

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

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MAGNOLIA LNG, LLC

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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

DOE/FE ORDER NO. 3245

FEBRUARY 26, 2013

## **I. DESCRIPTION OF REQUEST**

On December 18, 2012, Magnolia LNG, LLC (Magnolia LNG), filed an application (Application), with the Office of Fossil Energy (FE) of the Department of Energy (DOE) under section 3 of the Natural Gas Act (NGA)<sup>1</sup> for long-term, multi-contract authorization to export up to 0.54 billion cubic feet (Bcf) per day (Bcf/d) of natural gas. Magnolia LNG states that the requested export amount is equivalent to approximately 210 trillion Btu per annum of natural gas or approximately 4 million metric tons per annum (mtpa) of domestically produced liquefied natural gas (LNG). Magnolia LNG seeks authorization to export the LNG by vessel from the proposed Magnolia LNG Terminal near Lake Charles, Louisiana, for a 25-year term commencing on the earlier of the date of first export or 10 years from the date the authorization is issued (February 26, 2023). Magnolia LNG seeks to export this LNG to any country which has or in the future develops the capacity to import LNG via ocean-going carrier and with which the United States has, or in the future enters into, a free trade agreement (FTA) requiring national treatment for trade in natural gas.<sup>2</sup> Magnolia LNG seeks to export this LNG on its own behalf and also as agent for third parties.

## **II. BACKGROUND**

Magnolia LNG is a Delaware limited liability company with its principal place of business in West Perth, Western Australia. Magnolia LNG is a wholly owned indirect subsidiary of Liquefied Natural Gas Limited (LNG Limited). LNG Limited is a publicly listed Australian

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<sup>1</sup> 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 FE in Redelelegation Order No. 00-002.04E issued on April 29, 2011.

<sup>2</sup> The United States currently has free trade agreements 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.

company formed with the objective of identifying and developing LNG projects in Australia and overseas. LNG Limited currently is in the process of developing the Gladstone LNG Project in Queensland, Australia.

Magnolia LNG states that this Application is for Phase I of the planned Magnolia LNG Terminal project. Magnolia LNG states that in the event it decides to pursue Phase II of the project, which may include LNG exports to FTA and /or non-FTA countries, Magnolia LNG will file the required application and supporting materials with DOE/FE.

Magnolia LNG states that it plans to construct, own and operate the Magnolia LNG Terminal, to be located near Lake Charles, Louisiana, on property identified in Attachment C of the Application, noted as *PLC Tract – 475s, Lake Charles, LA*, which is located on an industrial canal off the Calcasieu River Shipping Channel. Magnolia LNG states that the proposed project facilities will include two LNG trains, an LNG storage tank with capacity of approximately 200,000 cubic meters, and vessel loading facilities. Magnolia LNG states that each of the LNG trains will be capable of producing up to 2 mtpa of LNG, for a total capacity of 4 mtpa of LNG. Magnolia LNG further states that the planned facilities would permit natural gas to be received by pipeline at the Magnolia LNG Terminal, where it would be liquefied and then loaded from the storage tank onto an LNG carrier berthed alongside the Magnolia LNG Terminal.

Magnolia states that its indirect parent, LNG Limited, has initiated the process of securing property from the Port of Lake Charles for the construction of the Magnolia LNG Terminal. Magnolia LNG asserts that LNG Limited, in a September 17, 2012, Letter Agreement with the Port of Lake Charles, has obtained permission to perform site studies for the project and will receive the exclusive right to negotiate a lease for the site. Magnolia LNG states that LNG Limited currently is involved in active negotiations with representatives of the Port of Lake

Charles concerning a Lease Agreement of no less than twenty-five years. Magnolia LNG also states that, as evidenced by a December 11, 2012, Amendment to the Letter Agreement, Magnolia LNG will be the signature party for the Lease Agreement. Magnolia LNG further states that it plans to supplement this Application and provide DOE/FE with a copy of the Lease Agreement once it has been executed.

Magnolia LNG states it is requesting this authorization in order to act on its own behalf and in order to act on behalf of or as agent for third parties. Magnolia LNG states that it will comply with all DOE/FE requirements for exporters and agents, including registering with DOE/FE each LNG title holder for whom Magnolia LNG seeks to export LNG. Furthermore, Magnolia LNG states that it will file with DOE/FE under seal any relevant long-term commercial agreements it enters into with LNG title holders on whose behalf the exports will be performed.

Magnolia LNG states that the long-term, multi-contract authorization sought in this Application is necessary so that Magnolia LNG may proceed to incur the substantial cost of developing the liquefaction and export project. Magnolia LNG states that the terms and conditions related to the use of the Magnolia LNG Terminal will be set forth in agreements with prospective customers, with terms up to twenty-five years, but notes that these agreements have not yet been finalized. Magnolia LNG further states that it will submit information regarding long-term supply and long-term export agreements in compliance with DOE's pronouncement in *Sabine Pass*.<sup>3</sup>

Magnolia LNG proposes to export natural gas available from the United States natural gas pipeline supply and transmission system. Magnolia LNG notes that the facility will be situated within approximately three miles of four major interstate/intrastate natural gas pipelines owned by Trunkline Gas Company, Kinder Morgan Louisiana Pipeline, Gulf South Pipeline

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<sup>3</sup> *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 2833, FE Docket No. 10-85-LNG, September 7, 2010.

Company, LP, and Chevron Pipe Line Company. Magnolia LNG states that indirect access to these pipelines will allow the facility to indirectly access the national natural gas pipeline grid, which will provide its potential customers with a variety of stable and economical supply options. Magnolia LNG further states that the sources of natural gas will include Texas, Louisiana, and Mississippi producing regions, and will include recent shale gas discoveries in the Haynesville, Eagle Ford, Barnett, and Floyd-Neal/Conasauga shale plays.

Magnolia LNG states that it will initiate the pre-filing review process at the Federal Energy Regulatory Commission (FERC) for the proposed project facilities following issuance of the long-term export authorization requested in this Application. Magnolia LNG anticipates that, consistent with the National Environmental Policy Act, FERC will act as lead agency in the environmental review of the proposed facilities, with DOE acting as a cooperating agency. Magnolia LNG requests that DOE/FE issue a conditional order approving the Application pending completion of the FERC's environmental review. Magnolia LNG further states that it will also seek the necessary permits from other federal, state, and local agencies, as required.

### **III. 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 FTA 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.

The instant Application falls within section 3(c), as amended, and therefore, DOE/FE is charged with granting the Application without modification or delay.<sup>4</sup>

(2) In light of DOE's statutory obligation to grant this Application without modification or delay, there is no need for DOE/FE to review the other arguments posed by Magnolia LNG in support of the Application. The instant grant of authority should not be read to indicate DOE's views on those arguments. For the same reason, this grant of authority will not be conditioned on completion of FERC's environmental review, and Magnolia LNG's request for such a condition will be dismissed.

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

(4) Magnolia LNG requests the LNG export authorization in terms of 0.54 Bcf/d or 210 trillion Btu per year of natural gas. Consistent with DOE regulations (10 CFR part 590.202(b)(1)), applications are to provide volumes in Mcf or Bcf, and their Btu equivalents. DOE/FE authorizes LNG exports in volumetric units, typically Bcf, and requires reporting of monthly exports in Mcf. DOE/FE maintains all natural gas and LNG import and export statistics for the United States and provides these data to the U.S. Energy Information Administration and publishes official statistics. In order to allow for standardized reporting, compilation of national statistics, and to ensure DOE can verify compliance with the authorized volumes, DOE/FE will authorize LNG exports in an annual quantity equivalent to 197.1 Bcf/y of natural gas, based on a conversion of the requested daily volume to an annual quantity.

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<sup>4</sup> DOE further finds that the requirement for public notice of applications and other hearing-type procedures in 10 CFR Part 590, are applicable only to applications seeking to export natural gas, including LNG, to countries with which the United States does not have a FTA requiring national treatment for trade in natural gas.

(5) 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. This proposal was an acceptable alternative to the non-binding policy adopted by DOE/FE in *Dow Chemical*,<sup>5</sup> which established that the title for all LNG authorized for export must be held by the authorization holder at the point of export. We find that the same policy considerations that supported DOE/FE's acceptance of the alternative registration proposal in Order 2913 apply here as well. Accordingly, the authorization granted herein shall require that where Magnolia LNG proposes to export as agent for others, Magnolia LNG will register those companies in accordance with the procedures and requirements described herein.

DOE/FE reiterated its policy on Agency Rights procedures in *Gulf Coast LNG Export, LLC*.<sup>6</sup> In *Gulf Coast*, DOE/FE confirmed that in LNG export orders in which Agency Rights have been granted that it shall require registration materials filed for, or by, an LNG title-holder (Registrant) to include the same company identification information and long-term contract information of the Registrant as if the Registrant had filed an application to export LNG on its own behalf.

(6) Section 590.202(b) of DOE's regulations requires applicants to supply transaction specific factual information "to the extent practicable." Additionally, DOE regulations at 10 CFR part 590.202(e) allow confidential treatment of the information supplied in support of or in

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<sup>5</sup> *The Dow Chemical Company*, DOE/FE Opinion and Order No. 2859 (FE Docket No. 10-57-LNG), October 5, 2010, at p. 7 and 8.

<sup>6</sup> *Gulf Coast LNG Export, LLC (Gulf Coast)*, Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas By Vessel from the Proposed Brownsville Terminal to Free Trade Agreement Nations, DOE/FE Order No. 3163, FE Docket No. 12-05-LNG, October 16, 2012.

opposition to an application if the submitting party requests such treatment, shows why the information should be exempted from public disclosure, and DOE determines it will be afforded confidential treatment in accordance with 10 CFR 1004.11.

(7) DOE/FE will require that Magnolia LNG file under seal with DOE/FE any relevant long-term commercial agreements between Magnolia LNG and a Registrant, including LTAs, once they have been executed. In addition, DOE/FE will require that Magnolia LNG will cause to be filed with DOE/FE any subsequent relevant long-term commercial agreements entered into by a Registrant, once they have been executed. DOE/FE finds that the submission of these contracts within 30 days of their execution using the procedures described below will be consistent with the “to the extent practicable” requirement of section 590.202(b). By way of example and without limitation, a “relevant long-term commercial agreement” would include an agreement with a minimum term of two years such as an LTA, an agreement to provide gas processing or liquefaction services at the Magnolia LNG Terminal, a long-term sales contract involving natural gas or LNG stored or liquefied at the Magnolia LNG Terminal, or an agreement to provide export services from the Magnolia LNG Terminal.

(8) DOE/FE also will require Magnolia LNG to file any long-term contracts Magnolia LNG enters into providing for the long-term export of LNG on its own behalf from the Magnolia LNG Terminal. DOE/FE finds that the submission of these contracts within 30 days of their execution using the procedures described below will be consistent with the “to the extent practicable” requirement of section 590.202(b).

(9) In addition, DOE/FE finds that section 590.202(c) requires that Magnolia LNG file, or cause to be filed, all long-term contracts associated with the long-term supply of natural gas to



the Magnolia LNG Terminal within 30 days of their execution that either Magnolia LNG or the Registrant enters into.

(10) DOE/FE recognizes that some information in Magnolia LNG's or a Registrant's long-term commercial agreements associated with the export of LNG, and long-term contracts associated with the long-term supply of natural gas to the Magnolia LNG Terminal may be commercially sensitive. DOE will therefore require that (A) when Magnolia LNG files, or causes to be filed, such a long-term contract under seal, that it also file either: i) a copy of each long-term contract with commercially sensitive information redacted, or ii) a summary of all major provisions of the contract(s) including, but not limited to, the parties to each contract, contract term, quantity, any take or pay or equivalent provisions/conditions, destinations, re-sale provisions, and other relevant provisions; and (B) the filing must demonstrate why the redacted information should be exempted from public disclosure.

### **ORDER**

Pursuant to section 3 of the NGA, it is ordered that:

A. Magnolia LNG is authorized to export domestically produced LNG by vessel from the proposed Magnolia LNG Terminal in Lake Charles, Louisiana, up to the equivalent of 197.1 Bcf/y of natural gas for a 25-year term, beginning on the earlier of the date of first export or 10 years from the date the authorization is issued (February 26, 2023), pursuant to one or more long-term contracts with third parties that do not exceed the term of this authorization.

B. This LNG may be exported to Australia, Bahrain, Canada, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Republic of Korea, and Singapore, and to any nation that the United States subsequently enters into a FTA requiring national treatment for trade in natural gas, provided

that the destination nation has the capacity to import ocean going vessels. FTA countries are currently identified by DOE/FE at:

<http://www.fossil.energy.gov/programs/gasregulation/index.html>.

C. Magnolia LNG shall ensure that all transactions authorized by this order are permitted and lawful under U.S. 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. Magnolia LNG shall file, or cause to be filed, with the Office of Natural Gas Regulatory Activities all executed long-term contracts associated with the long-term export of LNG on its own behalf or as agent for or on behalf of others, from the proposed Magnolia LNG Terminal in Lake Charles, Louisiana, including both a non-redacted copy filed under seal and either: i) a redacted version of the contract, or ii) major provisions of the contract, for public posting, within 30 days of their execution. Applying the same procedures, Magnolia LNG shall file, or cause to be filed, with the Office of Natural Gas Regulatory Activities all executed long-term contracts associated with the long-term supply of natural gas to the proposed Magnolia LNG Terminal in Lake Charles, Louisiana, both un-redacted under seal, and either: i) a redacted version of the contract, or ii) major provisions of the contract, for public posting within 30 days of their execution. In these filings, Magnolia LNG shall show why the redacted or non-disclosed information should be exempted from public disclosure.

E. Magnolia LNG 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. 3245, issued February 26, 2013, in FE Docket No. 12-183-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 Magnolia LNG 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 ensure that Magnolia LNG is made aware of all such actual destination countries."

F. Magnolia LNG is permitted to use its authorization in order to export LNG on behalf of or as agent for others, after registering the other party with DOE/FE. Registration materials shall include an acknowledgement and agreement by the registrant to supply Magnolia LNG with all information necessary to permit Magnolia LNG to register that person or entity 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, of any long-term contracts, not previously filed with DOE/FE, described in Ordering paragraph (D) of this Order, including both a non-redacted copy for filing under seal and either: i) a redacted version of the contract, or ii) major provisions of the contract, for public posting.

G. Each registration submitted pursuant to this Order shall have current information on file with DOE/FE. Any changes in company name, contact information, change in term of the long-term contract, termination of the long-term contract, or other relevant modification, shall be filed with DOE/FE within 30 days of such change(s).

H. Within two weeks after the first export of domestically produced LNG occurs from the proposed Magnolia LNG Terminal in Lake Charles, Louisiana, Magnolia LNG shall provide written notification of the date that the first export of LNG authorized in Order Paragraph A above occurred.

I. Magnolia LNG shall file with the Office of Natural Gas Regulatory Activities, on a semi-annual basis, written reports describing the progress of the proposed liquefaction facility project. The reports shall be filed on or by April 1 and October 1 of each year, and shall include information on the progress of the proposed Magnolia LNG Terminal in Lake Charles, Louisiana, the date the facility is expected to be operational, and the status of the long-term contracts associated with the long-term export of LNG and any long-term supply contracts.

J. Monthly Reports: With respect to the LNG exports authorized by this Order, Magnolia LNG 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. The first monthly report required by this Order is due not later than the 30<sup>th</sup> day of the month following the month of first export. In subsequent months, if exports have not occurred, 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)

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: Natural Gas Reports. Alternatively, reports may be e-mailed to [ngreports@hq.doe.gov](mailto:ngreports@hq.doe.gov), or may be faxed to Natural Gas Reports at (202) 586-6050.

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