

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

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TRUNKLINE LNG EXPORT, LLC  
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FE DOCKET NO. 13-04-LNG

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

DOE/FE ORDER NO. 3252

MARCH 7, 2013

## I. DESCRIPTION OF REQUEST

On January 10, 2013, Trunkline LNG Export, LLC (TLNG Export) 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 liquefied natural gas (LNG) produced from domestic sources in an amount up to 15 million metric tons per year (mtpa) from the Lake Charles LNG Terminal (Lake Charles Terminal) located in Lake Charles, Louisiana for a 25-year term. TLNG Export states the requested export amount is equivalent to approximately 730 billion cubic feet per (Bcf) per year (Bcf/y) of natural gas (which equals 2.0 Bcf per day).<sup>2</sup>

TLNG Export seeks to export LNG by vessel from the Lake Charles Terminal to 1) any country with which the United States currently has, or in the future will have, a Free Trade Agreement (FTA) requiring the national treatment for trade in natural gas<sup>3</sup>, and 2) any country with which the United States does not have an FTA requiring national treatment for trade in natural gas (non-FTA countries) with which trade is not prohibited by U.S. law or policy. TLNG Export seeks to export this LNG on its own behalf and also as agent for third parties. TLNG Export requests that this authorization commence on the earlier of the date of first export or ten years from the date the authorization is issued (March 7, 2023).

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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 Redelegation Order No. 00-002.04E issued on April 29, 2011.

<sup>2</sup> Trunkline requests authorization to export up to 15 million metric tons per year of LNG, which, it states, is equivalent to approximately 730 Bcf/y of natural gas. Consistent with DOE regulations (10 CFR part 590), applications are to provide volumes in Bcf, and subsequently, DOE/FE will authorize LNG exports equivalent to 730 Bcf/y of natural gas.

<sup>3</sup> 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. An FTA with Panama has been ratified by Congress but has not yet taken effect.

The portion of the Application that seeks authorization to export domestically produced LNG to FTA countries will be reviewed pursuant to Section 3(c) of the Natural Gas Act, as amended and will be approved in this Order. The portion of the Application that seeks authorization to export domestically produced LNG to non-FTA countries will be reviewed pursuant to Section 3(a) of the Natural Gas Act, as amended. In reviewing the non-FTA portion of the 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. BACKGROUND**

TLNG Export is a Delaware limited liability company with its principal place of business in Houston, Texas. Trunkline LNG Company, LLC (TLNG), an affiliate of TLNG Export, owns and operates the Lake Charles LNG Terminal. TLNG Export will own the proposed liquefaction facility and hold the LNG export authorization. The owners of TLNG and TLNG Export include Energy Transfer Equity, L.P. (60% owner of both entities) and Energy Transfer Partners, L.P. (40% owner of both entities). As such, the existing Lake Charles Terminal, the proposed liquefaction facility, and the LNG export authorization requested herein would all be under the same ownership structure.

The Federal Energy Regulatory Commission (FERC) authorized construction and operation of the Lake Charles Terminal in 1977, with the original construction completed in July 1981. In 2001, BG LNG Services, LLC (BGLS) entered into a firm services agreement with TLNG for the receipt, storage, and vaporization of LNG at the Lake Charles Terminal. TLNG Export states that, consistent with the firm services agreement with BGLS, TLNG 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. TLNG Export further states that the Lake Charles Terminal today has a firm sustained send-out capacity of 1.8 Bcf/d of natural gas (13.7 mtpa of LNG); a peak send-out capacity of 2.1 Bcf/d; and four LNG storage tanks with a combined capacity of approximately 2.7 million barrels (approximately 9.0 bcf).

The amount of LNG sought to be exported from the Lake Charles Terminal in the current Application is the same amount for which export authorization is being sought by Lake Charles Exports, LLC (LCE) in a separate application filed May 6, 2011, and amended May 26, 2011, in DOE/FE Docket No. 11-59-LNG.<sup>4</sup> TLNG Export's Application for export authority in the current proceeding, therefore, is non-additive to the LCE export authorization request – that is, TLNG Export is not seeking to export any additional volumes of LNG from the Lake Charles Terminal beyond that sought by LCE in Docket No. 11-59-LNG. Instead, TLNG Export states that it is simply maximizing optionality in order to expand the potential customer base for LNG exports from the Lake Charles Terminal.

TLNG Export states that it, along with TLNG, is currently developing plans to 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. TLNG Export states that it is also developing plans to install liquefaction facilities that would permit gas to be received by pipeline at the terminal and liquefied for subsequent export. Thus, on March 30, 2012, TLNG Export, TLNG, and Trunkline Gas Company, LLC submitted a Request to Initiate FERC Pre-Filing Review Process in FERC Docket No. PF12-8-000. TLNG Export states that the FERC issued a letter approving the request to initiate the pre-filing process on April 6, 2012.<sup>5</sup>

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<sup>4</sup> On July 22, 2011, the DOE/FE approved that portion of the application seeking to export LNG to FTA nations. The non-FTA portion of the application is currently pending. See *Lake Charles Exports, LLC*, DOE/FE Order No. 2987 (July 22, 2011).

<sup>5</sup> Letter re: Approval of Pre-Filing Request, FERC Docket No. PF12-8-000 (April 6, 2012).



TLNG Export states that the long-term export authorization sought in this Application, like that sought in the LCE application, is necessary in order to permit TLNG Export to proceed to incur the substantial cost of developing the liquefaction and export project. Any modifications to the Lake Charles Terminal would be subject to FERC approval.<sup>6</sup> TLNG Export states that following the completion of the project, the Lake Charles Terminal will be able to receive LNG for import and export or deliver LNG for export, and its peak and sustained send-out capabilities will not be affected.

TLNG Export states that in order to maximize optionality at the Lake Charles Terminal to address customer needs, it seeks broader authority than that sought by LCE. TLNG Export states that LCE requested authorization to export LNG on its own behalf or as agent for BGLS.<sup>7</sup> Here, in addition to entering into long-term natural gas supply or LNG export contracts, TLNG Export states that it may also enter into Liquefaction Tolling Agreements (LTA), under which individual customers who hold title to natural gas will have the right to deliver that gas to TLNG Export and receive LNG. TLNG Export seeks to export this LNG on its own behalf and also as agent for third parties under contracts to be executed on a date that is closer to the date of first export. TLNG Export contemplates that the title holder at the point of export<sup>8</sup> may be TLNG Export or one of TLNG Export's customers, or another party that has purchased LNG from a customer pursuant to a long-term contract.

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<sup>6</sup> TLNG Export states that as with all the prior activities at the Lake Charles Terminal, FERC would only approve any such modifications once all National Environmental Policy Act requirements had been satisfied fully. *See e.g. Trunkline LNG Company, LLC*, 100 FERC ¶ 61,217 (2002), *order denying reh'g and granting authorization under Section 3 of the NGA*, 101 FERC ¶ 61,300 (2002), *order denying reh'g*, 102 FERC ¶ 61,306 (2003), *order amending certificate*, 105 FERC ¶ 61,137 (2003).

<sup>7</sup> The DOE/FE approved that portion of the application seeking to export LNG to FTA nations. *See Lake Charles Exports, LLC*, DOE/FE Order No. 2987 (July 22, 2011).

<sup>8</sup> "LNG exports occur when the LNG is delivered to the flange of the LNG export vessel." *See Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC*, DOE/FE Order No. 2913 at n.4 (February 10, 2011); *Dow Chemical Company*, FE Order No. 2859 at 7 (October 5, 2010).

TLNG Export requests authorization to register each LNG title holder for whom TLNG Export seeks to export as agent, with such registration including a written statement by the title holder acknowledging and agreeing to comply with all applicable requirements included by DOE/FE in TLNG Export's authorization, and to include those requirements in any subsequent purchase or sale agreement entered into by that title holder. TLNG Export also states that it will file under seal with DOE/FE any relevant long-term commercial agreements between TLNG Export and such LNG title holder, including LTAs, once they have been executed.

TLNG Export states that although both TLNG Export and LCE are seeking authorization to export LNG from the Lake Charles Terminal, TLNG Export is separate and apart from LCE and will have no impact on LCE or its authorization. TLNG Export states that neither TLNG Export nor its parent companies have a controlling ownership share of LCE. TLNG will allocate export quantities between LCE and TLNG Export to ensure that the total exports from the Lake Charles Terminal do not exceed the quantity authorized individually to either LCE or TLNG Export. Specifically, TLNG Export states the total quantity of combined exports between LCE and TLNG Export will not exceed 15 mtpa (approximately 730 Bcf/y).

TLNG Export states that the source of the natural gas will come from the United States natural gas pipeline system. While TLNG Export anticipates that sources of natural gas will include Texas and Louisiana producing regions and the offshore gulf producing regions,<sup>9</sup> it states that the natural gas to be exported may be produced throughout the United States.

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<sup>9</sup> Insofar as TLNG Export may seek to export natural gas produced on the outer continental shelf, the export of such natural gas may be subject to the Outer Continental Shelf Lands Act, which in relevant part provides: "Before any oil or gas subject to this section may be exported under the requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase reliance on imported oil or gas, are in the national interest, and are in accord with the provisions of the Export Administration Act of 1969." 43 U.S.C. 1354. DOE expresses no opinion regarding the applicability of this provision of law to export operations which Trunkline is planning to undertake and the authorization issued in this order should not be read to indicate that this provision of law has been satisfied.

TLNG Export states that the export authorization described in the Application is not inconsistent with the public interest. As relevant here, TLNG Export states that under NGA Section 3(c), as amended by Section 201 of the Energy Policy Act of 1992 (Pub.L. 102-486), exports of natural gas to FTA countries is deemed to be consistent with the public interest and should be granted by DOE/FE without modification or delay, as a matter of statutory requirement.

### **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 FTA portion of the instant Application falls within section 3(c), as amended, and therefore, DOE/FE is charged with granting that part of the Application without modification or delay.<sup>10</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 TLNG Export in support of the Application. The instant grant of authority should not be read to indicate DOE's views on those arguments. Nor should it be read to indicate how DOE may dispose of that portion of the Application seeking authorization to export LNG to non-FTA nations. DOE will address the non-FTA portion of the Application in a subsequent order.

(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

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<sup>10</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.



Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Republic of Korea, and Singapore.

(4) 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>11</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 TLNG Export proposes to export as agent for others, TLNG Export 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>12</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.

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<sup>11</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>12</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



(5) 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 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.

(6) DOE/FE will require that TLNG Export file under seal with DOE/FE any relevant long-term commercial agreements between TLNG Export and a Registrant, including LTAs, once they have been executed. In addition, DOE/FE will require that TLNG Export 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 Lake Charles Terminal, a long-term sales contract involving natural gas or LNG stored or liquefied at the Lake Charles Terminal, or an agreement to provide export services from the Lake Charles Terminal.

(7) DOE/FE also will require TLNG Export to file any long-term contracts TLNG Export enters into providing for the long-term export of LNG on its own behalf from the Lake Charles 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).

(8) In addition, DOE/FE finds that section 590.202(c) requires that TLNG Export file, or cause to be filed, all long-term contracts associated with the long-term supply of natural gas to the Lake Charles Terminal within 30 days of their execution that either TLNG Export or the Registrant enters into.

(9) DOE/FE recognizes that some information in TLNG Export'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 Lake Charles Terminal may be commercially sensitive. DOE will therefore require that (A) when TLNG Export 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. TLNG Export is authorized to export domestically produced LNG by vessel from the Lake Charles Terminal located in Lake Charles, Louisiana, up to the equivalent of 730 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 (March 7, 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. TLNG Export 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. TLNG Export 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 Lake Charles Terminal located 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, TLNG Export 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 Lake Charles 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, TLNG Export shall show why the redacted or non-disclosed information should be exempted from public disclosure.



E. TLNG Export 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. 3252, issued March 7, 2013 in FE Docket No. 13-04-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 TLNG Export 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 TLNG Export is made aware of all such actual destination countries."

F. TLNG Export 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 TLNG Export with all information necessary to permit TLNG Export 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 Lake Charles Terminal located in Lake Charles, Louisiana, TLNG Export shall provide written notification of the date that the first export of LNG authorized in Order Paragraph A above occurred.

I. TLNG Export 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 at the Lake Charles Terminal. 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 liquefaction project at the Lake Charles 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, TLNG Export 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.

Issued in Washington, D.C., on March 7, 2013.



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