

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

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ANNOVA LNG COMMON )  
INFRASTRUCTURE, LLC )

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FE DOCKET NO. 13-140-LNG

ORDER AMENDING LONG-TERM, MULTI-CONTRACT AUTHORIZATION  
TO EXPORT LIQUEFIED NATURAL GAS  
TO FREE TRADE AGREEMENT NATIONS

DOE/FE ORDER NO. 3394-A

JULY 11, 2019

## **I. BACKGROUND AND DESCRIPTION OF REQUEST**

In 2013, Annova LNG, LLC filed an application<sup>1</sup> with the Office of Fossil Energy (FE) of the Department of Energy (DOE) under section 3(c) of the Natural Gas Act (NGA), 15 U.S.C. § 717b(c).<sup>2</sup> Annova LNG, LLC requested long-term, multi-contract authorization to export domestically produced liquefied natural gas (LNG) in a volume equivalent to approximately 342 billion cubic feet per year (Bcf/yr) of natural gas, or 0.94 Bcf per day (Bcf/d). Annova LNG, LLC sought to export this LNG, on its own behalf and as agent for other entities, from its proposed natural gas liquefaction and export facilities to be located on the Brownsville Ship Channel in Cameron County, Texas (Project), to any country with which the United States has entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas (FTA countries).<sup>3</sup> On February 20, 2014, in Order No. 3394, DOE/FE granted Annova LNG, LLC's FTA authorization in the requested volume of 342 Bcf/yr for a term of 30 years.<sup>4</sup>

Subsequently, in Order No. 3464, DOE/FE approved the transfer of Annova LNG, LLC's FTA authorization to an entity known as Annova LNG Common Infrastructure, LLC (Annova or ACI).<sup>5</sup>

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<sup>1</sup> Annova LNG, LLC, Application for Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas, FE Docket No. 13-140-LNG (Oct. 9, 2013).

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> *Annova LNG, LLC*, DOE/FE Order No. 3394, FE Docket No. 13-140-LNG, Order Granting Long-Term, Multi-Contract Authorization To Export Liquefied Natural Gas by Vessel from the Proposed Annova LNG Terminal in Brownsville, Texas, to Free Trade Agreement Nations (Feb. 20, 2014).

<sup>5</sup> *Annova LNG Common Infrastructure, LLC and Annova LNG, LLC*, DOE/FE Order No. 3464, FE Docket Nos. 13-140-LNG and 14-004-CIC, Order Approving Change in Control to Annova LNG Common Infrastructure, LLC of Authorization Allowing Exports of Liquefied Natural Gas to Free Trade Agreement Nations (July 17, 2014).

On July 13, 2016, Annova and several affiliated entities filed an application with the Federal Energy Regulatory Commission (FERC) in FERC Docket No. CP16-480-000.<sup>6</sup> In relevant part, the applicants request authorization from FERC to site, construct, and operate the Project with a proposed maximum liquefaction capacity of 6.95 million metric tons per annum (mtpa) of LNG, equivalent to approximately 360 Bcf/yr of natural gas (0.986 Bcf/d).<sup>7</sup> The FERC application is currently pending, and DOE/FE is participating in the FERC proceeding as a cooperating agency.<sup>8</sup>

On June 4, 2019, Annova submitted an Application<sup>9</sup> asking DOE/FE to amend its FTA authorization. Annova states that it seeks to align its approved FTA export volume with the Project's maximum output at optimal operating conditions, as requested in its pending FERC application.<sup>10</sup> Therefore, Annova asks DOE/FE to amend its FTA authorization as follows:

- (i) Increase the volume of LNG authorized for export from the equivalent of 342 Bcf/yr to 360 Bcf/yr—for an additional 18 Bcf/yr of natural gas;
- (ii) Reset the 30-year term for the FTA authorization, so that it will commence on the earlier of the date of first commercial export or eight years from the date DOE/FE issues an order approving the amendment; and
- (iii) Authorize Annova to continue exports for a total of three years following the end of the export term to export make-up volumes.<sup>11</sup>

Annova states that it does not seek to modify any other terms of its FTA authorization.<sup>12</sup>

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<sup>6</sup> Annova LNG Common Infrastructure, LLC, *et al.*, Application for Authorization under Section 3 of the Natural Gas Act, FERC Docket No. CP16-480-000 (July 13, 2016).

<sup>7</sup> *See* Annova LNG Common Infrastructure, LLC, Application to Amend Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas to Free Trade Agreement Nations, FE Docket No. 13-140-LNG, at 5-6 (June 4, 2019) [hereinafter App.].

<sup>8</sup> We note that, on February 26, 2019, Annova filed an application with DOE/FE in FE Docket No. 19-34-LNG requesting long-term, multi-contract authorization to export domestically produced LNG in a volume equivalent to 360 Bcf/yr of natural gas (approximately 6.95 mtpa of LNG). Annova seeks to export this LNG to any country with which the United States does not have a FTA requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (non-FTA countries). Annova's non-FTA application is pending.

<sup>9</sup> *See supra* note 7.

<sup>10</sup> App. at 3.

<sup>11</sup> *Id.* at 3, 6.

<sup>12</sup> *Id.* at 6.

## **II. FINDINGS**

Section 3(c) of the NGA was amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486) to require that applications requesting authority for (a) the import and export of natural gas, including LNG, from and to a nation with which there is in effect a FTA requiring national treatment for trade in natural gas, and/or (b) the import of LNG from other international sources, be deemed consistent with the public interest and granted without modification or delay. Annova's Application meets the NGA section 3(c) criterion and, therefore, is consistent with the public interest. As such, DOE/FE is charged with granting the Application without modification or delay.<sup>13</sup>

### **ORDER**

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

A. Annova's request to amend DOE/FE Order No. 3394 is granted, as reflected in the following new Ordering Paragraph A:

Annova LNG Common Infrastructure, LLC (Annova) is authorized to export domestically produced LNG by vessel from the proposed Annova LNG Project, to be located on the Brownsville Ship Channel in Cameron County, Texas. The volume authorized in this Order is equivalent to approximately 360 Bcf/yr of natural gas for a 30-year term, beginning on the earlier of the date of first commercial export or eight years from the date of this amended authorization. Annova is authorized to export this LNG on its own behalf and

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<sup>13</sup> DOE further finds that the requirement for public notice of applications and other hearing-type procedures in 10 C.F.R. Part 590, are applicable only to applications seeking to export natural gas, including LNG, to countries with which the United States does not have a FTA requiring national treatment for trade in natural gas.

as agent for other entities that hold title to the natural gas, pursuant to one or more long-term contracts (a contract greater than two years).

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

This amended Ordering Paragraph A supersedes Ordering Paragraph A in DOE/FE Order No. 3394 in its entirety.

B. All other obligations, rights, and responsibilities established by DOE/FE Order No. 3394 remain in effect. Any other references to DOE/FE Order No. 3394 in the Ordering Paragraphs should reflect this amended authorization (DOE/FE Order No. 3394-A) and this effective date.

C. This Order is effective immediately.

Issued in Washington, D.C., on July 11, 2019.



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Shawn Bennett  
Deputy Assistant Secretary for Oil and Natural Gas  
Office of Fossil Energy