

RECEIVED

By Docket Room at 8:53 am, Aug 20, 2020

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

RIO GRANDE LNG, LLC

)

)

)

FE DOCKET NO. 15-190-LNG

APPLICATION TO AMEND EXPORT TERM
FOR EXISTING LONG-TERM AUTHORIZATION
THROUGH DECEMBER 31, 2050

Krysta De Lima
General Counsel
Rio Grande LNG, LLC
1000 Louisiana Street, Suite 3900
Houston, TX 77002
Telephone: (832) 403-2198
Email: krysta@next-decade.com

David L. Wochner
Jennifer Bruneau Abbey
K&L Gates LLP
1601 K Street NW
Washington, DC
Telephone: (202) 778-9014
Email: david.wochner@klgates.com
jennifer.abbey@klgates.com

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

RIO GRANDE LNG, LLC

)
)
)

FE DOCKET NO. 15-190-LNG

APPLICATION TO AMEND EXPORT TERM FOR EXISTING LONG-TERM
AUTHORIZATION THROUGH DECEMBER 31, 2050

Pursuant to Section 3 of the Natural Gas Act (“NGA”)¹ and Part 590 of the Department of Energy’s (“DOE”) regulations,² Rio Grande LNG, LLC (“Rio Grande LNG”) hereby requests DOE Office of Fossil Energy (“DOE/FE”) approval to amend Rio Grande LNG’s long-term, multi-contract authorization to export up to 1,318 billion cubic feet per year (“Bcf/yr”) of natural gas in the form of liquefied natural gas (“LNG”) to Non-FTA nations (as defined herein). Rio Grande LNG specifically requests an extension of its current 20-year export term to December 31, 2050 pursuant to DOE/FE’s Policy Statement Extending Natural Gas Export Authorizations to Non-Free Trade Agreement Countries Through the Year 2050 (the “Policy Statement”).³ In support of the instant amendment application, Rio Grande LNG states the following:

Section I: Background and Request to Amend Export Term for Existing Non-FTA Authorization

1. The DOE/FE docket number for the proceeding is 15-190-LNG.
2. The authorization holder is Rio Grande LNG.
3. Rio Grande LNG will export LNG by vessel from a natural gas liquefaction terminal that it will site, construct, and operate along the north embankment of the Brownsville Ship Channel, in Cameron County, Texas (the “Rio Grande LNG Facility” or “Facility”).
4. On December 23, 2015, Rio Grande LNG filed with DOE/FE an application for long-term, multi-contract authorization to export U.S.-sourced LNG to nations: (1) with which the United States currently has, or in the future enters into, a Free Trade Agreement requiring the national treatment for trade in natural gas and LNG (“FTA”), and (2) with which the United States does not have in place a Free Trade Agreement

¹ 15 U.S.C. § 717b (2018).

² 10 C.F.R. Part 590 (2020).

³ *Sabine Pass Liquefaction, LLC, et al.*, Extending Natural Gas Export Authorizations to Non-Free Trade Agreement Countries Through the Year 2050, FE Docket Nos. 10-111-LNG, et al. (posted July 29, 2020), <https://www.energy.gov/sites/prod/files/2020/07/f77/Term%20Extension%20FRN%20Final%20Policy%20Statement.pdf> [hereinafter Policy Statement]. The Policy Statement is not published as of yet in the Federal Register.

requiring national treatment of trade in natural gas (“Non-FTA”).⁴ On August 17, 2016, DOE/FE issued Order No. 3869 granting Rio Grande LNG’s request for authorization to export the full 1,318 Bcf/yr volume of natural gas requested to any FTA nation for a 30-year term, beginning on the earlier of the date of first export or ten (10) years from the date of the authorization (the “FTA Order”).⁵

On August 23, 2017, Rio Grande LNG filed a request to amend its existing FTA export authorization in DOE/FE Order No. 3869 and its pending Non-FTA application in FE Docket No. 15-190-LNG to reflect a change in the ownership of Rio Grande LNG (the “August 2017 Letter”).⁶ On October 25, 2017, DOE/FE responded to the August 2017 Letter noting that the change in control took effect immediately for the existing FTA authorization and that the amendment to the pending Non-FTA application took effect immediately and was unopposed.⁷ On February 10, 2020, DOE/FE issued Order No. 4492 granting Rio Grande LNG’s request for authorization to export the full 1,318 Bcf/yr volume of natural gas requested to any Non-FTA nation for a 20-year term commencing on the earlier of the date of first export or seven years from the date the authorization is granted (the “Non-FTA Order”).⁸

5. On November 22, 2019, the Federal Energy Regulatory Commission (“FERC”) issued an order (the “FERC Order”) authorizing Rio Grande LNG and its affiliate, Rio Bravo Pipeline Company, LLC, to site, construct and operate the Rio Grande LNG Facility and the associated Rio Bravo Pipeline.⁹ On November 26, 2019 and February 3, 2020, Rio Grande LNG provided DOE/FE with an update on its ownership structure.¹⁰
6. Rio Grande LNG herein requests that the existing 20-year export term under Non-FTA Order No. 4492 be extended through December 31, 2050, pursuant to the Policy

⁴ *Rio Grande LNG, LLC*, Application for Long-term, Multi-contract Authorization to Export Domestically Produced LNG to Free Trade Agreement & Non-Free Trade Agreement Countries, FE Docket No. 15-190-LNG (Dec. 23, 2015). Rio Grande LNG amended this application on June 7, 2016. *Rio Grande LNG, LLC*, Amendment of Application for Long-term, Multi-contract Authorization to Export Liquefied Natural Gas, FE Docket No. 15-190-LNG (June 7, 2016).

⁵ *Rio Grande LNG, LLC*, Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Proposed Rio Grande LNG Terminal in Brownsville, Texas, to Free Trade Agreement Nations, DOE/FE Order No. 3869 (Aug. 17, 2016).

⁶ *Rio Grande LNG, LLC*, Statement of Change in Ownership and Notice of Amendment to Pending NFTA Export Application, FE Docket No. 15-190-LNG (Aug. 23, 2017).

⁷ *Rio Grande LNG, LLC*, Response to CIC Request for Change in Ownership and Notice of Amendment, FE Docket No. 15-190-LNG (Oct. 25, 2017).

⁸ *Rio Grande LNG, LLC*, Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations, DOE/FE Order No. 4492 (Feb. 10, 2020) [hereinafter “Rio Grande Non-FTA Order”].

⁹ *Rio Grande LNG, LLC & Rio Bravo Pipeline Company, LLC*, 169 FERC ¶ 61,131 (2019). On January 23, 2020, FERC denied the requests for rehearing of the FERC Order. *Rio Grande LNG, LLC & Rio Bravo Pipeline Company, LLC*, 170 FERC ¶ 61,046 (2020).

¹⁰ *Rio Grande LNG, LLC*, Updates to Pending Non-FTA Application, FE Docket No. 15-190-LNG (Nov. 26, 2019); *Rio Grande LNG, LLC*, Updates to Existing FTA Authorization and Pending Non-FTA Application, FE Docket No. 15-190-LNG (Feb. 3, 2017).

Statement. No similar amendment of its FTA Order is required because the term of that authorization already is 30 years. Rio Grande LNG provides the following information in support of a finding that the extension of the Non-FTA export authorization term is not inconsistent with the public interest.¹¹

Section II: Information in Support of Extending the Term of Rio Grande LNG's Non-FTA Order

1. Rio Grande LNG's request for an extension of the term of its Non-FTA Order through December 31, 2050 is not inconsistent with the public interest. In fact, such an extension of the export term is of critical importance for the project and its ability to provide further economic benefits from exports of domestically produced LNG because it will better match the long-term design and useful life of the Facility and improve the competitiveness of the project relative to other LNG projects across the globe including Qatar, Russia, and elsewhere.

Rio Grande LNG incorporates herein by reference the findings set forth in the Policy Statement¹² and the 2018 LNG Export Study.¹³ The 2018 LNG Export Study demonstrated that “GDP grows as LNG exports increase,” that domestic supply conditions are more than adequate to meet both domestic needs and export of LNG under the extension, and that there are macroeconomic benefits to the U.S. economy from LNG exports.¹⁴ The 2018 LNG Export Study also showed that domestic supply conditions are “more than adequate to satisfy both domestic needs and exports of LNG, including those proposed” by Rio Grande LNG,¹⁵ and “that the market will be capable of sustaining the level of exports requested in Rio Grande LNG's Application over the authorization term without negative economic impacts, including domestic price impacts”¹⁶

To that end, Rio Grande will source natural gas as feedstock for the Facility through the Rio Bravo Pipeline which originates in the Agua Dulce hub area in Texas. This makes Rio Grande LNG one of the few LNG projects in the United States that has direct access to natural gas produced in the Permian Basin¹⁷ that is transported to the

¹¹ 15 U.S.C. 717b (2020).

¹² See *Policy Statement*.

¹³ See *Study on Macroeconomic Outcomes of LNG Exports; Notice of Availability of the 2018 LNG Export Study and Request for Comments*, DEP'T OF ENERGY, 83 Fed. Reg. 27,314 (June 12, 2018); *Study on Macroeconomic Outcomes of LNG Exports; Response to Comments Received on Study*, DEP'T OF ENERGY, 83 Fed. Reg. 67,251 (Dec. 28, 2018).

¹⁴ *Policy Statement*, at 17.

¹⁵ *Rio Grande LNG Non-FTA Order*, at 39.

¹⁶ *Rio Grande LNG Non-FTA Order*, at 40.

¹⁷ The Permian is a highly prolific oil and gas basin, with an estimated remaining natural gas resource of approximately 600 trillion cubic feet as reported by Enverus. See Ian Nieboer, et al., *Hardcore IX: No More Guessing*, RS ENERGY GROUP (now Enverus) (Dec. 2018); Ian Nieboer, et al., *HardcoreX Xrossing Over*, RS ENERGY GROUP (now Enverus) (Nov. 2019). At current production rates, this amounts to more than one hundred (100) years of resource life. In 2018, the U.S. Geological Survey provided an assessment of undiscovered continuous resource of 46.3 billion barrels of oil and 281 trillion cubic feet of gas in a subset of the Permian basin comprised of the Wolfcamp shale and Bone

Texas Gulf Coast through pipelines that are in service or under construction, and the largest export solution linking Permian Basin and Eagle Ford Shale natural gas to the global LNG markets. The proposed extension of the export term will increase the certainty producers and infrastructure developers need to invest in the exploration and development of this vast domestic resource, which will generate significant economic benefits to the United States.

The construction of the Facility also will support thousands of jobs and will require a multi-billion dollar investment over several years. To support the financing of such investment, Rio Grande LNG must compete with other developers around the globe to attract customers and capital providers. In many cases, these stakeholders want visibility over continuous operations and export capabilities beyond a 20-year horizon and projects in other countries such as Qatar and Russia, among others, are not subject to such limitation. Since the design and useful life of the Facility is well beyond 20 years, extending the export authorization to 30 years will help Rio Grande LNG compete for customers and mitigate potential risks for customers and capital providers seeking regulatory visibility beyond a typical 20-year contract term.

2. Rio Grande LNG will not need to make any operational changes or new construction in connection with the term extension request, such that the Final Environmental Impact Statement (“FEIS”) issued by FERC on April 26, 2019,¹⁸ and the Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update (“LCA GHG Update”)¹⁹ remain the relevant documents for determining compliance of this request with the National Environmental Policy Act of 1969 (“NEPA”).²⁰ The LCA GHG Update “concluded that the use of U.S. LNG exports for power production in European and Asian markets will not increase global GHG emissions from a life cycle perspective, when compared to regional coal extraction and consumption for power production[,]”²¹ and thus, will not be inconsistent with the public interest. Additionally, when compared to coal as an alternative, U.S. LNG is also determined to be less carbon-intensive, on a lifecycle basis, than other gas-derived alternatives (i.e., LNG from other geographies).²²

Spring Formation of the Delaware basin. Stephanie B. Gaswirth, et al., *Assessment of undiscovered continuous oil and gas resources in the Wolfcamp Shale and Bone Spring Formation of the Delaware Basin, Permian Basin Province, New Mexico and Texas*, 2018, U.S. GEOLOGICAL SURVEY (Dec. 2018), <https://doi.org/10.3133/fs20183073>.

¹⁸ *Rio Grande LNG, LLC*, Final Environmental Impact Statement, FERC Docket Nos. CP16-454-000, CP16-455-000 (issued Apr. 26, 2020).

¹⁹ Selina Roman-White, et al., *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update*, NAT’L ENERGY TECH. LAB. at 20-32 (Sept. 12, 2019), <https://www.energy.gov/sites/prod/files/2019/09/f66/2019%20NETL%20LCA-GHG%20Report.pdf> [hereinafter LCA GHG Update].

²⁰ 42 U.S.C. § 4321 *et seq.*

²¹ *Policy Statement*, at 29-30.

²² *See generally*, LCA GHG Update, at 20-32.

Since issuance of the FEIS, Rio Grande LNG informed FERC that based on modifications to the design, Rio Grande now can achieve the production capacity approved by FERC and authorized by DOE for export with five instead of six trains.²³ On August 13, 2020, FERC issued a letter order approving the proposed design modifications, finding that the changes will “result in a reduction in criteria pollutants and greenhouse gas emissions . . . and a shortened construction timeline.”²⁴ Specifically, these design modifications provide an equal or greater level of environmental protection than the original design, including: (1) a 21% reduction in CO₂ equivalent emissions; (2) a net zero impact to overall site boundaries; (3) no effect on noise levels; and (4) no new offsite hazards. Therefore, they do not affect DOE/FE’s environmental findings in the Non-FTA Order. The environmental concerns associated with the natural gas production for the project do not demonstrate that exports of the natural gas to Non-FTA nations are inconsistent with the public interest, and there is no reason to find that U.S. LNG exports would increase global greenhouse gas emissions in a material or predictable way.²⁵ Therefore, DOE/FE’s existing NEPA review remains valid and no additional action is required.

Section III: Conclusion

For the foregoing reasons, Rio Grande LNG respectfully requests that DOE/FE grant Rio Grande LNG’s request to extend the term of its existing long-term, multi-contract authorizations to engage in exports of up to approximately 1,318 Bcf/yr to Non-FTA nations through December 31, 2050.

Respectfully submitted,

/s/ David L. Wochner
David L. Wochner
Counsel for Rio Grande LNG, LLC

Dated: August 19, 2020

²³ *Rio Grande LNG, LLC*, Response to July 10, 2020, Request for Supplemental Public Information, FERC Docket No. CP16-454-000 (filed July 14, 2020).

²⁴ *Rio Grande LNG, LLC*, Letter Order Approval of Design Change Proposals, FERC Docket No. CP16-454-000 at 2 (issued Aug. 13, 2020).

²⁵ *Rio Grande LNG Non-FTA Order*, at 43-46.

David L. Wochner
david.wochner@klgates.com

T +1 202 778 9014
F +1 202 778 9100

August 19, 2020

Ms. Amy Sweeney
Office of Fuels Programs, Fossil Energy
U.S. Department of Energy
Docket Room 3F-056, FE-50
Forrestal Building
1000 Independence Avenue, S.W.
Washington, DC 20585

**Re: Rio Grande LNG, LLC
FE Docket No. 15-190-LNG
Application to Amend Export Term for Existing Long-Term Authorization
Through December 31, 2050**

Dear Ms. Sweeney:

This opinion of counsel is submitted pursuant to Section 590.202(c) of the regulations of the United States Department of Energy, 10 C.F.R. § 590.202(c) (2020), in connection with the application of Rio Grande LNG, LLC (“Rio Grande LNG”) to amend Rio Grande LNG’s long-term, multi-contract authorizations to export up to 1,318 billion cubic feet per year of natural gas in the form of liquefied natural gas to Non-Free Trade Association nations. I am counsel to Rio Grande LNG, a limited liability company formed under the laws of Texas. I have reviewed and relied upon the organizational documents of Rio Grande LNG, and it is my opinion that the proposed extension of Rio Grande LNG’s long-term, multi-contract authorization described in the application filed by Rio Grande LNG, to which this Opinion of Counsel is attached as Appendix A, is within the company powers of Rio Grande LNG.

Respectfully submitted,

/s/ David L. Wochner


David L. Wochner, Partner
Counsel for Rio Grande LNG, LLC

**UNITED STATES OF AMERICA
BEFORE THE DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY**

In the Matter of)
)
Rio Grande LNG, LLC) **FE Docket No. 15-190-LNG**

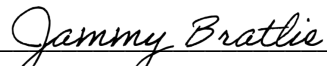
VERIFICATION

The undersigned, being duly sworn, states that she is the authorized representative of Rio Grande, LLC; that she is duly authorized to make this Verification; that she has read the foregoing application and is familiar with the contents therein; that all the statements and matters contained therein are true and correct to the best of his information, knowledge and belief; and that she is authorized to execute and file this application with the United States Department of Energy.

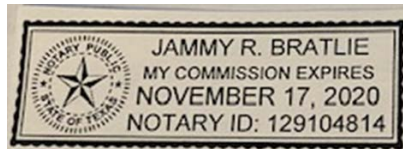


Krysta B. De Lima
General Counsel and Corporate
Secretary
Rio Grande LNG, LLC

Sworn to and subscribed to me this 19th day of August, 2020.



Notary Public
for the State of Texas



From: notification@pay.gov
To: [Abbey, Jennifer Bruneau](#)
Subject: Pay.gov Payment Confirmation: DOE General Collections Form
Date: Wednesday, August 19, 2020 2:55:01 PM

External Sender:



An official email of the United States government

Pay.gov logo



Your payment has been submitted to Pay.gov and the details are below. If you have any questions regarding this payment, please contact Carol Fuster at (301) 903-0534 or carol.fuster@hq.doe.gov.

Application Name: DOE General Collections Form
Pay.gov Tracking ID: 26PNSCLA
Agency Tracking ID: 76025867848
Transaction Type: Sale
Transaction Date: 08/19/2020 02:54:47 PM EDT
Account Holder Name: Jennifer Bruneau
Transaction Amount: \$50.00
Card Type: AmericanExpress
Card Number: *****1005

Payment Type : Other
Bill Number:
PO Number :
WFO Number:
Other : DOE/FE-34 Import/Export Amendment Application Processing Fee
202 586 9478
Comments: Docket No. 15.190.LNG Applicant: Rio Grande LNG, LLC

THIS IS AN AUTOMATED MESSAGE. PLEASE DO NOT REPLY.



Pay.gov is a program of the U.S. Department of the Treasury, Bureau of the Fiscal Service