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Department of Energy Issues Third Authorization to Export LNG to Non-Free Trade Agreement Countries

By: James Moriarty, Jennifer Brough and Matthew T. Eggerding

On August 7, 2013, the United States Department of Energy ("DOE") issued its third authorization to export liquefied natural gas ("LNG") to non-Free Trade Agreement ("non-FTA") countries.[1] The DOE granted authorization to Lake Charles Exports, LLC ("LCE") to export domestically produced LNG from the existing Trunkline LNG Company, LLC terminal in Lake Charles, Louisiana. The DOE previously authorized LCE to export LNG to FTA countries in July 2011.

LCE becomes the third entity to receive DOE authorization to export LNG to non-FTA countries. The DOE previously granted authorization to the Sabine Pass LNG Terminal in Cameron Parish, Louisiana, which received authorization to export up to 2.2 Bcf/d of LNG in May 2011.[2] In May 2013, the DOE granted authorization to Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC to export 1.4 Bcf/d, or 511 Bcf per year, of natural gas from the existing facility in Quintana Island, Texas.[3]

Terms and Conditions of the LCE Authorization

The major terms and conditions of LCE's authorization to export LNG to non-FTA countries include:

- Volume: LCE may export the requested volume of up to equivalent of 2 Bcf per day or 730 Bcf per year, of natural gas
- Term: Though LCE requested a 25-year term, the DOE authorized LCE to export LNG for a term of 20 years beginning on the date of first export. This term is consistent with the DOE's prior non-FTA orders
- Commencement of operations: LCE must commence LNG export operations within seven years from the authorization date
- Agency Rights: LCE may export LNG on its own behalf, or as agent for others. Where LCE proposes to export LNG as agent for others, LCE must register the other entity with DOE
- Contracts: LCE is required to file any relevant long-term commercial agreements with DOE within 30 days of execution

General Findings Applicable to Pending Applications to Export to Non-FTA Countries

In granting the LCE authorization, the DOE made certain general findings and determinations about the export of LNG to non-FTA countries that may be applicable to the other pending applications.

The DOE found:

- The LNG Export Study, which was issued in December 2012, is "fundamentally sound and supports the proposition that the proposed exports will not be inconsistent with the public interest."
- There are also non-economic benefits that support the authorization: "[T]o the extent U.S. exports can counteract concentration within global LNG markets, thereby diversifying international supply options and improving energy security for many of this country's allies and trading partners, authorizing U.S. exports may advance the public interest for reasons that are distinct from and additional to the economic benefits identified in the LNG Export Study."
- Although the DOE viewed the economic impacts of higher natural gas prices and potential increases in gas price volatility as two of the most serious factors in its determination, the DOE found that the potential negative impacts of LCE's proposed exports are "outweighed by the likely net economic benefits and by other non-economic or indirect benefits."
- The DOE noted that it will attach "appropriate and necessary terms and conditions to authorizations to ensure … that the authorizations are utilized in a timely manner and that authorizations are not issued except where the applicant can show that there are or will be facilities capable of handling the proposed export volumes and existing and forecast supplies that support that action."

In addressing the issue of how LCE's authorization will impact the DOE's analysis of the other pending non-FTA export applications, the DOE emphasized that it will take "a measured approach," is "proceeding cautiously," and, in issuing this order, was not making any decisions with regard to future authorizations. The DOE "intends to monitor developments that could tend to undermine the public interest in grants of successive applications for exports of domestically produced LNG[.]"

Endnotes

1 Lake Charles Exports, LLC, DOE/FE Order No. 3324, Order Conditionally Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Lake Charles LNG Terminal to Non-Free Trade Agreement Nations (Aug. 7, 2013).

2 Sabine Pass Liquefaction, LLC, DOE/FE Order No. 2961, Opinion and Order Conditionally Granting Long-Term Authorization to Export Liquefied Natural Gas From Sabine Pass LNG Terminal to Non-Free Trade Agreement Nations (May 20, 2011).

3 Freeport LNG Expansion, L.P., DOE/FE Order No. 3282, Order Conditionally Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Freeport LNG Terminal on Quintana Island, Texas to Non-Free Trade Agreement Nations (May 17, 2013).

For more information on the matters discussed in this *Locke Lord QuickStudy*, please contact the authors:

James Moriarty | 202-220-6915 | jmoriarty@lockelord.com
Jennifer Brough | 202-220-6965 | jbrough@lockelord.com
Matthew T. Eggerding | 202-220-6977 | meggerding@lockelord.com