to Non-Free Trade Agreement Nations (Oct. 19, 2015).
[128] *Floridian Natural Gas Storage Co., LLC*, DOE/FE Order No. 3744, FE Docket No. 15-38-LNG, Final Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas in ISO Containers Loaded at the Proposed Floridian Facility in Martin County, Florida, and Exported by Vessel to Non-Free Trade Agreement Nations (Nov. 25, 2015).
[129] *Air Flow North American Corp*., DOE/FE Order No. 3753, FE Docket No. 15-206-LNG, Final Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas in ISO Containers Loaded at the Clean Energy Fuels Corp. LNG Production Facility in Willis, Texas, and Exported by Vessel to Non-Free Trade Agreement Nations in Central America, South America, the Caribbean, or Africa (Dec. 4, 2015).
[130] *Bear Head LNG Corporation and Bear Head LNG (USA)*, DOE/FE Order No. 3770, FE Docket No. 15-33-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export U.S.-Sourced Natural Gas by Pipeline to Canada for Liquefaction and Re-Export in the Form of Liquefied Natural Gas to Non-Free Trade Agreement Countries (Feb. 5, 2016).
[131] *Pieridae Energy (USA) Ltd*., DOE/FE Order No. 3768, FE Docket No. 14-179-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export U.S.-Sourced Natural Gas Natural Gas by Pipeline to Canada for Liquefaction and Re-Export in the Form of Liquefied Natural Gas to Non-Free Trade Agreement Countries (Feb. 5, 2016).
[132] *Sabine Pass Liquefaction, LLC,* DOE/FE Order No. 3792, FE Docket No. 15-63-LNG, Final Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel From the Sabine Pass LNG Terminal Located in Cameron Parish, Louisiana, to Non-Free Trade Agreement Nations (Mar. 11, 2016).

Increase (0.42 Bcf/d),[133] Flint Hills Resources, LP (0.01 Bcf/d),[134] Cameron LNG, LLC Expansion Project (1.41 Bcf/d),[135] Lake Charles Exports, LLC (2.0 Bcf/d),[136] Lake Charles LNG Export Company, LLC,[137] Carib Energy (USA), LLC (0.004),[138] Magnolia LNG, LLC (1.08 Bcf/d),[139] Southern LNG Company, L.L.C. (0.36 Bcf/d),[140] the FLEX Design Increase (0.34 Bcf/d),[141] Golden Pass Products LLC (2.21 Bcf/d),[142] Delfin LNG LLC,[143] the Lake Charles

---

[133] *Cameron LNG, LLC*, DOE/FE Order No. 3797, FE Docket No. 15-167-LNG, Final Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Cameron Terminal Located in Cameron and Calcasieu Parishes, Louisiana, to Non-Free Trade Agreement Nations (Mar. 18, 2016).

[134] *Flint Hills Resources, LP*, DOE/FE Order No. 3829, FE Docket No. 15-168-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas in ISO Containers and in Bulk Loaded at the Stabilis LNG Eagle Ford Facility in George West, Texas, and Exported by Vessel to Non-Free Trade Agreement Nations (May 20, 2016).

[135] *Cameron LNG, LLC*, DOE/FE Order No. 3846, FE Docket No. 15-90-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from Trains 4 and 5 of the Cameron LNG Terminal Located in Cameron and Calcasieu Parishes, Louisiana, to Non-Free Trade Agreement Nations (July 15, 2016).

[136] *Lake Charles Exports, LLC*, DOE/FE Order No. 3324-A, FE 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).

[137] *Lake Charles LNG Export Co., LLC*, DOE/FE Order No. 3868, FE Docket No. 13-04-LNG, 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).

[138] *Carib Energy (USA) LLC*, DOE/FE Order No. 3937, FE Docket No. 16-98-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas in ISO Containers Loaded at Designated Pivotal LNG, Inc. Facilities and Exported by Vessel to Non-Free Trade Agreement Nations in Central America, South America, or the Caribbean (Nov. 28, 2016).

[139] *Magnolia LNG, LLC*, DOE/FE Order No. 3909, FE Docket No. 13-132-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel From the Proposed Magnolia LNG Terminal to be Constructed in Lake Charles, Louisiana, to Non-Free Trade Agreement Nations (Nov. 30, 2016).

[140] *Southern LNG Company, L.L.C.*, DOE/FE Order No. 3956, FE Docket No. 12-100-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Elba Island Terminal in Chatham County, Georgia, to Non-Free Trade Agreement Nations (Dec. 16, 2016).

[141] *Freeport LNG Expansion, L.P.*, *et al.*, DOE/FE Order No. 3957, FE Docket No. 16-108-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Freeport LNG Terminal on Quintana Island, Texas, to Non-Free Trade Agreement Nations (Dec. 19, 2016).

[142] *Golden Pass Products LLC*, DOE/FE Order No. 3978, FE Docket No. 12-156-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Golden Pass LNG Terminal Located in Jefferson County, Texas, to Non-Free Trade Agreement Nations (Apr. 25, 2017).

[143] *Delfin LNG LLC*, DOE/FE Order No. 4028, FE Docket No. 13-147-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from a Proposed Floating Liquefaction Project and Deepwater Port 30 Miles Offshore of Louisiana to Non-Free Trade Agreement Nations (June 1, 2017).

LNG Export Company, LLC Design Increase (0.33 Bcf/d),[144] the Lake Charles Exports, LLC Design Increase,[145] Eagle LNG Partners Jacksonville II LLC,[146] and this Order.

We note that the volumes authorized for export in the *Lake Charles Exports* and *Lake Charles LNG Export* orders are both 2.0 Bcf/d and 0.33 Bcf/d, respectively, yet are not additive to one another because the source of LNG approved under all of those orders is the Lake Charles Terminal. Likewise, the *Carib* and *Floridian* orders are both 14.6 Bcf/yr of natural gas (0.04 Bcf/d), yet are not additive to one another because the source of LNG approved under both orders is from the Floridian Facility.[147] Additionally, the volumes authorized for export in the *Bear Head* and *Pieridae US* orders are not additive; together, they are limited to a maximum of 0.81 Bcf/d to reflect the current capacity of the Maritimes Northeast Pipeline at the U.S.-Canadian border.[148] In sum, the total export volume is within the range of scenarios analyzed in the 2014 and 2015 LNG Export Studies. The 2015 Study found that in all such scenarios—assuming LNG export volumes totaling 12 Bcf/d up to a high resource recovery case of 28 Bcf/d—the United States would experience net economic benefits.

---

[144] *Lake Charles LNG Export Co., LLC*, DOE/FE Order No. 4010, FE Docket No. 16-109-LNG, 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 (June 29, 2017).

[145] *Lake Charles Exports, LLC*, DOE/FE Order No. 4011, FE 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 Calcasieu Parish, Louisiana, to Non-Free Trade Agreement Nations (June 29, 2017).

[146] *Eagle LNG Partners Jacksonville II LLC*, DOE/FE Order No. 4078, FE Docket No. 17-79-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas in ISO Containers Loaded at The Eagle Maxville Facility in Jacksonville, Florida, and Exported by Vessel to Free Trade Agreement and Non-Free Trade Agreement Nations (Sept. 15, 2017).

[147] *See Floridian Natural Gas Storage Co., LLC*, DOE/FE Order No. 3744, at 22 (stating that the quantity of LNG authorized for export by Floridian in DOE/FE Order No. 3744 "will be reduced by the portion of the total approved volume of 14.6 Bcf/yr that is under firm contract directly or indirectly to Carib Energy (USA), LLC"); *see also id*. at 21 (Floridian "may not treat the volumes authorized for export in the [*Carib* and *Floridian*] proceedings as additive to one another.").

[148] *See Bear Head LNG Corporation and Bear Head LNG (USA)*, DOE/FE Order No. 3770, at 178-79 (stating that the quantity of LNG authorized for export by Bear Head LNG and Pieridae US "are not additive; together, they are limited to a maximum of 0.81 Bcf/d to reflect the current capacity of the M&N US Pipeline.").

DOE/FE will continue taking a measured approach in reviewing the other pending applications to export natural gas. Specifically, DOE/FE will continue to assess the cumulative impacts of each succeeding request for export authorization on the public interest with due regard to the effect on domestic natural gas supply and demand fundamentals. In keeping with the performance of its statutory responsibilities, DOE/FE will attach appropriate and necessary terms and conditions to authorizations to ensure that the authorizations are utilized in a timely manner and that authorizations are not issued except where the applicant can show that there are or will be facilities capable of handling the proposed export volumes and existing and forecast supplies that support that action. Other conditions will be applied as necessary.

The reasons in support of proceeding cautiously are several: (1) the 2014 and 2015 LNG Export Studies, like any studies based on assumptions and economic projections, are inherently limited in their predictive accuracy; (2) applications to export significant quantities of domestically produced LNG are a new phenomena with uncertain impacts; and (3) the market for natural gas has experienced rapid reversals in the past and is again changing rapidly due to economic, technological, and regulatory developments. The market of the future very likely will not resemble the market of today. In recognition of these factors, DOE/FE intends to monitor developments that could tend to undermine the public interest in grants of successive applications for exports of domestically produced LNG and, as previously stated, to attach terms and conditions to the authorization in this proceeding and to succeeding LNG export authorizations as are necessary for protection of the public interest.

## IX. TERMS AND CONDITIONS

To ensure that the authorization issued by this Order are not inconsistent with the public interest, DOE/FE has attached the following Terms and Conditions to the authorization, unless otherwise specified. The reasons for each Term and Condition are explained below. MPL must abide by each Term and Condition or may face rescission of the authorization or other appropriate sanction.

### A. Term of the Authorization

MPL requests a 20-year term commencing on the earlier of the date of first export or five years from the date of the final order granting export authorization. MPL's requested 20-year non-FTA term is consistent with our practice in the non-FTA export authorizations issued to date. The 20-year term will begin on the date when MPL commences commercial re-export of U.S.-sourced natural gas in the form of LNG from the proposed MPL Facility, but not before.

### B. Commencement of Operations

Consistent with the final and conditional non-FTA authorizations issued to date, DOE/FE will add as a condition of the authorization that MPL must commence commercial LNG re-export operations no later than seven years from the date of issuance of this Order. The purpose of this condition is to ensure that other entities that may seek similar authorizations are not frustrated in their efforts to obtain those authorizations by authorization holders that are not engaged in actual export or re-export operations.

### C. Commissioning Volumes

MPL will be permitted to apply for short-term authorizations to re-export Commissioning Volumes prior to the commencement of the first commercial re-exports of U.S.-sourced natural gas in the form of LNG from the MPL Facility. "Commissioning Volumes" are defined as the volume of LNG produced and exported (or re-exported) under a short-term authorization during the initial start-up of each LNG train, before each LNG train has reached its full steady-state capacity and begun its commercial re-exports pursuant to MPL's long-term contracts.[149] The Commissioning Volumes will not be counted against the maximum level of volume authorized in MPL's FTA order (DOE/FE Order No. 4248) or in this Order.

### D. Make-Up Period

MPL will be permitted to continue exporting and re-exporting for a total of three years following the end of the 20-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 for export or re-export in MPL's FTA order (DOE/FE Order No. 4248) or in this Order. Insofar as MPL may seek to export or re-export additional volumes not previously authorized, it will be required to obtain appropriate authorization from DOE/FE.

### E. Transfer, Assignment, or Change in Control

DOE/FE's natural gas import/export regulations prohibit authorization holders from transferring or assigning authorizations to import or export natural gas without specific authorization by the Assistant Secretary for Fossil Energy.[150] As a condition of the similar authorization issued to Sabine Pass in DOE/FE Order No. 2961, DOE/FE found that the requirement for prior approval by the Assistant Secretary under its regulations applies to any change of effective control of the authorization holder either through asset sale or stock transfer or by other means. This condition was deemed necessary to ensure that, prior to any transfer or

[149] For additional discussion of Commissioning Volumes and the Make-Up Period referenced below, see *Freeport LNG Expansion, L.P.*, *et al.*, DOE/FE Order Nos. 3282-B & 3357-A, Order Amending DOE/FE Order Nos. 3282 and 3357, FE Docket Nos. 10-161-LNG & 11-161-LNG, at 4-9 (June 6, 2014).
[150] 10 C.F.R. § 590.405.

change in control, DOE/FE will be given an adequate opportunity to assess the public interest impacts of such a transfer or change.

DOE/FE construes a change in control to mean a change, directly or indirectly, of the power to direct the management or policies of an entity whether such power is exercised through one or more intermediary companies or pursuant to an agreement, written or oral, and whether such power is established through ownership or voting of securities, or common directors, officers, or stockholders, or voting trusts, holding trusts, or debt holdings, or contract, or any other direct or indirect means. A rebuttable presumption that control exists will arise from the ownership or the power to vote, directly or indirectly, 10% or more of the voting securities of such entity.[151]

### F. Agency Rights

MPL requests authorization to export natural gas and re-export U.S-sourced natural gas in the form of LNG on its own behalf and as agent for other entities that will hold title to the natural gas or LNG at the time of export or re-export. DOE/FE previously addressed the issue of Agency Rights in Order No. 2913, which granted Freeport LNG Expansion, L.P., *et al.* (FLEX) authority to export LNG to FTA countries.[152] 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 *Dow Chemical*, which established that the title for all LNG authorized for export

[151] For information on DOE/FE's procedures governing a change in control, see U.S. Dep't of Energy, Procedures for Changes in Control Affecting Applications and Authorizations to Import or Export Natural Gas, 79 Fed. Reg. 65,541 (Nov. 5, 2014) [hereinafter Procedures for Changes in Control].
[152] *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) [hereinafter *Freeport LNG*].

must be held by the authorization holder at the point of export.[153] We find that the same policy considerations that supported DOE/FE's acceptance of the alternative registration proposal in Order No. 2913 apply here as well.

DOE/FE has reiterated its policy on Agency Rights procedures in prior authorizations, including in *Cameron LNG, LLC*, DOE/FE Order No. 3846.[154] 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.[155]

To ensure that the public interest is served, this authorization shall be conditioned to require that where MPL proposes to export natural gas and/or re-export U.S.-sourced natural gas in the form of LNG as agent for other entities that hold title to the LNG (Registrants), it must register with DOE/FE those entities on whose behalf it will re-export LNG in accordance with the procedures and requirements described herein.

### G. Contract Provisions for the Sale or Transfer of U.S.-Sourced Natural Gas in the Form of LNG to be Re-Exported

DOE/FE's regulations require applicants to supply transaction-specific factual information "to the extent practicable."[156] Additionally, DOE/FE regulations 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 information should be exempted from

---

[153] *Dow Chem. Co.*, 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.
[154] *See Cameron LNG, LLC*, DOE/FE Order No. 3846.
[155] *See id*. at 128-29 (citation omitted).
[156] 10 C.F.R. § 590.202(b).

public disclosure, and DOE/FE determines it will be afforded confidential treatment in accordance with 10 C.F.R. § 1004.11.[157]

DOE/FE will require that MPL file or cause to be filed with DOE/FE any relevant long-term commercial agreements, including sale and purchase agreements, pursuant to which MPL exports natural gas and/or re-exports U.S.-sourced natural gas in the form of 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 associated with a minimum term of two years, an agreement to provide natural gas processing or liquefaction services at the MPL Facility, a long-term sales contract involving U.S.-sourced natural gas stored or liquefied at the MPL Facility, or an agreement to provide long-term re-export services from the MPL Facility.

In addition, DOE/FE finds that section 590.202(c) of DOE/FE's regulations[158] requires that MPL file, or cause to be filed, all long-term contracts associated with the long-term supply of U.S.-sourced natural gas to the MPL Facility, whether signed by MPL or the Registrant, within 30 days of their execution.

DOE/FE recognizes that some information in MPL's or a Registrant's long-term commercial agreements associated with the export of natural gas and/or the re-export of U.S.-sourced natural gas as LNG, and/or long-term contracts associated with the long-term supply of U.S.-sourced natural gas to the MPL Facility, may be commercially sensitive. DOE/FE therefore

[157] *Id*. § 590.202(e).
[158] *Id*. § 590.202(c).

will provide MPL the option to file or cause to be filed either unredacted contracts, or in the alternative (A) MPL 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, destinations, re-sale provisions, and other relevant provisions; and (B) the filing must demonstrate why the redacted information should be exempted from public disclosure.

To ensure that DOE/FE destination and reporting requirements included in this 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 U.S-sourced natural gas in the form of LNG re-exported pursuant to this Order shall include an acknowledgement of these requirements.

### H. Export and Re-Export Quantity

MPL seeks authorization to export domestically produced natural gas to Mexico and to re-export the natural gas in the form of LNG in a volume equivalent to 621 Bcf/yr (1.7 Bcf/d) to non-FTA countries. As set forth herein, this Order grants MPL's Application in the full amount requested, up to the equivalent of 621 Bcf/yr of natural gas for non-FTA countries.

### I. Combined FTA and Non-FTA Export Authorization Volumes

MPL is currently authorized in DOE/FE Order No. 4248 to export domestically produced natural gas to Mexico by pipeline, and to re-export the natural gas, after liquefaction in Mexico, to FTA countries for end use in FTA countries, in a total combined volume of 621 Bcf/yr of natural gas. Because the source of LNG for that FTA order and this Order is the proposed MPL Facility, MPL may not treat the volumes as additive to one another.

## X. FINDINGS

On the basis of the findings and conclusions set forth above, we find that it has not been shown that a grant of the requested authorization will be inconsistent with the public interest, and we further find that the non-FTA portion of MPL's Application should be granted subject to the Terms and Conditions set forth herein. The following Ordering Paragraphs reflect current DOE/FE practice.

## XI. ORDER

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

A. Mexico Pacific Limited LLC (MPL) is authorized to export U.S.-sourced natural gas by pipeline from the United States for liquefaction in Mexico and re-export the natural gas in the form of LNG in a volume up to the equivalent of 621 Bcf/yr of natural gas. MPL is authorized to re-export the LNG subject to this authorization by vessel from the proposed MPL Facility, to be located in the State of Sonora, Mexico. This authorization is for a term of 20 years to commence from the date of first commercial re-export, but not before. MPL is authorized to export the natural gas and re-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).

B. MPL may export or re-export Commissioning Volumes prior to the commencement of the terms of this Order, pursuant to a separate short-term export authorization. The Commissioning Volumes will not be counted against the maximum level of volumes previously authorized in MPL's FTA order (DOE/FE Order No. 4248) or in this Order.

C. MPL may continue exporting (or re-exporting) for a total of three years following the end of the 20-year export term, solely to export (or re-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 total volume of natural gas and LNG authorized for export or re-export in MPL's FTA order (DOE/FE Order No. 4248) or in this Order. Insofar as MPL may seek to export or re-export additional volumes not previously authorized, it will be required to obtain appropriate authorization from DOE/FE.

D. MPL must commence re-export operations using the planned liquefaction facilities no later than seven years from the date of issuance of this Order.

E. The quantity of U.S.-sourced natural gas authorized for export and re-export in the form of LNG (equivalent to 621 Bcf/yr of natural gas) is not additive to the export volume in MPL's FTA authorization, set forth in DOE/FE Order No. 4248.

F. This U.S.-sourced natural gas in the form of LNG may be re-exported to any country with which the United States does not have a FTA requiring the national treatment for trade in natural gas (non-FTA countries) and/or to FTA countries for delivery to non-FTA countries, which currently have or in the future develop the capacity to import LNG, and with which trade is not prohibited by U.S. law or policy.

G. MPL 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 U.S. Department of the Treasury. Failure to comply with these requirements could result in rescission of this authorization and/or other civil or criminal remedies.

H. (i) MPL shall file, or cause others to file, with the Office of Regulation, Analysis, and Engagement a non-redacted copy of <u>all executed long-term contracts associated with the long-term export of U.S.-sourced natural gas and re-export in the form of LNG</u> as agent for other entities from the MPL Facility. The non-redacted copies may be filed under seal and must be filed within 30 days of their execution. Additionally, if MPL 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, MPL shall also file, or cause others to file, for public posting either: i) a redacted version of the contracts described in the preceding sentence; or ii) major provisions of the contracts. In these filings, MPL shall state why the redacted or non-disclosed information should be exempted from public disclosure.

(ii) MPL shall file, or cause others to file, with the Office of Regulation, Analysis, and Engagement a non-redacted copy of <u>all executed long-term contracts associated with the long-term supply of natural gas</u> to the MPL Facility. The non-redacted copies may be filed under seal and must be filed within 30 days of their execution. Additionally, if MPL 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, MPL shall also file for public posting either: i) a redacted version of the contracts described in the preceding sentence; or ii) major provisions of the contracts. In these filings, MPL shall state why the redacted or non-disclosed information should be exempted from public disclosure.

I. MPL, or others for whom MPL acts as agent, shall include the following provision in any agreement or other contract for the sale or transfer of U.S.-sourced natural gas exported or re-exported in the form of LNG pursuant to this Order:

> Customer or purchaser acknowledges and agrees that it will resell or transfer U.S.-sourced natural gas, including in the form of LNG, purchased hereunder for delivery only to countries identified in Ordering Paragraph F of DOE/FE Order No. 4312, issued December 14, 2018, in FE Docket No. 18-70-LNG, and/or to purchasers that have agreed in writing to limit their direct or indirect resale or transfer of such natural gas or LNG to such countries. Customer or purchaser further commits to cause a report to be provided to Mexico Pacific Limited LLC that identifies the country (or countries) into which the natural gas or re-exported LNG was actually delivered, and to include in any resale contract for such LNG the

necessary conditions to ensure that Mexico Pacific Limited LLC is made aware of all such actual destination countries.

J. MPL is permitted to use its authorization to export U.S.-sourced natural gas and/or re-export the natural gas in the form of 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 MPL with all information necessary to permit MPL 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/FE'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; and (4) within 30 days of execution, a copy of any long-term contracts not previously filed with DOE/FE, described in Ordering Paragraph H of this Order.

K. 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).

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

M. Within two weeks after MPL's first re-export of U.S.-sourced natural gas in the form of LNG occurs from the MPL Facility, MPL shall provide written notification of the date that the first re-export of LNG authorized in Ordering Paragraph A above occurred.

N. MPL shall file with the Office of Regulation, Analysis, and Engagement, on a semi-annual basis, written reports describing the status of the proposed MPL Facility. The reports shall be filed on or by April 1 and October 1 of each year, and shall include information on the status of the MPL Facility, the date the MPL Facility is expected to commence first re-exports of LNG, and the status of the long-term contracts associated with the long-term export of natural gas and re-export of LNG and any long-term supply contracts.

O. With respect to any change in control of the authorization holder, MPL must comply with DOE/FE's Procedures for Change in Control Affecting Applications and Authorizations to Import or Export Natural Gas.[159] 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 MPL, 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.[160]

P. Monthly Reports: With respect to the exports authorized by this Order, MPL shall file with the Office of Regulation, Analysis, and Engagement, within 30 days following the last day of each calendar month, a report indicating whether exports of natural gas 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 natural gas have occurred, the report must give the following details: (1) the country of destination; (2) the point(s) of exit; (3) the volume in thousand cubic feet (Mcf); (4) the average purchase price of gas per million British

[159] *See* Procedures for Changes in Control at 65,541-42.
[160] *See id*. at 65,542.

thermal units (MMBtu) at the international border; (5) the name of the supplier(s); (6) the name of the U.S. transporter(s); and (7) the estimated or actual duration of the supply agreement(s).

With respect to the re-export of U.S.-sourced natural gas as LNG authorized by this Order, MPL shall file with the Office of Regulation, Analysis, and Engagement, within 30 days following the last day of each calendar month, a report indicating whether re-exports of this LNG to non-FTA countries 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 re-exports have not occurred, a report of "no activity" for that month must be filed. If re-exports of this LNG for use in FTA countries 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 export terminal; (3) the name of the LNG tanker; (4) the date of departure from the export terminal; (5) the country (or countries) into which the natural gas or re-exported LNG was actually delivered; (6) the name of the supplier/seller; (7) the volume in 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.)

Issued in Washington, D.C., on December 14, 2018.

Steven Eric Winberg
Assistant Secretary
Office of Fossil Energy