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January 7, 2021

BY ELECTRONIC FILING

Amy Sweeney
Director, Division of Natural Gas Regulation
Office of Regulation, Analysis and Engagement
Office of Fossil Energy, FE-34
1000 Independence Ave., S.W.
Washington, DC 20585

**Re: ECA Liquefaction, S. de R.L. de C.V., FE Docket No. 18-144-LNG
Statement of Change in Control**

Dear Ms. Sweeney:

Pursuant to the authorizations issued by the Department of Energy's Office of Fossil Energy ("DOE/FE") in the above-captioned proceeding and the *Procedures for Changes in Control Affecting Applications and Authorizations to Import or Export Natural Gas* ("CIC Procedures"),¹ ECA Liquefaction, S. de R.L. de C.V. ("ECA Liquefaction") respectfully submits this Statement of Change in Control with respect to a recent change in upstream ownership of ECA Liquefaction (the "Transaction"). Through the Transaction, which closed on December 9, 2020, Total Gaz Electricité Holdings France S.A.S. ("Total") acquired a 16.6% equity interest in ECA LNG Holdings B.V. ("ECA LNG Holdings"), which is a direct owner of ECA Liquefaction.

Background

As summarized in the table below, ECA Liquefaction holds one long-term, multi-contract authorization to export natural gas to Mexico and/or, after liquefaction in Mexico, to export liquefied natural gas ("LNG") to nations with which there is in effect a free trade agreement ("FTA") requiring national treatment for trade in natural gas ("FTA Authorization").² ECA Liquefaction also holds one long-term, multi-contract authorization to export LNG to non-FTA

¹ 79 Fed. Reg. 65541 (Nov. 5, 2014) [hereinafter CIC Procedures].

² *Energia Costa Azul, S. d. R.L. de C.V.*, DOE/FE Order No. 4317, FE Docket No. 18-144-LNG, Order Granting Long-Term, Multi-Contract Authorization to Export Natural Gas to Mexico and to Other Free Trade Agreement Nations (Jan. 25, 2019), *amended*, *ECA Liquefaction, S. de R.L. de C.V.*, DOE/FE Order No. 4317-A, Order Granting Request to Transfer Authorizations (Oct. 7, 2019), *amended* *ECA Liquefaction, S. de R.L. de C.V.*, DOE/FE Order No. 4317-B, FE Docket No. 18-144-LNG, Order Extending Export Term for Authorizations to Free Trade and Non-Free Trade Agreement Nations Through December 31, 2050 (Dec. 10, 2020).

nations (the “Non-FTA Authorization”).³ Together, the FTA and Non-FTA Authorizations permit ECA Liquefaction to export U.S. natural gas from various points of export to Mexico for liquefaction at the ECA Mid-Scale LNG terminal located in Ensenada, Baja California, Mexico, and thereafter, for export to foreign markets.

Docket No.	Order Nos.	Volume	Type
18-144-LNG	4317 (amended DOE/FE Order Nos. 4317-A & 4317-B)	182 Bcf/yr	FTA, long-term, multi- contract
18-144-LNG	4364 (amended DOE/FE Order Nos. 4364-A & 4364-B)	161 Bcf/yr	Non-FTA, long-term, multi-contract

ECA Liquefaction is a variable-capital, limited liability company organized under the laws of Mexico. ECA Liquefaction is owned approximately 99.99% by ECA LNG Holdings, with the remainder owned by ECA Minority, S. de R.L. de C.V. Prior to the Transaction, Sempra LNG ECA Liquefaction, LLC (“Sempra LNG”) and Infraestructura Energética Nova, S.A.B. de C.V. (“IEnova”) each held a direct 50% ownership interest in ECA LNG Holdings.⁴

Description of the Transaction

On December 9, 2020, Sempra LNG, IEnova, and Total entered into an equity issuance and subscription agreement whereby Total acquired a 16.6% equity interest in ECA LNG Holdings. Total is owned 100% by Total Holdings, S.A.S., which in turn is a wholly owned by French energy company, Total SE. An affiliate of Total, Total Gas & Power Asia Private Limited, is an existing customer of ECA Liquefaction.

Following the Transaction, Sempra LNG and IEnova have each retained a 41.7% ownership interest in ECA LNG Holdings. ECA Liquefaction will continue to be the holder of the FTA and Non-FTA Authorizations. Other than the change in upstream ownership, no aspects of the FTA or Non-FTA Authorizations or the operations of ECA Mid-Scale LNG terminal will change as a result of the Transaction.

³ *Energia Costa Azul, S. d. R.L. de C.V.*, DOE/FE Order No. 4364, FE Docket No. 18-144-LNG, Opinion and Order Granting Long-Term Authorization to Re-Export U.S.-Sourced Natural Gas in the Form of Liquefied Natural Gas From Mexico to Non-Free Trade Agreement Countries (Mar. 29, 2019), *amended*, *ECA Liquefaction, S. de R.L. de C.V.*, DOE/FE Order No. 4364-A, Order Granting Request to Transfer Authorizations (Oct. 7, 2019), *amended ECA Liquefaction, S. de R.L. de C.V.*, DOE/FE Order No. 4364-B, FE Docket No. 18-144-LNG, Order Extending Export Term for Authorizations to Free Trade and Non-Free Trade Agreement Nations Through December 31, 2050 (Dec. 10, 2020).

⁴ Sempra LNG is an indirect, wholly-owned subsidiary of Sempra Energy (“Sempra”). Approximately 70% of ownership interests in IEnova is held by indirect, wholly-owned subsidiaries of Sempra, while the remainder of IEnova shares are currently publicly traded on the Mexican Stock Exchange (*Bolsa Mexicana de Valores*).

A chart illustrating the ownership structure of ECA Liquefaction prior to the Transaction is attached herewith as Appendix A. A chart illustrating the ownership structure of ECA Liquefaction following the Transaction is attached herewith as Appendix B.

Change in Control Procedures

Section 590.405 of DOE's regulations provides that "[a]uthorizations by the Assistant Secretary to import or export natural gas shall not be transferable or assignable, unless specifically authorized by the Assistant Secretary."⁵ Additionally, DOE/FE Order Nos. 4317 and 4364 require ECA Liquefaction to obtain the approval of the Assistant Secretary for Fossil Energy prior to any change in control of the authorization holder.⁶ DOE construes a change of 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.⁷

DOE has explained that a rebuttable presumption that control exists will arise from the ownership or the power to vote, directly or indirectly, 10 percent or more of the voting securities of such entity.⁸

The procedures for notifying DOE/FE of a change in control are set forth in the CIC Procedures, pursuant to which a holder of an export authorization that has already been issued may notify DOE/FE of a transaction by submitting a statement of change in control to DOE/FE no later than 30 days after such changes have been effectuated.⁹

FTA Authorization

With respect to FTA long-term export authorizations, the CIC Procedures provide that upon receipt of a statement of change in control, DOE/FE will give effect to the change in control and take no further action.¹⁰

Total's acquisition of a 16.6% ownership interest in ECA Liquefaction's owner may trigger DOE/FE's threshold for a rebuttable presumption that a change in control has occurred. With respect to the FTA Authorization, ECA Liquefaction respectfully requests that DOE/FE give

⁵ 10 C.F.R. § 590.405 (2020).

⁶ See DOE/FE Order No. 4317 at Ordering Para. K; DOE/FE Order No. 4364 at Ordering Para. M.

⁷ CIC Procedures at 65542. See also DOE/FE Order No. 4364 at 48-94.

⁸ CIC Procedures at 65542. See also DOE/FE Order No. 4364 at 49.

⁹ CIC Procedures at 65,542.

¹⁰ *Id.*

immediate effect to the change in control described herein upon receipt of this Statement, in accordance with the CIC Procedures.

Non-FTA Authorization

For existing Non-FTA authorizations, upon receipt of a statement of change in control, the CIC Procedures provide that DOE/FE will publish a notice of the change in the *Federal Register*.¹¹ If no interested person protests the change in control and DOE/FE takes no action of its own motion, the change in control is deemed granted 30 days after publication.¹² If a protest is filed, DOE/FE will make a determination as to whether the proposed change in control has been demonstrated to render the underlying authorization inconsistent with the public interest.¹³

Where a transfer or assignment will not result in any substantive changes in the terms and conditions of the initial authorization, DOE/FE has generally relied on its previous determination that the import or export is consistent with the public interest when evaluating the transfer or assignment.¹⁴ For example, DOE/FE has approved transfers of control that involve no changes to the scope of a project, total volumes of gas, date of commencement or completion, source and security of gas supply, price and other transactional terms, or proven need for the supply.¹⁵ DOE/FE has also approved transfers in control upon a finding that “the contractual terms and conditions of the import and export arrangements upon which the section 3 determinations were based would remain the same, and there [was] no other information in the record . . . to support or compel reexamination under section 3.”¹⁶ Similarly, the Transaction has no substantive effect on the terms and conditions of the Non-FTA Authorization—the change in control has no effect on the scope of the project, the amount of gas exported, the commencement or completion date of the project, the source of the gas supply, or the price or other transactional terms. Operation and maintenance of the ECA Mid-Scale LNG terminal will continue to be under the control of ECA Liquefaction. ECA Liquefaction will continue to hold the export authorizations described herein

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *See Cameron LNG, LLC*, DOE/FE Order No. 3452 (approving change in control application, finding “it has not been shown that the change in control will impact any of the public interest considerations evaluated by DOE/FE in issuing [the] authorizations.”); *Brooklyn Union Gas Co.*, DOE Opinion & Order No. 561 at 7 (“To the extent that the transfer does not effect (sic) the terms and conditions of the underlying import arrangement, the DOE can rely on its previous determinations regarding the arrangement when considering the transfer application.”); *Nw. Pipeline Corp.*, DOE Opinion & Order No. 664, at 6-7 (“The burden of proof, however, belongs to [protesters] and they have failed to rebut DOE’s previous finding of need . . . , a finding which was based on circumstances that will not change as a result of the proposed transfer.”); *Great Lakes Gas Transmission LP*, DOE Opinion & Order No. 424 (1990); *Midwestern Gas Transmission Co.*, DOE Opinion & Order No. 318 at 3 (1989) (“Viking will succeed Midwestern as buyer under the contracts underlying the authorizations. In no other respect will the terms and conditions of these contracts change. Only the identity of the importer will change.”); *Consumer Power Co.*, DOE/Opinion & Order No. 390 (1990), *order amending authorization*, DOE/FE Order No. 390-A (1994), *order terminating authorization*, DOE/FE Order No. 390-B (1995).

¹⁵ *See Brooklyn Union Gas Co.*, DOE Opinion & Order No. 561, at 2-3, 7.

¹⁶ *Great Lakes Gas Transmission Co.*, DOE Opinion & Order No. 424, at 3.

and will remain the point of contact with DOE/FE with respect to reporting and administration under the authorizations.

Moreover, DOE/FE has approved applications to transfer or assign an authorization from the authorization holder to one or more of its customers where the general terms and conditions otherwise remain unchanged and the total authorized volumes do not increase.¹⁷ Similarly, there will be no substantive changes to the terms and conditions, including the volumes, of the existing authorizations as a result of the acquisition of an upstream ownership interest by Total.

Based on the foregoing, ECA Liquefaction submits that the Transaction and resulting changes in upstream ownership have no effect on the grounds underlying the public interest determination previously made by DOE/FE in issuing the Non-FTA Authorization.

Conclusion

For the foregoing reasons, ECA Liquefaction respectfully requests that DOE/FE give effect to the change in control described herein.

Please contact the undersigned with any questions regarding this submission.

Respectfully submitted,

/s/ Brett A. Snyder

Brett A. Snyder
*Counsel to ECA Liquefaction,
S. de R.L. de C.V.*

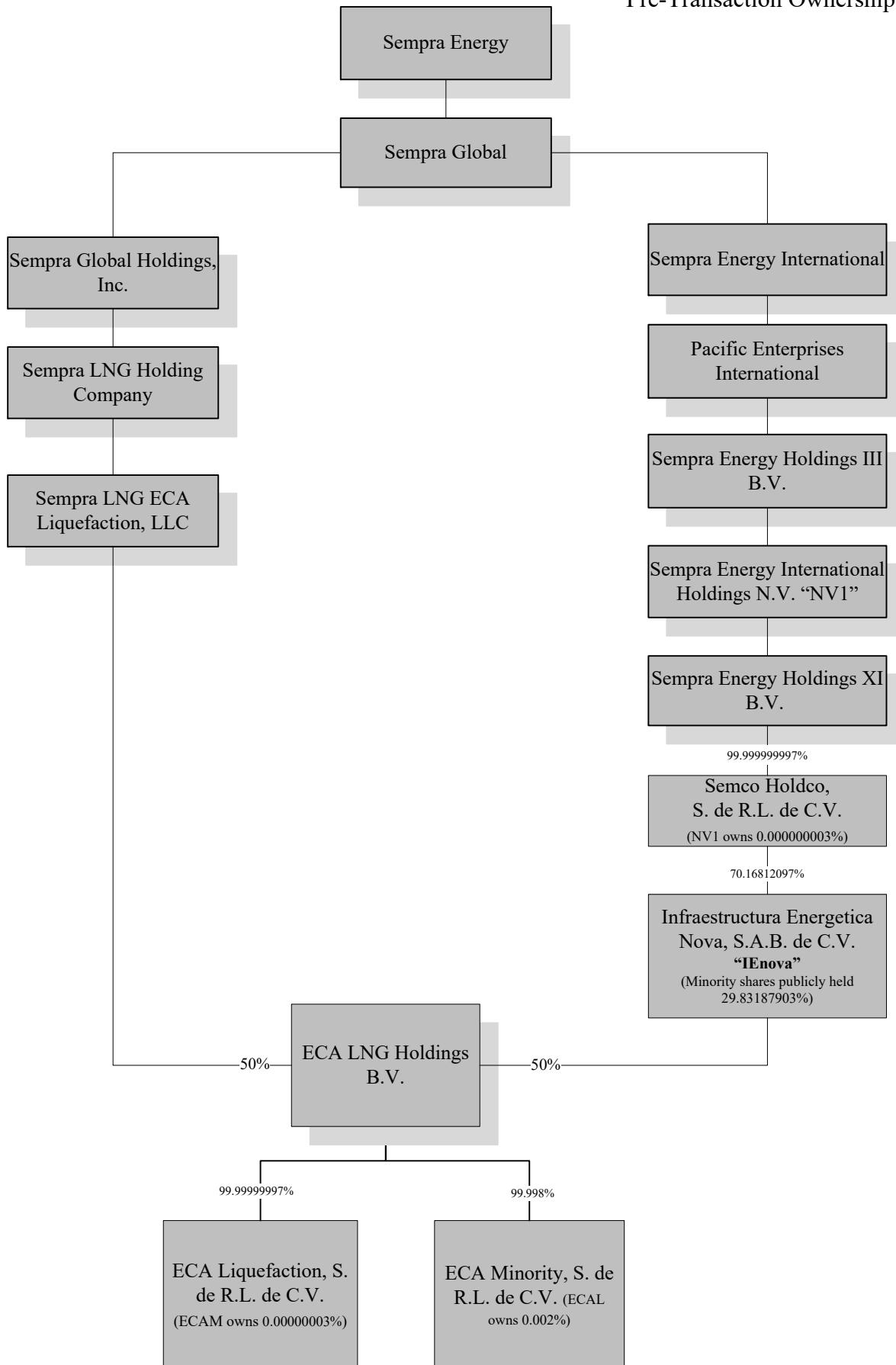
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cc: Jerrod L. Harrison, ECA Liquefaction, S. de R.L. de C.V.

¹⁷ See *Nw. Pipeline Corp.*, DOE Opinion & Order No. 664; *Great Lakes Gas Transmission Co.*, DOE Opinion & Order No. 416 (1990); *Consumer Power Co.*, DOE Opinion & Order No. 390; *Great Lakes Gas Transmission Co.*, DOE/ERA Opinion & Order No. 207 (1987); *Great Lakes Gas Transmission Co.*, DOE/ERA Opinion & Order No. 157 (1987).

APPENDIX A

ECA LNG Holdings B.V.
Pre-Transaction Ownership Structure



APPENDIX B

ECA LNG Holdings B.V.
Post-Transaction Ownership Structure

