



Department of Energy
Washington, DC 20585

January 5, 2020

Via Email

David L. Wochner
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RE: Statement and Notice Regarding Change in Control
Magnolia LNG, LLC
FE Docket Nos. 12-183-LNG, 13-131-LNG, 13-132-LNG

Dear Mr. Wochner:

This correspondence constitutes the response of the Department of Energy (DOE), Office of Fossil Energy (FE), to the Statement and Notice of Change in Control filed on behalf of your client, Magnolia LNG, LLC (Magnolia LNG), on June 24, 2020.¹ Magnolia LNG provides notice of a change in ownership with respect to its now-former parent company, Liquefied Natural Gas Limited (LNG), in light of DOE/FE's Change in Control Procedures.²

I. BACKGROUND

Magnolia LNG, a Delaware limited liability company, currently holds three long-term authorizations from DOE/FE approving Magnolia LNG's export of domestically produced liquefied natural gas (LNG) under section 3 of the Natural Gas Act (NGA).³ Magnolia LNG is authorized to export LNG from the proposed Magnolia LNG Terminal, to be located in Lake Charles, Calcasieu Parish, Louisiana, under the following orders:

- DOE/FE Order No. 3245,⁴ as amended by DOE/FE Order Nos. 3245-A and 3245-B, authorizing exports to any country with which the United States currently has,

¹ See Magnolia LNG, LLC, Statement and Notice of Change in Control, FE Docket Nos. 12-183-LNG, *et al.* (June 24, 2020), available at: <https://www.energy.gov/sites/prod/files/2020/06/f76/Magnolia%20LNG%20--%20Notice%20of%20Change%20in%20Control%20%2806-24-2020%29.pdf>.

² 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 or CIC Procedures].

³ 15 U.S.C. § 717b.

⁴ *Magnolia LNG, LLC*, DOE/FE Order No. 3245, FE Docket No. 12-183-LNG, Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Proposed Magnolia LNG Terminal in Lake Charles, Louisiana, to Free Trade Agreement Nations (Feb. 26, 2013), *amended by* DOE/FE Order No. 3245-A

or in the future will have, a free trade agreement (FTA) requiring national treatment for trade in natural gas (FTA countries) under NGA section 3(c),⁵ in a volume equivalent to 224.5 billion cubic feet per year (Bcf/yr) of natural gas;

- DOE/FE Order No. 3406,⁶ amended by DOE/FE Order Nos. 3406-A and 3406-B, authorizing exports to FTA countries under NGA section 3(c) in a volume equivalent to 224.5 Bcf/yr of natural gas; and
- DOE/FE Order No. 3909,⁷ amended by Order No. 3909-B, authorizing exports to any other country with which trade is not prohibited by U.S. law or policy (non-FTA countries) under NGA section 3(a),⁸ in a volume equivalent to 394.2 Bcf/yr of natural gas.

Under these orders, the FTA volumes are not additive to the non-FTA volume.

Additionally, Magnolia LNG has filed an application (Amendment Application)⁹ asking DOE/FE, in relevant part, to amend Order No. 3909 to increase its approved non-FTA export volume from 394.2 Bcf/yr to 449 Bcf/yr of natural gas. That portion of the Amendment Application is still pending in FE Docket No. 13-132-LNG.

II. DESCRIPTION OF CHANGE IN CORPORATE OWNERSHIP

In the Statement and Notice of Change in Control, Magnolia LNG states that, at the time it filed each of its applications in the above-captioned dockets, it was a wholly-owned, indirect subsidiary of LNGL, a publicly listed Australian company.¹⁰ Magnolia LNG states that, on May 26, 2020, LNGL transferred all of its interest in Magnolia LNG to Magnolia LNG Holdings, LLC (Magnolia Holdings), a Delaware limited liability company, for valuable consideration.¹¹ As a result, Magnolia Holdings now holds 100% of the membership interests in Magnolia LNG

(Mar. 21, 2019) (increasing approved export volume), *further amended* by DOE/FE Order No. 3245-B (Dec. 10, 2020) (extending export term).

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 *Magnolia LNG, LLC*, DOE/FE Order No. 3406, FE Docket No. 13-131-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 Free Trade Agreement Nations (Mar. 5, 2014), *amended* by DOE/FE Order No. 3406-A (Mar. 21, 2019) (increasing approved export volume), *further amended* by DOE/FE Order No. 3406-B (Dec. 10, 2020) (extending export term).

⁷ *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), *reh'g denied* DOE/FE Order No. 3909-A (Apr. 2, 2018), *amended* by DOE/FE Order No. 3909-B (Dec. 10, 2020) (extending export term).

⁸ 15 U.S.C. § 717b(a).

⁹ Magnolia LNG, LLC, Application for Amendment to Long-Term Authorizations to Export Liquefied Natural Gas to Non-Free Trade Agreement and Free Trade Agreement Nations, FE Docket Nos. 13-132-LNG, *et al.* (Dec. 31, 2018).

¹⁰ Magnolia LNG Statement and Notice of Change in Control at 1, 3.

¹¹ *Id.* at 3.

and is Magnolia LNG's sole owner.¹² Magnolia LNG states that Magnolia Holdings is wholly owned by Glenfarne Infrastructure Holdings, LLC—which, in turn, is wholly owned by Glenfarne Group, LLC, a New York-based developer, owner-operator, and industrial manager of energy and infrastructure assets.¹³

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.¹⁴ 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.¹⁵

A. FTA Export Authorizations

DOE/FE's Change in Control Procedures provide that, upon receipt of a statement of change in control relating to existing FTA long-term natural gas export authorizations, DOE will give immediate effect to the change in control and will take no further action.¹⁶ Accordingly, the change in control described above has taken effect insofar as it relates to DOE/FE Order Nos. 3245 and 3406 (both as amended).

B. Non-FTA Export Authorization

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*.¹⁷ 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*.¹⁸

Consistent with these procedures, DOE published a notice of Magnolia LNG's Statement and Notice of Change in Control in the *Federal Register* on July 8, 2020 (Notice).¹⁹ DOE/FE invited protests, motions to intervene, and written comments to be filed no later than July 23, 2020.²⁰ DOE/FE received no filings in response to the Notice. Because more than 30 days have passed since the Notice was published in the *Federal Register*, the change in control with respect to DOE/FE Order No. 3909, as amended, is deemed granted.

¹² *Id.*

¹³ *Id.*

¹⁴ DOE/FE Change in Control Procedures, 79 Fed. Reg. at 65,542.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ U.S. Dep't of Energy, Notice of Change in Control; Magnolia LNG, LLC, 85 Fed. Reg. 41,020 (July 8, 2020).

²⁰ *Id.*

C. Pending Non-FTA Amendment Application

DOE/FE has not yet issued a final order on the non-FTA portion of Magnolia LNG's Amendment Application, and therefore that portion of the Amendment Application remains pending in FE Docket No. 13-132-LNG.²¹ The Change in Control Procedures state that, with respect to "pending non-FTA export applications, *i.e.*, proceedings in which DOE has not yet issued a final order," applicants may amend their applications to reflect a change in control by submitting notice of the amendment to DOE/FE and serving that notice on other parties in the proceeding.²²

Under the Change in Control Procedures, DOE/FE will give immediate effect to the amendment, but it will accept and consider answers to the notice of amendment received within 15 days of service of the applicant's pleading.²³ DOE/FE will address the issues raised in any answers to the amendment in its final order on the pending application.²⁴

Magnolia LNG complied with the service requirements of the Change in Control Procedures when it served the Statement and Notice of Change in Control on the service list for FE Docket No. 13-132-LNG on December 9, 2020.²⁵ The change in control applicable to the non-FTA portion of the Amendment Application thus took effect immediately. More than 15 days have passed since Magnolia LNG served the Statement and Notice of Change in Control, and DOE/FE has not received any answers. Accordingly, the change in control continues in effect. No further action is required.

Sincerely,

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

²¹ See *supra* at 2.

²² DOE/FE Change in Control Procedures, 79 Fed. Reg. at 65,542.

²³ *Id.*

²⁴ *Id.*

²⁵ See Magnolia LNG, LLC, Proof of Certificate of Service, FE Docket Nos. 12-183-LNG, *et al.* (Dec. 9, 2020), available at:

https://www.energy.gov/sites/prod/files/2020/12/f81/FW_%20Document%20Service%20in%20DOE_FE%20Docket%20Nos.%2012-183-LNG%2C%2013-131-LNG%2C%20and%2013-132-LNG.pdf.