



Department of Energy
Washington, DC 20585

March 30, 2020

James F. Bowe, Jr.
King & Spalding LLP
1700 Pennsylvania Ave
Suite 200
Washington, D.C. 20006

RE: Notification Regarding Change in Control
Mexico Pacific Limited LLC
FE Docket No. 18-70-LNG

Dear Mr. Bowe:

This correspondence constitutes the response of the Department of Energy (DOE), Office of Fossil Energy (FE), to your letter filed on behalf of Mexico Pacific Limited LLC (MPL) on November 18, 2019,¹ and supplement filed on January 14, 2020.² In those documents, MPL provides information regarding changes in its ownership, in light of DOE/FE's Change in Control Procedures.³

I. BACKGROUND

MPL currently holds two long-term export authorizations issued by DOE/FE:

First, in DOE/FE Order No. 4248,⁴ MPL is authorized to export natural gas from the United States to Mexico, and, after liquefaction in Mexico, to re-export the U.S.-sourced natural gas in the form of liquefied natural gas (LNG) to any country with which the United States has entered into a free trade agreement (FTA) requiring national treatment

¹ Mexico Pacific Limited LLC, FE Docket No. 18-70-LNG, Notification Regarding Change in Control (Nov. 18, 2019) [hereinafter MPL Ltr.].

² Mexico Pacific Limited LLC, FE Docket No. 18-70-LNG, Supplement to Notification Regarding Change in Control dated November 18, 2019 (Jan. 14, 2020) [hereinafter MPL Supp.].

³ 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 DOE/FE Change in Control Procedures].

⁴ *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 Other Free Trade Agreement Nations (Sept. 19, 2018).

for trade in natural gas (FTA countries).⁵

Second, in DOE/FE Order No. 4312, MPL is authorized to export natural gas from the United States to Mexico, and, after liquefaction in Mexico, to re-export the U.S.-sourced natural gas in the form of liquefied natural gas (LNG) to any other country with which trade is not prohibited by U.S. law or policy (non-FTA countries).⁶

II. DESCRIPTION OF CHANGE IN CORPORATE OWNERSHIP

MPL states that, at the time it filed its application in this proceeding and through October 21, 2019, its membership interests were held by two entities: DKRW Energy Sonora Holding LLC and ACAP Sonora Energy LLC. MPL further states that, by means of a transaction that closed effective as of October 22, 2019, its ownership has changed.⁷

MPL states that it is now controlled by a consortium led by AVAIO Management LP (AVAIO Capital), which also includes funds managed by Tortoise Capital Advisors LLC. The three largest equity owners of MPL in terms of total ownership are AVAIO MPL SPV, LP (51.72%), ACAP Sonora Energy LLC (19.53%), and DKRW Energy Partners LLC (16.09%).⁸ MPL states that two of these entities, AVAIO MPL SPV, LP and DKRW Energy Partners LLC, increased their ownership percentages by more than 10%.⁹ According to MPL, the purpose of this transaction was to secure sources of new capital to fund the continued development of the MPL project.¹⁰

III. DISCUSSION AND CONCLUSIONS

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.¹¹ 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.¹²

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 Mexico Pacific Limited LLC*, DOE/FE Order No. 4312, 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 (Dec. 14, 2018).

⁷ MPL Ltr. at 2.

⁸ *See id.* at 2-3.

⁹ *See id.* at 2 and Exh. A; *see also* MPL Supp. at 2 and Exh. A.

¹⁰ MPL Supp. at 1.

¹¹ *See* DOE/FE Change in Control Procedures, 79 Fed. Reg. at 65,542.

¹² *See id.*

A. FTA Authorization (DOE/FE Order No. 4248)

DOE/FE's Change in Control Procedures provide that, upon receipt of a statement of change in control relating to existing FTA export authorizations, DOE will give immediate effect to the change in control and will take no further action.¹³ Accordingly, the change in control described above has taken effect insofar as it relates to the FTA authorization issued to MPL in DOE/FE Order No. 4248.

B. Non-FTA Authorization (DOE/FE Order No. 4312)

DOE/FE's Change in Control Procedures state that, with respect to existing non-FTA authorizations, DOE/FE will give effect to the change in control and will publish a notice of the change in the *Federal Register*.¹⁴ If no interested person protests the change in control and DOE takes no action on its own motion, the amendment to the existing non-FTA authorization will be deemed granted 30 days after publication in the *Federal Register*.¹⁵

Consistent with these procedures, DOE published a notice of MPL's change in control in the *Federal Register* on February 14, 2020.¹⁶ DOE/FE invited protests, motions to intervene, and written comments to be filed no later than March 2, 2020.¹⁷ In response to the notice, DOE/FE received one comment filed by an anonymous commenter.¹⁸ The anonymous commenter expresses opposition to trade in fossil fuels, but does not address MPL's ownership changes. Accordingly, we find that the comment is non-responsive.

Because more than 30 days have passed since the notice was published in the *Federal Register*, the amendment to MPL's non-FTA authorization (DOE/FE Order No. 4312) has been deemed granted. No further action is required.

Sincerely,

Amy R. Sweeney
Director, Office of Regulation, Analysis, and Engagement

¹³ *See id.*

¹⁴ *See id.*

¹⁵ *See id.*

¹⁶ U.S. Dep't of Energy, Notice of Change in Control, Mexico Pacific Limited LLC, 85 Fed. Reg. 8581 (Feb. 14, 2020).

¹⁷ *See id.*

¹⁸ Anonymous, General Comment, FE Docket No. 18-70-LNG (Mar. 3, 2020).