ORDER AMENDING AUTHORIZATION UNDER SECTION 3
OF THE NATURAL GAS ACT

(Issued August 24, 2017)

1. On August 11, 2016, EcoEléctrica, L.P. (EcoEléctrica) filed an application under section 3 of the Natural Gas Act (NGA) to amend authorizations issued in 1996, 2009, and 2014.1 Those orders authorized EcoEléctrica to site, construct, and operate liquefied natural gas (LNG) import, storage, and vaporization facilities at Guayanilla Bay, Peñuelas, Puerto Rico. In this proceeding, EcoEléctrica requests authorization to increase the send-out capacity of its LNG terminal by an additional 93 million standard cubic feet (MMscf) per day of natural gas, to a total of 279 MMscf per day. This increase in send-out capacity will be accomplished by placing into service one of two existing spare LNG vaporizers (LNG Terminal Sendout Capacity Increase Project). As discussed below, the Commission will approve EcoEléctrica’s proposals, subject to the conditions herein.

I. Background and Proposal

2. EcoEléctrica is a limited and exempted partnership registered in Bermuda. It is owned by EcoEléctrica Holdings, Ltd. and EcoEléctrica, Ltd.

3. In a series of orders beginning in 1996, the Commission authorized EcoEléctrica to construct and operate an LNG import terminal and storage and regasification facilities at Guayanilla Bay, Peñuelas, Puerto Rico.2 A nonjurisdictional desalination plant and

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2 See the 1996 Order, 75 FERC ¶ 61,157; 2009 Order, 127 FERC ¶ 61,044; and 2014 Order, 147 FERC ¶ 61,222.
natural gas-fired cogeneration facility were also constructed at the site. Currently, EcoEléctrica’s LNG facilities consist of: (1) a marine terminal with a 1,800-foot-long pier for unloading LNG tankers; (2) a 1,000,000-barrel LNG storage tank; (3) an LNG vaporization system consisting of four vertical shell and tube heat exchanger vaporizers and associated facilities, and (4) various control systems, piping, and other ancillary equipment. Each LNG vaporizer has a peak regasified LNG send-out capacity of 93 MMscf per day. EcoEléctrica is presently authorized to send out a total of approximately 186 MMscf of regasified LNG per day and uses two of the vaporizers to deliver the regasified LNG. The two remaining vaporizers are spares. EcoEléctrica delivers the regasified LNG to Puerto Rico Electric Power Authority’s (PREPA) Costa Sur Power Plant, which is located only a few miles from EcoEléctrica’s terminal facilities, in addition to using the regasified LNG in its own cogeneration facility.

4. EcoEléctrica proposes to place one of the two spare LNG vaporizers into full-time service to increase the terminal’s regasified LNG send-out capacity to PREPA’s Costa Sur Power Plant by an additional 93 (peak) MMscf per day. The proposal requires no construction of new facilities or modification of existing facilities. Further, the proposal does not change the authorized level of storage capacity of the terminal. The proposal is merely designed to supplement the gas supplies delivered to PREPA’s Costa Sur Power Plant which, in turn, will use the gas to supply electricity to end users in Puerto Rico. After placing the LNG vaporizer into service, EcoEléctrica will be able to send out 279 MMscf of regasified LNG per day, with 186 MMscf per day being delivered to PREPA’s Costa Sur plant and EcoEléctrica using 93 MMscf per day in its cogeneration plant.

5. Under current operations, EcoEléctrica receives an average of 2 LNG ships per month (approximately 24 to 26 ships per year), which was contemplated to increase to an average of 2.5 ships per month (approximately 30 ships per year) upon in-service of the LNG Supply Pipeline Project authorized in the 2014 Order. EcoEléctrica’s proposal herein will make the total number of ships arriving at the terminal approximately 40 per year. EcoEléctrica indicates that this number is below the total of 60 LNG ship arrivals

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3 These facilities are described in the 2014 Order, 147 FERC ¶ 61,022 at 62,270.

4 The Commission also authorized EcoEléctrica to construct and operate pipeline and associated equipment to supply up to approximately 250 gallons per minute of LNG to Gas Natural Puerto Rico, Inc.’s proposed non-jurisdictional LNG truck loading facility (LNG Supply Pipeline Project). 2014 Order, 147 FERC ¶ 61,222. EcoEléctrica has not yet commenced construction of these facilities.

5 However, an existing spare in-tank LNG send-out pump will need to be placed into service in order to feed LNG to the additional vaporizer.
analyzed by the U.S. Coast Guard in connection with the Commission’s original review of the LNG terminal.

III. Notice and Interventions

6. Notice of EcoEléctrica’s application was published in the *Federal Register*, 81 Fed. Reg. 60,000 (2016). No motions to intervene, comments, or protests were filed.

IV. Discussion

7. Because EcoEléctrica’s proposal involves LNG terminal facilities that are used to import natural gas from foreign countries, the proposal requires approval by the Commission under section 3 of the NGA.\(^6\)

8. The Commission’s authority over facilities constructed and operated under section 3 of the NGA includes the authority to apply terms and conditions as necessary and appropriate to ensure that the proposals are in the public interest.\(^7\) Section 3 provides

\(^6\) The regulatory functions of section 3 of the NGA were transferred to the Secretary of the U. S. Department of Energy (DOE) in 1977 pursuant to section 301(b) of the Department of Energy Organization Act (Pub. L. No. 95-91, 42 U.S.C. §§ 7101 *et seq.*). In reference to regulating the imports or exports of natural gas, the DOE Secretary has delegated to the Commission the authority to approve or disapprove the construction and operation of particular facilities, the site at which facilities shall be located and, with respect to natural gas that involves the construction of new domestic facilities, the place of entry or exit for exports. *See* DOE Delegation Order No. 00-044A.00 (2006), FERC Stats. & Regs. ¶ 9920 (reissuing, effective May 16, 2006, authorities contained in previous delegation orders). In addition, section 3(e)(1) of the NGA, as amended by section 311(c) of the Energy Policy Act of 2005 (EPAct 2005), Pub. L. 109-58, 119 Stat. 594, provides that the Commission has exclusive authority to approve or deny applications for the construction or operation of LNG terminals. DOE has retained authority to act on applications for authority to import or export natural gas. Such applications must be submitted to DOE’s Office of Fossil Energy. The Commission does not authorize the importation of the commodity itself.

\(^7\) *See* section 3(e)(3)(A) of the NGA, as enacted by section 311(c) of EPAct 2005. *See also* Distrigas Corp. v. FPC, 495 F.2d 1057, 1063-64, *cert. denied*, 419 U.S. 834 (1974) and Dynegy LNG Production Terminal, L.P., 97 FERC ¶ 61,231 (2001).
that the Commission “shall issue such order on application” unless it finds that the proposal “will not be consistent with the public interest.”

9. The project is intended to supply additional natural gas to PREPA which, in turn, will use the gas to supply electricity to end users in Puerto Rico. The project will not change the authorized level of storage capacity of the terminal or modify the existing terminal facilities. Rather, the project will merely increase the volume of natural gas that EcoEléctrica will be authorized to send out from 186 to 279 MMscf per day. In addition, the send-out capacity will remain below the import capacity of 130 billion cubic feet (Bcf) per year currently authorized by DOE’s Office of Fossil Energy (DOE/FE). Similarly, while there will be an increase in LNG ship traffic to the terminal as a result of the project, the anticipated total number of approximately 40 ships per year will not exceed the 60 LNG ship arrivals analyzed by the U.S. Coast Guard. Moreover, because the project involves no new construction or modification of existing facilities but simply a change in operations requiring only the dedication of an existing spare vaporizer and a spare in-tank send-out pump to full-time service, the project will have no impact on landowners or on terrestrial environmental resources. Further, as discussed in the environmental analysis below, the increase in LNG ship traffic from the proposed project will not adversely affect other environmental resources, such as marine wildlife, air quality and noise, or cultural resources. For the reasons stated above, the Commission finds that, subject to the conditions imposed in this order, EcoEléctrica’s proposal is consistent with the public interest. Accordingly, the Commission grants the requested authorization to EcoEléctrica.

V. Environmental Assessment

10. On November 1, 2016, the Commission issued a Notice of Intent to Prepare an Environmental Assessment (NOI). The NOI was published in the Federal Register and mailed to interested parties including federal, state, and local government agencies; elected officials; environmental and public interest groups; affected landowners; other

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9 See the 1996 Order, 75 FERC ¶ 61,157 at 61,516 and DOE/FE Order No. 1042 (April 19, 1995) (granting EcoEléctrica authority to import 130 Bcf of LNG per year for a 40-year term).

10 Application at 5 and Appendix A (the latter, a May 25, 2016 letter from the U.S. Coast Guard to EcoEléctrica, stating that the increased number of LNG ships is not expected to have a significant impact to the waterway and that a waterways suitability assessment will not be required).

interested parties; and local libraries and newspapers. In response to the NOI, the Commission received comments from the U.S. Fish and Wildlife Service (FWS) and the National Oceanic and Atmospheric Administration’s National Marine Fisheries Service (NOAA Fisheries) addressing the impact of the project on federally listed manatee, sea turtle, and whale species under the Endangered Species Act. In addition, the Puerto Rico Federal Affairs Administration submitted comments in support of the project, and the Puerto Rico State Historic Preservation Office (SHPO) submitted a pro forma letter encouraging National Historic Preservation Act section 106 consultation.

11. To satisfy the requirements of the National Environmental Policy Act of 1969, Commission staff prepared an Environmental Assessment (EA) for EcoEléctrica’s proposal. The EA was prepared with the cooperation of the U.S. Department of Transportation and placed into the public record on April 12, 2017. The analysis in the EA addresses threatened and endangered species, water resources, cultural resources, air quality, noise, safety, cumulative impacts, and alternatives. The EA addresses the comments of FWS and NOAA Fisheries in section B.2 of the EA. The EA finds that because there will be a minor increase in the number of ships arriving at the LNG terminal as a result of the project, there is an increased potential for accidental collisions with five federally listed species of sea turtles (green, hawksbill, leatherback, loggerhead, and olive ridley), five federally listed species of whales (blue, fin, humpback, sei, and sperm), and the West Indian Manatee. However, the EA finds that the potential for such impacts is expected to be extremely low and, thus, concludes that the project may affect, but is not likely to adversely affect, the identified species. In the EA and in compliance with section 7 of the Endangered Species Act, staff requests concurrence from FWS and NOAA Fisheries for the project-related impacts on federally listed species. Environmental Condition 8a herein conditions EcoEléctrica’s commencement of service under the project on the completion of this consultation.

12. Based on the analysis in the EA, we conclude that if operated in accordance with EcoEléctrica’s application and supplements, and in compliance with the environmental conditions in the appendix to this order, our approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

13. Any state, territory, or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this authorization. The Commission encourages cooperation between interstate pipelines and local

12 EA at 6-7. The EA does not address the Puerto Rico SHPO’s comment since it is not relevant to this project which entails no construction activities.

13 Id. at 7-15.
authorities. However, this does not mean that state, territory, and local agencies, through application of state, territory, or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.\footnote{See 15 U.S.C. § 717r(d) (2012) (state or federal agency’s failure to act on a permit considered to be inconsistent with Federal law); see also, Schneidewind v. ANR Pipeline Co., 485 U.S. 293, 310 (1988) (state regulation that interferes with FERC’s regulatory authority over the transportation of natural gas is preempted) and Dominion Transmission, Inc. v. Summers, 723 F.3d 238, 243 (D.C. Cir. 2013) (noting that state and local regulation is preempted by the NGA to the extent it conflicts with federal regulation, or would delay the construction and operation of facilities approved by the Commission).}

14. The Commission on its own motion received and made part of the record in this proceeding all evidence, including the application and exhibits thereto, and all comments and upon consideration of the record,

The Commission orders:

(A) EcoEléctrica’s authorization under section 3 of the NGA, issued in the 1996 Order, as amended in the 2009 and 2014 Orders, is further amended, as more fully described in this order and in EcoEléctrica’s application and as conditioned herein.

(B) Except as provided herein, the authorization issued in the 1996 Order, as amended by the 2009 and 2014 Orders, remains unchanged and EcoEléctrica must comply with all of the conditions applicable to the LNG terminal set forth in the appendix to the 1996 Order.

(C) EcoEléctrica shall notify the Commission’s environmental staff by telephone, e-mail, and/or facsimile of any environmental noncompliance identified by other federal, state, territorial, or local agencies on the same day that such agency notifies EcoEléctrica. EcoEléctrica shall file written confirmation of such notification with the Secretary of the Commission (Secretary) within 24 hours.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,
Deputy Secretary.
Appendix

Environmental Conditions

1. EcoEléctrica shall follow the procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the EA, unless modified by the Order. EcoEléctrica must:
   a. request any modification to these procedures, measures, or conditions in a filing with the Secretary;
   b. justify each modification relative to site-specific conditions;
   c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
   d. receive approval in writing from the Director of the Office of Energy Projects (OEP) before using that modification.

2. The Director of OEP, or the Director’s designee, has delegated authority to:
   (1) issue any approvals or authorizations pursuant to the conditions of this order, and
   (2) take all steps necessary to ensure the protection of life, health, property and the environment during operation of the project, which authority shall include:
      a. stop-work authority and authority to cease operation; and
      b. the design and implementation of any additional measures deemed necessary to assure continued compliance with the intent of the conditions of the Order.

3. The authorized facility locations shall be as shown in the EA, as supplemented by filed maps, figures, and diagrams. As soon as they are available, and prior to commencing service, EcoEléctrica shall file with the Secretary any revised detailed survey maps/figures for all facilities approved by the Order. All requests for modifications of environmental conditions of the Order or site-specific clearances must be written and must reference locations designated on these maps/figures.

4. EcoEléctrica shall file with the Secretary maps/figures and aerial photographs at a scale not smaller than 1:6,000 identifying all facility relocations, and staging areas, storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other
environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. If construction becomes necessary, each area must be approved in writing by the Director of OEP before any construction commences in or near that area.

Examples of alterations requiring approval include facility location changes resulting from:

a. implementation of cultural resources mitigation measures;
b. implementation of endangered, threatened, or special concern species mitigation measures;
c. recommendations by state regulatory authorities; and
d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.

5. **Prior to placing the project into service**, EcoEléctrica shall file with the Secretary:

a. a listing of all problems encountered and contractor nonconformance/deficiency logs;
b. problems of a significant magnitude shall be reported to the Commission within 24 hours;
c. a description of the corrective and remedial actions implemented in response to all instances of noncompliance, nonconformance, or deficiency, and their cost;
d. the effectiveness of all corrective and remedial actions implemented; and

e. copies of any correspondence received by EcoEléctrica from other federal, state, or local permitting agencies concerning instances of noncompliance, and EcoEléctrica’s response.

6. EcoEléctrica must receive written authorization from the Director of OEP before placing the project into service. Such authorization will only be granted following a determination that the facilities can be expected to operate safely as designed.

7. **Within 30 days of placing the authorized facilities in service**, EcoEléctrica shall file an affirmative statement with the Secretary, certified by a senior company official, identifying which of the Order conditions EcoEléctrica has complied with or will comply with. This statement shall also identify any areas affected by the Project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
8. EcoElectrica shall not commence service until:
   a. Commission staff completes Endangered Species Act section 7 consultation with FWS and NOAA Fisheries; and
   b. EcoEléctrica has received written notification from the Director of OEP that service or use of mitigation may begin.

Information pertaining to the below conditions shall be filed with the Secretary for review and written approval by the Director of the OEP prior to commencement of service. Specific engineering, vulnerability, or detailed design information meeting the criteria specified in Order No. 833 (Docket No. RM16-15-000), including security information, shall be submitted as Critical Energy Infrastructure Information pursuant to 18 CFR § 388.113. See Critical Electric Infrastructure Security and Amending Critical Energy Infrastructure Information, Order No. 833, 81 Fed. Reg. 93,732 (Dec. 21 2016), FERC statues and Regulations ¶ 31,389 (2016), reh’g pending.

Information pertaining to items such as offsite emergency response, procedures for public notification and evacuation, and operating reporting requirements will be subject to public disclosure. All information shall be filed a minimum of 30 days before approval to proceed is requested.

9. Prior to commencement of service, EcoEléctrica shall include change logs that list and explain any changes made from the engineering design provided in its application and filings. A list of all changes with an explanation for the design alteration shall be provided and all changes shall be clearly indicated on all diagrams and drawings.

10. Prior to commencement of service, EcoEléctrica shall file updates to the facility’s operation and maintenance procedures and manuals as well as safety procedures to include the startup and operation of the increased send-out capacity.

11. Prior to commencement of service, EcoEléctrica shall file documentation demonstrating the facility operations staff has completed its training for the updated procedures.

12. Prior to commencement of service, EcoEléctrica shall evaluate the sizing of pressure relief valves on lines that have changes in process conditions and shall include calculations that demonstrate there is adequate pressure relief capacity.

13. Prior to commencement of service, EcoEléctrica shall file an updated vacuum relief analysis for the existing LNG tank that considers contingencies in accordance with National Fire Protection Association 59A, including the operation of all four in-tank pumps at maximum operating capacity, and demonstrates that the existing vacuum relief valves are sized to handle these considerations.
14. **Prior to commencement of service**, EcoEléctrica shall provide a quantitative analysis of the layers of protection to demonstrate that a boiling-liquid-expanding-vapor explosion of the existing liquid nitrogen storage tank would be prevented or mitigated.

15. **Prior to commencement of service**, EcoEléctrica shall file a contingency plan to minimize downtime and provide and restore service when a LNG in-tank pump fails or is taken out of service including plans to maintain a spare pump onsite.

16. **Prior to commencement of service**, EcoEléctrica shall file a preventative and predictive maintenance program that includes periodic or continuous equipment condition monitoring.

The following measures shall apply **throughout the life of the project**:

17. EcoEléctrica shall continue to report any design modifications and operating problems in the **semi-annual** operational reports filed with the Secretary.

18. EcoEléctrica shall continue to report significant non-scheduled events including safety and security related incidents to Commission staff.

19. EcoEléctrica’s facilities shall continue to be subject to the regular Commission staff technical reviews and site inspections on at least an **annual** basis.