

Americas Credit Derivatives Determinations Committee Statement - February 18, 2025

New Fortress Energy Inc. Successor Determination

DC Issue Number 2024121102

The Americas DC considered whether there is a Successor to New Fortress Energy Inc. (**NFE**) under the 2014 ISDA Credit Derivatives Definitions published by the International Swaps and Derivatives Association, Inc. (**ISDA**) (the **2014 Definitions**) and is issuing the following statement in connection with such question. This statement applies solely to Credit Derivative Transactions that incorporate the 2014 Definitions.¹

The Americas DC is providing the following statement in connection with its Successor determination.

1. SUMMARY OF EVENTS

On November 12, 2024, NFE filed its Form 10-Q, disclosing a copy of a "Transaction Support Agreement" (**TSA**) that NFE entered into with certain creditors on September 30, 2024.² The TSA indicated that NFE would capitalize NFE Financing LLC (**NFE Financing**), a newly formed subsidiary of NFE, as part of an exchange and subscription transaction. The transactions contemplated by the TSA included the exchange of NFE's 6.500% senior secured notes due 2026 (the **2026 Notes**) and the 8.750% senior secured notes due 2029 (the **2029 Notes**) for new notes issued by NFE Financing (**NFE Financing Notes**). On December 9, 2024, NFE issued a press release indicating that "more than two-thirds" of each of the 2026 and 2029 Notes were exchanged for NFE Financing Notes.³ Eligible Information indicates that U.S. \$990 million of the 2026 Notes and U.S. \$513 million of the 2029 Notes, totaling to U.S. \$1.503 billion, were subject to the exchange for the NFE Financing Notes on December 3, 2024 (the **Exchange Date**).⁴

2. ANALYSIS UNDER THE 2014 DEFINITIONS

Under the 2014 Definitions, the determination of a Successor focuses on whether a given entity "succeeds" to the "Relevant Obligations" of the Reference Entity. An entity "succeeds" to a Reference Entity and its Relevant Obligations when it "(ii) issues Bonds or incurs Loans (the 'Exchanged Bonds or Loans') that are exchanged for Relevant Obligations, and in either case the Reference Entity is not thereafter a direct obligor or a provider of a Relevant Guarantee with respect to such Relevant

¹ Each capitalized term used but not defined in this Statement shall have the meaning given to it in (a) the 2014 Definitions, or (b) the Credit Derivatives Determinations Committees Rules (as amended as of the date hereof) (the **DC Rules**), as applicable.

² See New Fortress Energy Inc.'s Form 10-Q filing on November 12, 2024: <https://www.sec.gov/ix?doc=/Archives/edgar/data/1749723/000174972324000116/nfe-20240930.htm>.

³ See New Fortress Energy Inc.'s press release, "New Fortress Energy Financing Update": <https://ir.newfortressenergy.com/news-releases/news-release-details/new-fortress-energy-financing-update-0>.

⁴ Section 2.2(g) of the 2014 Definitions ("In the case of an exchange offer, the determination . . . shall be made on the basis of the outstanding principal balance of Relevant Obligations exchanged and not on the basis of the outstanding principal balance of the Exchange Bonds or Loans.")

Obligations or such Exchange Bonds or Loans."⁵ In the case of an exchange, the determination is based on the proportion of Relevant Obligations that the new entity succeeded to relative to the outstanding balance of the exchanged bonds at the time of the exchange.⁶

Further, Relevant Obligations are "the Obligations of the Reference Entity which fall within the Obligation Category 'Bond or Loan' and which are outstanding immediately prior to the Succession Date."⁷ ⁸ An "Obligation" means "any obligation of the Reference Entity (either directly or as provider of a Relevant Guarantee)," excluding any Bonds or Loans outstanding between the Reference Entity and any of its Affiliates [...].⁹ The Americas DC identified the following outstanding obligations immediately prior to the Exchange Date where NFE is the direct obligor.¹⁰

Obligation (NFE as Direct Obligor)	Aggregate Principal Amount Outstanding
2026 Notes	\$1,490,000,000
2029 Notes	\$737,000,000
Revolving Facility	\$1,000,000,000
Term Loan A	\$249,000,000
Term Loan B	\$775,000,000
EB-5 Loan	\$99,000,000
Turbine Financing	\$145,000,000
Total of Outstanding Obligations on the Exchange Date	\$4,495,000,000

Using the total amount listed above as the basis for NFE's Relevant Obligations, NFE Financing would have succeeded to 33.4% of NFE's Relevant Obligations. This percentage is based on the ratio of the notes subject to the exchange (U.S. \$1.503 billion) to NFE's total Relevant Obligations (U.S. \$4.495 billion), calculated as $1.503/4.495 = 33.4\%$.

Relevant Obligations may also include obligations of the Reference Entity where it is a provider of a Relevant Guarantee.¹¹ The Transaction Type applicable to NFE is Standard North American Corporate. "All Guarantees" is not specified as applicable for Credit Derivative Transactions with a Transaction

⁵ Section 2.2(d)(ii) of the 2014 Definitions.

⁶ Section 2.2(a) of the 2014 Definitions.

⁷ Section 2.2(f) of the 2014 Definitions.

⁸ Section 2.2(j) of the 2014 Definitions ("Succession Date" means the legally effective date of an event in which one or more entities succeed to some or all of the Relevant Obligations of the Reference Entity . . .").

⁹ Section 3.1(a) of the 2014 Definitions.

¹⁰ See New Fortress Energy Inc.'s SEC filings: <https://www.sec.gov/edgar/browse/?CIK=1749723&owner=exclude>.

¹¹ Sections 3.1(a) and 3.22 of the 2014 Definitions.

Type of Standard North American Corporate, and therefore, only a Qualifying Affiliate Guarantee is a Relevant Guarantee for purposes of NFE. A "Qualifying Affiliate Guarantee" means a "Qualifying Guarantee provided by the Reference Entity in respect of an Underlying Obligation of a Downstream Affiliate of the Reference Entity."¹² The Americas DC identified the following outstanding obligations where NFE is the provider of a guarantee prior to the Exchange Date.¹³

Obligation (NFE-guaranteed)	Aggregate Principal Amount Outstanding
South Power 2029 Bonds	\$218,000,000
PortoCem Debentures	\$742,000,000
Lumina Notes	\$350,000,000
Total of Potentially Outstanding Obligations on the Exchange Date	\$1,310,000,000

The Americas DC has not been able to determine whether the outstanding obligations above are Relevant Obligations of NFE because it has not been able to review the guarantees in place at the time of the exchange or other Eligible Information to confirm that they satisfy the definition of a Relevant Guarantee. Assuming the NFE-guaranteed obligations are considered Relevant Guarantees, NFE Financing would have succeeded to 25.9% of NFE's Relevant Obligations. This percentage is based on the ratio of the notes subject to the exchange (U.S. \$1.503 billion) to NFE's total Relevant Obligations (U.S. \$5.805 billion), calculated as $1.503 / (4.495 + 1.310) = 25.9\%$. Therefore, regardless of whether the NFE-guaranteed obligations are considered Relevant Guarantees, the portion of Relevant Obligations succeeded to by NFE Financing is above 25% and below 75%.

On the basis of Eligible Information, the Americas DC determined that (i) NFE Financing succeeded to more than 25% of the Relevant Obligations of NFE and (ii) more than 25% of NFE's Relevant Obligations remained with NFE. Given these determinations, both NFE and NFE Financing are Successors under Section 2.2(a)(iv) of the 2014 Definitions.¹⁴ Pursuant to Section 2.2(n) of the 2014 Definitions, each existing Credit Derivative Transaction specifying the Reference Entity would be divided into two, equally sized New Credit Derivative Transactions, and each Successor would be Reference Entity for the purposes of one of these New Credit Derivative Transactions.¹⁵ The Americas DC therefore Resolved that NFE and NFE Financing are joint Successors to NFE with respect to Credit Derivative Transactions, and that the Succession Date is December 3, 2024.

¹² Section 3.21 of the 2014 Definitions ("A Qualifying Guarantee means a guarantee evidenced by a written instrument . . . pursuant to which the Reference entity irrevocably agrees, undertakes, or is otherwise obliged to pay all amounts of principal and interest . . .").

¹³ See New Fortress Energy Inc.'s SEC filings: <https://www.sec.gov/edgar/browse/?CIK=1749723&owner=exclude>.

¹⁴ Section 2.2(a)(iv) of the 2014 Definitions.

¹⁵ Section 2.2(n) of the 2014 Definitions.