

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

LAKE CHARLES EXPORTS, LLC

FE DOCKET NO. 11-59-LNG

ORDER GRANTING LONG-TERM AUTHORIZATION
TO EXPORT LIQUEFIED NATURAL GAS BY VESSEL
FROM THE LAKE CHARLES TERMINAL
TO FREE TRADE AGREEMENT NATIONS

DOE/FE ORDER NO. 2987

JULY 22, 2011

I. SUMMARY

Following an examination of all record evidence in this proceeding in conformity with the requirements of section 3 of the Natural Gas Act (NGA), 15 U.S.C. 717b, as amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486); part 590 of the Department of Energy's (DOE) regulations, 10 CFR part 590 (2008); and applicable delegations and redelegations of authority,¹ the Office of Fossil Energy (FE) of DOE will grant part of the authority sought by Lake Charles Exports, LLC (LCE) in its May 6, 2011, application in this proceeding, amended May 26, 2011. Specifically, the authorization granted in this Order will permit LCE to export domestically produced liquefied natural gas (LNG) by vessel from the terminal in Lake Charles, Louisiana, (Lake Charles Terminal) owned by Trunkline LNG Company, LLC, to countries that have or will enter into a free trade agreement (FTA) with the United States that require the national treatment for trade in natural gas. LCE is authorized to export up to the equivalent of approximately 2 billion cubic feet per day (Bcf/d) for a 25-year term, beginning on the earlier of date of first export, or ten years from the date the authorization is issued (July 22, 2021). LCE is permitted to use its authorization in order to export LNG on its own behalf or as agent for BG LNG Services, LLC (BGLS) after registering BGLS with DOE/FE.

The portion of LCE's application that seeks authorization to export domestically produced LNG to non-FTA nations will be reviewed pursuant to Section 3(a) of the Natural Gas Act, as amended, DOE Delegation Order No. 00-002.00L (April 29, 2011); and DOE Redelegation Order No. 00-002.04E (April 29, 2011). In reviewing the non-FTA portion of the

¹ 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 Fossil Energy in Redelegation Order No. 00-002.04E issued on April 29, 2011.

application, DOE will consider any issues required by law or policy, and will issue a separate order once a public interest determination has been completed.

II. DESCRIPTION OF REQUEST

On May 6, 2011, LCE filed an application (Application) with DOE/FE under section 3 of the NGA for long-term authorization to export up to 15 million metric tons per annum (mmtpa) of domestically produced LNG (the equivalent of approximately 2 Bcf/d of natural gas) by vessel from the Lake Charles Terminal. LCE requests a 25-year term for this authorization commencing on the date of first export or ten years from the date the authorization is issued. LCE seeks to export this LNG from the Lake Charles Terminal to: (1) any country with which the United States currently has, or in the future may enter into, a FTA requiring national treatment for trade in natural gas;² and (2) any country with which the United States does not have an FTA requiring national treatment for trade in natural gas with which trade is not prohibited by United States law or policy. On May 26, 2011, LCE amended the Application to provide that it is requesting authorization to export LNG on its own behalf or as agent for BGLS and to clarify that its contract with BGLS will run concurrently with the requested 25-year term of the authorization.

III. BACKGROUND

LCE is a Delaware limited liability company and a jointly-owned subsidiary of BG Group plc (BG) and Southern Union Company (SUG), with its principal place of business in Houston, Texas. BGLS, an affiliate of LCE, is an importer of LNG into the United States.

² Currently the United States has FTAs that require national treatment for trade in natural gas with the following countries: Australia, Bahrain, Singapore, Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, Chile, Morocco, Canada, Mexico, Oman, Peru, and Jordan. LCE requests that the authorization it is seeking also include any countries with which the United States may in the future enter into FTAs requiring the national treatment for trade in natural gas and LNG.

BGLS and Trunkline LNG, a subsidiary of SUG, are jointly developing plans to install liquefaction facilities to enable the export of domestically produced LNG at the Lake Charles Terminal.

The Application included the following information: The Lake Charles Terminal was certificated by the Federal Energy Regulatory Commission (FERC or Commission) in 1977, and original construction was completed in July 1981. In 2001, BGLS entered into a firm terminalling services agreement under which it subscribed all of the capacity of the Lake Charles Terminal to receive, store, and vaporize LNG. In cooperation with BGLS, Trunkline LNG has expanded and enhanced the Terminal through the construction of additional storage capacity, additional gas-fired vaporization capacity, an additional marine berth, ambient air vaporization equipment, and natural gas liquids extraction capability. At present, the Terminal has a firm sustained sendout capacity of 1.8 Bcf/d (13.7 mmtpa) and a peak sendout capacity of 2.1 Bcf/d. The Terminal has four LNG storage tanks with a combined capacity of approximately 2.7 million barrels (425,000 cubic meters) of LNG, equivalent to approximately 9.0 Bcf of natural gas. In addition, the Terminal's natural gas liquids processing facilities allow the extraction of ethane and other heavier hydrocarbons from the LNG stream.

LCE asserted that Trunkline LNG and BGLS are currently developing plans to: (1) modify the existing facilities at the Lake Charles Terminal to permit LNG to be loaded from the Terminal's storage tanks onto vessels berthed at the existing marine facility; and (2) install liquefaction facilities that would permit gas to be received by pipeline at the Terminal and liquefied for subsequent export.

LCE stated that the liquefaction and export facilities would be subject to an additional

services agreement between Trunkline LNG and BGLS, and that LCE would purchase LNG produced by the proposed liquefaction facility at the Lake Charles Terminal from BGLS prior to export. LCE notes that any modifications to the Lake Charles Terminal would be subject to FERC approval and that, following the modifications, the Lake Charles Terminal would be bi-directional, and its peak and sustained sendout capabilities will not be affected.

LCE stated in the Application that it will enter into a long-term export contract with BGLS on a date that is closer to the date of first export. In the Amendment to the Application, as previously noted, LCE specified that it seeks authority to export LNG on its own behalf or as agent for BGLS. Also in the Amendment, LCE stated that it prefers to take title to the LNG destined for export from BGLS at the point of export (i.e., the flange between the Lake Charles Terminal and the offloading LNG tanker), and that it seeks a waiver by DOE/FE of the non-binding policy announced in *The Dow Chemical Company*, DOE/FE Order No. 2859 (Oct. 5, 2010) (*Dow Chemical*), which requires the authorization holder to have title to the LNG at the point of export. In the event that DOE/FE declines to grant a waiver of the non-binding policy, LCE stated that it intends to use the requested export authorization on behalf of BGLS.

LCE seeks authorization to export natural gas available in the United States natural gas pipeline system. LCE stated that it anticipates the sources of natural gas will include Texas and Louisiana producing regions and the offshore Gulf producing regions, and that the natural gas to be exported may be produced throughout the Lower 48 States.

LCE additionally stated that the portion of the Application seeking authorization to export LNG to FTA countries must be deemed in the public interest and granted without modification or delay.

IV. FINDINGS

(1) 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 to authorize: (a) the import and export of natural gas, including LNG, from and to a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas, and (b) the import of LNG from other international sources, be deemed consistent with the public interest and granted without modification or delay. Pursuant to section 3(c), therefore, the portion of the Application seeking authorization to export domestically produced LNG to countries that have or will enter into FTAs with the United States calling for national treatment of trade in natural gas will be deemed consistent with the public interest³ and will be granted without modification or delay.

(2) The countries with which the United States has an FTA requiring national treatment for trade in natural gas currently are: Australia, Bahrain, Singapore, Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, Chile, Morocco, Canada, Mexico, Oman, Peru, and Jordan.

(3) The balance of the export Application, which seeks authorization to export domestically produced LNG to non-FTA nations, will be reviewed pursuant to Section 3(a) of the NGA, as amended; DOE Delegation Order No. 00-002.00L (April 29, 2011); and DOE Redelelegation Order No. 00-002.04E (April 29, 2011). In reviewing the non-FTA portion of the Application, DOE will consider any issues required by law or policy. DOE/FE issued a Notice of Application on June 13, 2011, (76 FR 34212) seeking protests, motions to intervene, notices of intervention, and comments by August 12, 2011. A separate order shall be issued for the non-

³ DOE further finds that the requirement for granting the application without delay or modification overrides regulatory requirements for public notice and other hearing-type procedures in 10 CFR Part 590.

FTA portion of the Application once a public interest determination has been completed by DOE/FE.

(4) In light of DOE's statutory obligation to grant the portion of the Application pertaining to FTA nations without modification or delay, there is no need for DOE to review the other arguments posed by LCE in support of the Application. The instant grant of partial authority related to the Application should not be read to indicate DOE's views on those arguments.

(5) DOE/FE will deny LCE's request for a waiver of its non-binding policy that the authorization holder must have title to the LNG at the point of export. However, in the alternative, DOE/FE will grant LCE's request for authorization to export for itself (when it has title to the LNG at the point of export) or to export LNG as an agent for BGLS (when it does not have title to the LNG at the point of export). The reasons in support of this finding are discussed below.

DOE/FE addressed the issue of agency rights in *Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC*, DOE/FE Order No. 2913 (Order 2913), issued February 10, 2011. In Order 2913, DOE/FE approved a proposal by Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC (collectively, FLEX) to register each LNG title holder for whom FLEX sought to export LNG as agent. FLEX also proposed that this registration include a written statement by the title holder acknowledging and agreeing to comply with all applicable requirements included in its export authorization and to include those requirements in any subsequent purchase or sale agreement entered into by that title holder. In the FLEX application (FE Docket No. 10-160-LNG), FLEX also stated that it would file under seal with DOE/FE any

relevant long-term commercial agreements that it reached with the LNG title holders on whose behalf the exports were performed.

In Order 2913, DOE/FE found that the above proposal was an acceptable alternative to the non-binding policy adopted by DOE/FE in *Dow Chemical*, which established that the title for all LNG authorized for export must be held by the authorization holder at the point of export. DOE/FE agreed to accept the FLEX alternative because it would ensure that the title holder was aware of all DOE/FE requirements applicable to the proposed export and would provide DOE with a record of all authorized exports and direct contact information and a point of contact with the title holder. Moreover, DOE/FE found that the registration process was responsive to current LNG markets and provided an expedited process by which companies seeking to export LNG can do so. Additionally, in Order 2913, DOE/FE noted that those entities that hold title or expect to hold title to LNG that is stored in domestic LNG terminals can choose to submit an application to DOE for their own authorization to export LNG, and are not required to use the agency rights held by others.

The same policy considerations that supported DOE/FE's acceptance of the alternative proposal in Order 2913 apply here as well. The authorization granted herein shall be conditioned to require that where LCE proposes to export as agent for BGLS, LCE must register BGLS in accordance with the procedures and requirements described herein.

ORDER

Pursuant to section 3 of the Natural Gas Act, it is ordered that:

A. LCE is authorized to export domestically produced LNG by vessel from the Lake Charles Terminal up to the equivalent of approximately 2 Bcf/d for a 25-year term, beginning on

the date of first export or ten years from the date the authorization is issued, pursuant to a long-term contract with BGLS that does not exceed the term of this authorization.

B. This LNG may be exported to Australia, Bahrain, Singapore, Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, Chile, Morocco, Canada, Mexico, Oman, Peru, and Jordan, and to any nation which DOE subsequently identifies publicly (currently at http://www.fossil.energy.gov/programs/gasregulation/authorizations/How_to_Obtain_Authorizations.html) as having entered into a free trade agreement with the United States providing for national treatment for trade in natural gas, provided that the destination nation has the capacity to receive ocean going LNG carriers.

C. LCE shall ensure that all transactions authorized by this order are permitted and lawful under United States laws and policies, including the rules, regulations, orders, policies, and other determinations of the Office of Foreign Assets Control of the United States Department of the Treasury. Failure to comply with this requirement could result in rescission of this authorization and/or other civil or criminal remedies.

D. LCE shall file with the Office of Natural Gas Regulatory Activities all executed long-term contracts associated with the long-term export of LNG from the Lake Charles Terminal within 30 days of their execution. LCE shall file with the Office of Natural Gas Regulatory Activities all executed long-term contracts associated with the long-term supply of natural gas to the Lake Charles Terminal with the intent to process this natural gas into LNG for export within 30 days of their execution.

E. LCE is permitted to use its authorization in order to export LNG on its own behalf or as agent for BGLS, after registering BGLS with DOE/FE.

F. LCE, or BGLS for whom LCE acts as agent, shall include the following provision in any contract for the sale or transfer of LNG exported pursuant to this Order:

"Customer or purchaser acknowledges and agrees that it will resell or transfer LNG purchased hereunder for delivery only to countries identified in Ordering Paragraph B of DOE/FE Order No. 2987, issued July 22, 2011, in FE Docket No. 11-59-LNG, and/or to purchasers that have agreed in writing to limit their direct or indirect resale or transfer of such LNG to such countries. Customer or purchaser further commits to cause a report to be provided to Lake Charles Exports, LLC that identifies the country of destination, upon delivery, into which the exported LNG was actually delivered, and to include in any resale contract for such LNG the necessary conditions to insure that Lake Charles Exports, LLC is made aware of all such actual destination countries."

G. Registration materials shall include an acknowledgement and agreement by the registrant (BGLS) to supply LCE with all information necessary to permit LCE to register BGLS with DOE/FE, including: (1) the registrant's agreement to comply with this Order and all applicable requirements of DOE's regulations at 10 CFR Part 590, including but not limited to destination restrictions; (2) the exact legal name of the registrant, state/location of incorporation/registration, primary place of doing business, and the registrant's ownership structure, including the ultimate parent entity if the registrant is a subsidiary or affiliate of another entity; (3) the name, title, mailing address, e-mail address, and telephone number of a corporate officer or employee of the registrant to whom inquiries may be directed; (4) within 30 days of execution, a copy, filed with DOE/FE under seal, of any long-term contracts that result in the export of natural gas, including LNG; and (5) within 30 days of execution by a person or

entity required by this Order to register, a copy, filed with DOE/FE under seal, of any long-term contracts associated with the long-term supply of natural gas to the Lake Charles Terminal with the intent to process this natural gas into LNG for export pursuant to this authorization.

H. Within two weeks after the first export of LNG sourced from domestically produced natural gas occurs, LCE shall provide written notification of the date that the first export of LNG authorized in Order Paragraph A above occurred.

I. **Monthly Reports:** With respect to the export of LNG authorized by this Order, LCE shall file with the Office of Natural Gas Regulatory Activities, within 30 days following the last day of each calendar month, a report indicating whether exports of LNG have been made. Monthly reports must be filed whether or not initial deliveries have begun. If no exports have been made, a report of “no activity” for that month must be filed. If exports of LNG have occurred, the report must give the following details of each LNG cargo: (1) the name(s) of the authorized exporter registered with DOE/FE; (2) the name of the U.S. export terminal; (3) the name of the LNG tanker; (4) the date of departure from the U.S. export terminal; (5) the country of destination; (6) the name of the supplier/seller; (7) the volume in Mcf; (8) the price at point of export per million British thermal units (MMBtu); (9) the duration of the supply agreement (indicate spot sales); and (10) the name(s) of the purchaser(s).

(Approved by the Office of Management and Budget under OMB Control No. 1901-0294)

J. The first monthly report required by this Order is due not later than August 30, 2011, and should cover the reporting period from July 22, 2011, through July 31, 2011.

K. All monthly report filings shall be made to U.S. Department of Energy (FE-34), Office of Fossil Energy, Office of Natural Gas Regulatory Activities, P.O. Box 44375,

Washington, D.C. 20026-4375, Attention: Ms. Yvonne Caudillo. Alternatively, reports may be e-mailed to Ms. Caudillo at Yvonne.caudillo@hq.doe.gov or ngreports@hq.doe.gov, or may be faxed to Ms. Caudillo at (202) 586-6050.

Issued in Washington, D.C., on July 22, 2011.

A handwritten signature in black ink, appearing to read "John A. Anderson", written over a horizontal line.

John A. Anderson
Manager, Natural Gas Regulatory Activities
Office of Oil and Gas Global Security and Supply
Office of Fossil Energy