

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY AND CARBON MANAGEMENT

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PORT ARTHUR LNG, LLC

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DOCKET NO. 15-53-LNG  
DOCKET NO. 15-96-LNG  
DOCKET NO. 18-162-LNG

ORDER GRANTING APPLICATION TO EXTEND TERM TO BEGIN EXPORTS OF  
LIQUEFIED NATURAL GAS TO FREE TRADE AGREEMENT COUNTRIES AND  
TO EXTEND DEADLINE TO COMMENCE EXPORTS OF LIQUEFIED NATURAL GAS  
TO NON-FREE TRADE AGREEMENT COUNTRIES

DOE/FECM ORDER NO. 3698-C  
DOE/FECM ORDER NO. 4372-B

APRIL 21, 2023

## I. INTRODUCTION AND BACKGROUND

On November 18, 2022, Port Arthur LNG, LLC (PALNG) filed with the Department of Energy’s (DOE) Office of Fossil Energy and Carbon Management (FECM)<sup>1</sup> a “Request for Extensions of Time”<sup>2</sup> under section 3 of the Natural Gas Act (NGA),<sup>3</sup> which DOE construes as an application (Application)<sup>4</sup> to amend PALNG’s existing long-term orders authorizing the export of domestically produced liquefied natural gas (LNG).<sup>5</sup> PALNG is currently authorized to export LNG from the proposed Port Arthur LNG Project (Liquefaction Project or Project) to be located in Port Arthur, Texas, under the following two orders:

- DOE/FE Order No. 3698, as amended by Order Nos. 3698-A and 3698-B,<sup>6</sup> authorizing exports in a volume equivalent to 698 billion cubic feet per year (Bcf/yr) of natural gas for a term extending through December 31, 2050, to any country with which the United States has entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas (FTA countries), pursuant to NGA section 3(c),<sup>7</sup> and
- DOE/FE Order No. 4372, as amended by Order No. 4372-A,<sup>8</sup> authorizing exports in a volume equivalent to 698 Bcf/yr of natural gas for a term extending through

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<sup>1</sup> The Office of Fossil Energy changed its name to the Office of Fossil Energy and Carbon Management on July 4, 2021.

<sup>2</sup> Port Arthur LNG, LLC, Request for Extensions for Long-Term Authorizations to Export Liquefied Natural Gas, Docket Nos. 15-53-LNG, *et al.* (Nov. 18, 2022) [hereinafter App.]. PALNG subsequently filed a supplement to the Request containing an opinion of counsel in compliance with 10 C.F.R. § 590.202(c).

<sup>3</sup> 15 U.S.C. § 717b. 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 FECM in Redelegation Order No. S4- DEL-FE1-2023, issued on April 10, 2023.

<sup>4</sup> See 10 C.F.R. § 590.201(a).

<sup>5</sup> App. at 3-4. For purposes of this Order, DOE uses the terms “authorization” and “order” interchangeably.

<sup>6</sup> *Port Arthur LNG, LLC*, DOE/FE Order No. 3698, Docket No. 15-53-LNG, Order Amending Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel From the Proposed Port Arthur LNG Project in Port Arthur, Texas, to Free Trade Agreement Nations (Aug. 20, 2015), *amended by* DOE/FE Order No. 3698-A (Nov. 20, 2018) (increasing export volume and amending start date of FTA export term), *further amended by* DOE/FE Order No. 3698-B (Oct. 28, 2020) (extending export term). Although Order No. 3698 was issued in Docket No. 15-53-LNG, the amendment to Order No. 3698 was docketed in both Docket Nos. 15-53-LNG and 18-162-LNG.

<sup>7</sup> 15 U.S.C. § 717b(c). 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.

<sup>8</sup> *Port Arthur LNG, LLC*, DOE/FE Order No. 4372, Docket No. 15-96-LNG, Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations (May 2, 2019), *amended by* DOE/FE Order No. 4372-A (Oct. 28, 2020) (extending export term).

December 31, 2050, to any other country with which trade is not prohibited by U.S. law or policy (non-FTA countries), pursuant to NGA section 3(a).<sup>9</sup>

Under these authorizations, the FTA and non-FTA volumes are not additive.

As set forth in PALNG's Application, DOE/FE Order No. 3698, as amended by Order No. 3698-A, "sets the start date of the term of the FTA authorization no later than seven years from the date of the order (*i.e.*, November 20, 2025)."<sup>10</sup> The non-FTA authorization, DOE/FE Order No. 4372, "requires PALNG to commence commercial exports [to non-FTA countries] within seven years of the date of the order (*i.e.*, by May 2, 2026)."<sup>11</sup>

On April 18, 2019, the Federal Energy Regulatory Commission (FERC) issued an order authorizing PALNG to site, construct, and operate the Project.<sup>12</sup> FERC's order required PALNG to construct the Project and make it available for service within five years, *i.e.*, by April 18, 2024.<sup>13</sup> On July 28, 2022, PALNG filed a request at FERC seeking an extension of the April 18, 2024 deadline until June 18, 2028.<sup>14</sup> On October 13, 2022, FERC issued an order granting PALNG's request on the basis of good cause shown (FERC Extension Order), and thus extended the construction and in-service deadline for the Project until June 18, 2028.<sup>15</sup>

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<sup>9</sup> 15 U.S.C. § 717b(a).

<sup>10</sup> App. at 3; *see also Port Arthur LNG, LLC*, DOE/FE Order No. 3698-B, at 9 (Ordering Para. A).

<sup>11</sup> App. at 3; *see Port Arthur LNG, LLC*, DOE/FE Order No. 4372, at 72 (Ordering Para. D). DOE notes that the FTA requirement applies to the date by which an authorization holder's FTA export term must start, whereas the non-FTA requirement applies to the deadline by which an authorization holder must commence export operations to non-FTA countries (after which point the non-FTA authorization will expire by its own terms).

<sup>12</sup> App. at 1-2 (citing *Port Arthur LNG, LLC*, 167 FERC ¶ 61,052 (2019)). In the same order, FERC authorized PALNG's affiliate, Port Arthur Pipeline, LLC, to construct and operate two natural gas pipelines.

<sup>13</sup> *Id.*

<sup>14</sup> *See Port Arthur LNG, LLC, et al.*, Joint Request for Extension of Time, FERC Docket Nos. CP17-20-000, *et al.* (July 28, 2022).

<sup>15</sup> *Port Arthur LNG, LLC, et al.*, Order Granting Extension of Time Request, FERC Docket Nos. CP17-20-001, *et al.*, 181 FERC ¶ 61,024 (2022), [https://elibrary.ferc.gov/eLibrary/filelist?accession\\_number=20221013-3086](https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20221013-3086) [hereinafter FERC Extension Order]; *see also* App. at 3, 7.

In this proceeding, PALNG asks DOE to amend its export authorizations to align with the June 18, 2028 construction and in-service deadline approved in the FERC Extension Order as follows:

- DOE/FE Order No. 3698, as amended, to extend the start date of the FTA export term from November 20, 2025, to June 18, 2028; and
- DOE/FE Order No. 4372, to extend the deadline to commence commercial non-FTA exports from May 2, 2026, to June 18, 2028.<sup>16</sup>

The Application, if granted, would extend the start date of PALNG’s FTA export term in Order No. 3698, as amended, by approximately 31 months, and would extend the export commencement deadline in PALNG’s non-FTA authorization (Order No. 4372) by approximately 25 months. The end date of both authorizations—December 31, 2050—would remain the same.<sup>17</sup>

Below, DOE grants PALNG’s Application. Specifically, NGA section 3(c) was amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486) to require that FTA applications “shall be deemed to be consistent with the public interest” and granted “without modification or delay.”<sup>18</sup> The FTA portion of PALNG’s Application falls within NGA section 3(c) and, therefore, DOE approves the requested extension by removing any deadline for the start of the FTA export term. Because the term of PALNG’s FTA authorization now extends to the fixed date of December 31, 2050, it is no longer necessary to impose a specific date by which the term of the FTA authorization must start. Therefore, rather than modify the FTA order to include a June 18, 2028 deadline for the export term to start, DOE is modifying the FTA term to

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<sup>16</sup> App. at 3-4.

<sup>17</sup> *Id.* at 6-7.

<sup>18</sup> 15 U.S.C. § 717b(c).

begin on the date of first export, consistent with DOE precedent.<sup>19</sup> None of the public interest analysis discussed below applies to the FTA portion of the Application.

DOE also grants the non-FTA portion of the Application under NGA section 3(a). On December 19, 2022, DOE published a Notice of Request (Notice) for the non-FTA portion of PALNG's Application in the *Federal Register*.<sup>20</sup> DOE invited the public to submit protests, motions to intervene, notices of intervention and written comments in response to the Application by January 3, 2023.<sup>21</sup> Public Citizen, Inc. filed a "Motion to Intervene and Protest" opposing the requested commencement extension on January 3, 2023.<sup>22</sup> DOE received no other filings in response to the Notice. On January 17, 2023, PALNG filed an "Answer of Port Arthur LNG, LLC in Opposition to Motion to Intervene and Protest of Public Citizen."<sup>23</sup> Upon review of the record, and for the reasons set forth below, DOE denies Public Citizen's motion to intervene; accepts Public Citizen's filing as a protest opposing the requested non-FTA commencement extension; and finds good cause to grant the requested extension for PALNG's non-FTA authorization (Order No. 4372, as amended).<sup>24</sup>

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<sup>19</sup> See *infra* at 15 (Ordering Para. A); see also, e.g., *NFE Altamira FLNG, S. de R.L. de C.V.*, DOE/FECM Order No. 4960, Docket No. 22-110-LNG, Order Granting Long-Term Authorization to Export Natural Gas to Mexico and to Other Free Trade Agreement Nations, at 15-16 (Ordering Para. A) (Mar. 3, 2023).

<sup>20</sup> U.S. Dep't of Energy, Port Arthur LNG, LLC; Request for Extension for Long-Term Authorization to Export Liquefied Natural Gas, 87 Fed. Reg. 77,585 (Dec. 19, 2022) [hereinafter Notice of Application].

<sup>21</sup> See *id.* DOE finds that the requirement for public notice of applications in 10 C.F.R. Part 590 is applicable only to non-FTA applications under NGA section 3(a).

<sup>22</sup> Public Citizen, Inc., Motion to Intervene and Protest, Docket No. 15-96-LNG (Jan. 3, 2023) [hereinafter Public Citizen Pleading]. Public Citizen subsequently resubmitted this Pleading with an attached Verification in compliance with 10 C.F.R. § 590.103(b).

<sup>23</sup> Port Arthur LNG, LLC, Answer of Port Arthur LNG, LLC in Opposition to Motion to Intervene and Protest of Public Citizen, Docket No. 15-96-LNG (Jan. 17, 2023) [hereinafter PALNG Answer].

<sup>24</sup> Concurrently with the issuance of this Order, DOE is issuing a policy statement on extensions to export commencement deadlines in non-FTA orders going forward. See U.S. Dep't of Energy, Policy Statement on Export Commencement Deadlines in Authorizations to Export Natural Gas to Non-Free Trade Agreement Countries, \_\_\_ Fed. Reg. \_\_\_ (forthcoming) (signed on Apr. 21, 2023) [hereinafter Policy Statement]. The Policy Statement also will be posted on DOE's website at <https://www.energy.gov/fecm/regulation>. Because PALNG submitted its Application before issuance of the Policy Statement, DOE is not reviewing PALNG's Application under the Policy Statement.

## II. DESCRIPTION OF APPLICATION

PALNG asks DOE to extend the deadline for it to begin exports of LNG under its existing FTA and non-FTA authorizations until June 18, 2028, “such that the term of each authorization would begin on the earlier of the date of first commercial export or June 18, 2028.”<sup>25</sup> PALNG states that this amendment would be “consistent with the deadline recently approved by the FERC” in the FERC Extension Order.<sup>26</sup>

PALNG asserts that good cause exists for DOE to grant the extension. PALNG states that it “has proceeded expeditiously to advance the Liquefaction Project despite adverse market conditions and logistical issues associated with the COVID-19 pandemic.”<sup>27</sup> Specifically, PALNG states that it has faced unanticipated contracting and logistical delays due to the COVID-19 pandemic and its effects on the global LNG market.<sup>28</sup> PALNG states that these challenges have prevented PALNG from meeting its construction and in-service deadlines established by FERC and resulted in delays in both finalizing long-term LNG offtake agreements and (at the time of the Application) reaching a final investment decision (FID) on the Liquefaction Project.<sup>29</sup> According to PALNG, these delays, in turn, have affected its timeline for proceeding with full construction of the Project.<sup>30</sup>

Nonetheless, PALNG states that it has taken the following steps to develop the Project:

- Obtained all federal, state, and local authorizations necessary for the construction of the Project facilities;
- Executed an engineering, procurement, and construction contract with Bechtel Oil, Gas, and Chemicals, Inc.;

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<sup>25</sup> App. at 1; *see also id.* at 4.

<sup>26</sup> *Id.* at 2-3.

<sup>27</sup> *Id.* at 4.

<sup>28</sup> *Id.* at 5.

<sup>29</sup> *Id.*; *see also infra* at 8.

<sup>30</sup> *Id.*

- Relocated a state highway and collocated utilities, access roads, and a Pioneer dock;
- Undertaken site preparation activities, including removing abandoned pipelines and utilities from the Project site; and
- Spent over \$220 million toward the Project.<sup>31</sup>

PALNG states that the requested extension of time will enable it to complete the necessary arrangements to commence construction and place the Project into service.<sup>32</sup> PALNG also points to FERC’s finding in the FERC Extension Order that PALNG “has sufficiently demonstrated its continued interest in the project and has encountered circumstances beyond its control that prevented it from meeting the deadline in the [FERC] Authorization Order.”<sup>33</sup>

PALNG further asserts that global LNG market conditions have been improving, and that its parent company, Sempra Infrastructure Partners, LP, “has entered into heads of agreements with multiple companies (including potential European offtakers) for the negotiation of long-term sale and purchase agreements for LNG from the PALNG facilities.”<sup>34</sup> PALNG adds that it intends to finalize these agreements and secure additional customer agreements.<sup>35</sup>

PALNG states that it is not proposing any changes to the nature, scope, or design of the Project, nor is it requesting an increase in the volume of natural gas to be exported from the Project.<sup>36</sup> PALNG thus maintains that DOE’s public interest determination in its non-FTA authorization, Order No. 4372, as amended, will not be affected by the requested extension, and that “the public interest continues to be served by this extension request.”<sup>37</sup>

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<sup>31</sup> App. at 4-5.

<sup>32</sup> *Id.* at 6.

<sup>33</sup> *Id.* at 7 (quoting FERC Extension Order at P 9).

<sup>34</sup> *Id.* at 5.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.* at 6.

<sup>37</sup> App. at 6.

DOE takes administrative notice that, on March 20, 2023, while PALNG’s Application was pending, PALNG announced that it had reached FID for the development, construction, and operation of the Port Arthur LNG Phase 1 project.<sup>38</sup>

### **III. DOE PROCEEDING FOR NON-FTA COMMENCEMENT EXTENSION**

#### **A. Public Citizen’s Motion to Intervene and Protest**

In response to the Notice of PALNG’s requested commencement extension published in the *Federal Register*, DOE received a Motion to Intervene and Protest filed by Public Citizen (Public Citizen Pleading).<sup>39</sup> Public Citizen notes that it filed a motion to intervene in a different proceeding in this docket on April 18, 2022 (in response to a notice of change in control filed by PALNG). Public Citizen states that “[i]t is unclear whether a new motion to intervene is required, but out of an abundance of caution we move to intervene again.”<sup>40</sup>

Turning to its protest, Public Citizen challenges PALNG’s requested commencement extension for its non-FTA order on several grounds. Public Citizen argues that DOE “cannot permit” an authorization from the year 2028 through 2050 without examining the impacts of PALNG’s exports in “increas[ing] levels of energy poverty and utility service disconnections for tens of millions of families.”<sup>41</sup> Next, Public Citizen argues that DOE is improperly relying on a “discredited, five-year old macroeconomic study” to allow exports of LNG—referring to DOE’s 2018 LNG Export Study.<sup>42</sup> Public Citizen also claims that, if DOE were to grant the requested extension, energy supply shortages could occur in the northeast United States as the region

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<sup>38</sup> See “Sempra Launches Port Arthur LNG Project” (Mar. 20, 2023), <https://www.sempra.com/sempra-launches-port-arthur-lng-project>.

<sup>39</sup> See Public Citizen Pleading, *supra* note 22.

<sup>40</sup> *Id.* at 1.

<sup>41</sup> *Id.* at 2.

<sup>42</sup> *Id.*; see also NERA Economic Consulting, *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports* (June 7, 2018), <https://www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf> [hereinafter 2018 LNG Export Study or 2018 Study].



would need to compete with LNG exports.<sup>43</sup> In sum, Public Citizen argues that, absent DOE “requiring a detailed assessment of the impacts Port Arthur LNG’s proposed exports will have on exacerbating domestic energy poverty and physical shortages of energy access, it must deny Port Arthur LNG’s request.”<sup>44</sup>

## **B. PALNG’s Answer**

In its Answer to Public Citizen’s Pleading, PALNG asks DOE to deny Public Citizen’s motion to intervene and protest.<sup>45</sup> First, PALNG argues that Public Citizen has failed to satisfy DOE’s requirements for intervention set forth in 10 C.F.R. Part 590.<sup>46</sup> Specifically, PALNG cites 10 C.F.R. § 590.303 (“Interventions and answers”), which provides that a person seeking to become a party to a proceeding “shall file a motion to intervene, *which sets out clearly and concisely the facts upon which the petitioner’s claim of interest is based.*”<sup>47</sup> PALNG further states that “[t]he *Federal Register* notice for the Extension Request ... reiterates that motions to intervene must satisfy the requirements set forth in 10 C.F.R. Part 590, which includes the requirements of section 590.303.”<sup>48</sup>

PALNG contends that Public Citizen’s motion to intervene is “insufficient” because it “does not set out the facts upon which its claim of interest in the Extension Request is based,” as required by 10 C.F.R. § 590.303.<sup>49</sup> PALNG argues that, by “merely stat[ing] that it ‘moves to

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<sup>43</sup> See Public Citizen Pleading at 2.

<sup>44</sup> *Id.*

<sup>45</sup> PALNG Answer at 1.

<sup>46</sup> *Id.* at 2-3.

<sup>47</sup> *Id.* at 2 (quoting 10 C.F.R. § 590.303(b) and emphasis provided by PALNG).

<sup>48</sup> *Id.* (citing Notice of Application, 87 Fed. Reg. at 77,586).

<sup>49</sup> *Id.* at 3.

intervene in this proceeding,” Public Citizen “has failed to meet the basic requirements for interventions” and thus its motion should be denied.<sup>50</sup>

Next, PALNG asserts that, if DOE accepts Public Citizen’s protest, Public Citizen’s arguments opposing the Application are unsupported and should be rejected.<sup>51</sup> PALNG maintains that Public Citizen’s arguments are “directed toward the export of natural gas generally and not to the Extension Request,” which “does not seek to make the term of authorization longer.”<sup>52</sup>

PALNG also disputes Public Citizen’s arguments concerning both the continuing validity of DOE’s 2018 LNG Export Study and the alleged impacts of PALNG’s non-FTA exports on consumers and energy supplies in the U.S. Northeast.<sup>53</sup> PALNG argues that Public Citizen does not specify any flaws in the 2018 LNG Export Study, and instead criticizes the Study’s findings without evidentiary support.<sup>54</sup> Next, PALNG contends that Public Citizen’s claims about adverse distributional impacts on consumers (*i.e.*, “energy poverty”) are vague and generalized, and thus fail to demonstrate that the requested extension will be inconsistent with the public interest. PALNG points to DOE’s 2018 LNG Export Study, as well as to a judicial decision upholding an earlier DOE non-FTA authorization, in arguing that DOE has adequately considered distributional impacts associated with exports of LNG.<sup>55</sup> PALNG further argues that natural gas prices have been flat or declining over time, and that recent “acute” price dynamics have been due to a global energy crisis precipitated by Russia’s invasion of Ukraine and the

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<sup>50</sup> *Id.* (quoting Public Citizen Pleading at 1). PALNG adds that, to the extent Public Citizen “seeks party status in this portion of the proceeding by virtue of its intervention in a prior [PALNG] proceeding involving a statement of Change in Control,” this request must also be denied. *Id.*

<sup>51</sup> PALNG Answer at 3.

<sup>52</sup> *Id.*

<sup>53</sup> *See id.* at 5-8.

<sup>54</sup> *Id.* at 5.

<sup>55</sup> *Id.* at 4-5 (citing, *e.g.*, *Sierra Club v. U.S. Dep’t of Energy*, 703 Fed. Appx. 1, at \*3 (D.C. Cir. Nov. 1, 2017)).

lingering impacts of the global COVID-19 pandemic.<sup>56</sup> Finally, PALNG states that Public Citizen “fails to account for the fact that natural gas inventory, as measured by reserves and resources, has substantially increased over this same period, resulting in significant available economic supply.”<sup>57</sup>

#### **IV. DISCUSSION AND CONCLUSIONS FOR NON-FTA COMMENCEMENT EXTENSION**

##### **A. Procedural Matters**

PALNG opposes the motion to intervene filed by Public Citizen. Upon review of PALNG’s arguments, we agree that Public Citizen has failed to meet DOE’s regulatory requirements for intervention. Although Public Citizen was correct to file a new motion to intervene in response to the Notice of PALNG’s Application,<sup>58</sup> Public Citizen’s Pleading fails to set out facts upon which its claim of interest is based, as required for intervention under 10 C.F.R. § 590.303(b).<sup>59</sup> DOE stated in the Notice that “[a]ll protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590,”<sup>60</sup> and thus Public Citizen was on notice of these compliance requirements.

Nonetheless, we find that Public Citizen has met the regulatory requirements for filing a protest. Under DOE’s regulations, “[n]o particular form is required” for a protest, so long as the protest identifies “the person filing the protest, the application or action being objected to, and ... a concise statement of the reasons for the protest.”<sup>61</sup> We find that Public Citizen’s Pleading

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<sup>56</sup> *Id.* at 6.

<sup>57</sup> PALNG Answer at 6.

<sup>58</sup> *See* Notice of Application, 87 Fed. Reg. at 77,586 (“Any person wishing to become a party to this portion of the proceeding evaluating PALNG’s Request must file a motion to intervene or notice of intervention.”).

<sup>59</sup> *Compare* Public Citizen, Inc., Motion to Intervene, Docket Nos. 11-145-LNG, *et al.*, at 1 (Apr. 18, 2022).

<sup>60</sup> Notice of Application, 87 Fed. Reg. at 77,586.

<sup>61</sup> 10 C.F.R. § 590.304(a).

satisfies these requirements. We therefore deny Public Citizen’s motion to intervene but accept its Pleading as a protest of the non-FTA portion of PALNG’s Application.<sup>62</sup>

**B. Grant of Requested Commencement Extension for Non-FTA Authorization**

NGA section 3(a) states, in relevant part, that DOE “may from time to time, after opportunity for hearing, and for good cause shown, make such supplemental order ... as it may find necessary or appropriate.”<sup>63</sup> Upon review of the record, including Public Citizen’s arguments, DOE finds that PALNG has demonstrated good cause for the requested extension to the export commencement deadline set forth in its non-FTA authorization (Order No. 4372, as amended).

As noted above, FERC has already determined that it was appropriate to extend PALNG’s construction and in-service deadline for the Liquefaction Project to June 18, 2028.<sup>64</sup> DOE has the responsibility to independently evaluate any application to extend the deadline by which exports must commence from the Project, as well as the discretion to establish different deadlines than FERC. We nonetheless take into account the reasoning set forth by FERC in its Extension Order.

In the Application, citing adverse market conditions and logistical issues associated with the COVID-19 pandemic, PALNG maintains that it needs additional time to reach FID and complete full construction of the Project. PALNG seeks a reasonable extension of approximately 25 months, a period of time that would have overlapped substantially with the COVID-19 pandemic that began in early 2020. Further, we note that, on March 20, 2023, PALNG announced that it had, in fact, reached FID and commenced construction of the Port

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<sup>62</sup> See *infra* at 16 (Ordering Para. D).

<sup>63</sup> 15 U.S.C. § 717b(a).

<sup>64</sup> See FERC Extension Order, 181 FERC ¶ 61,024; see also *supra* at 7 (quoting FERC Extension Order).

Arthur LNG Phase 1 project—which PALNG states is “fully permitted” and has estimated total capital expenditures of \$13 billion.<sup>65</sup> This recent milestone supports PALNG’s assertions that it “has worked diligently to develop the Liquefaction Project”<sup>66</sup> and requires the extension “to complete the construction and place the export facilities into service.”<sup>67</sup>

Additionally, DOE agrees with PALNG that extending the deadline to commence non-FTA exports from the Project does not alter DOE’s public interest determination in granting DOE/FE Order No. 4372, as amended, under NGA section 3(a).<sup>68</sup> No facts associated with PALNG’s original non-FTA application, and no requirements of the non-FTA authorization, are affected by this extension beyond the additional time period for PALNG to commence export operations. Indeed, because the term of PALNG’s non-FTA authorization ends on December 31, 2050,<sup>69</sup> the result of the requested commencement extension—postponing the commencement deadline by approximately 25 months from May 2, 2026, to June 18, 2028—is that PALNG will have approximately two years *fewer* to export LNG to non-FTA countries. Accordingly, as PALNG’s annual authorized export volume is fixed (698 Bcf/yr of natural gas), a grant of the commencement extension will result in a lower total volume of LNG exports over the term of the authorization.

Public Citizen expresses generalized opposition to PALNG’s non-FTA authorization, as well as to DOE’s LNG export policies and the 2018 LNG Export Study.<sup>70</sup> But Public Citizen

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<sup>65</sup> See “Sempra Launches Port Arthur LNG Project” (Mar. 20, 2023), <https://www.sempra.com/sempra-launches-port-arthur-lng-project>.

<sup>66</sup> App. at 4.

<sup>67</sup> *Id.* at 6; see also *supra* at 6-7 (PALNG’s steps toward developing the Project).

<sup>68</sup> See *id.* at 6-7; PALNG Answer at 3-6.

<sup>69</sup> See *Port Arthur LNG, LLC*, DOE/FE Order No. 4372-A (extending non-FTA export term to December 31, 2050).

<sup>70</sup> DOE notes that Public Citizen had an opportunity to participate in the public proceeding for both PALNG’s non-FTA application and the 2018 LNG Export Study, but it did not do so. See *Port Arthur LNG, LLC*, DOE/FE Order No. 4372, at 4; U.S. Dep’t of Energy, Study on Macroeconomic Outcomes of LNG Exports; Response to Comments Received on Study, 83 Fed. Reg. 67,251, 67,260 n.78 (Dec. 28, 2018).

does not address in any meaningful way the only action before us: whether to grant the requested extension of PALNG’s export commencement deadline. Public Citizen asserts, for example, that “[e]xtending the commencement deadline will render the underlying public interest assessment stale,” but it does not explain (or demonstrate evidence to show) how providing additional time for PALNG to commence exports will impact the public interest factors that DOE considered in Order No. 4372—including how the additional 25 months for project development allegedly will “exacerbate” energy poverty and utility service disconnections when there will be no increase in the volume of exports previously approved.<sup>71</sup> Nor does Public Citizen seek to refute any of PALNG’s facts about its project status or the contracting and logistical delays necessitating the extension. Because this proceeding involves only the requested commencement extension, we find that any objections about LNG exports beyond that issue are not relevant.<sup>72</sup>

Finally, Public Citizen states that PALNG’s request would result in an “unconditioned” two-year extension,<sup>73</sup> but this is not accurate. As set forth below, the Terms and Conditions and Ordering Paragraphs established in PALNG’s non-FTA authorization remain in effect, with this Order modifying only the export commencement deadline set forth in Ordering Paragraph D of Order No. 4372 (and rendering moot the related Term and Condition B).

Because we find that PALNG has demonstrated good cause for an extension of time to commence export operations from the Project to non-FTA countries, we grant the requested extension to June 18, 2028.

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<sup>71</sup> Public Citizen Pleading at 1; *see also* PALNG Answer at 4-5 (summarizing DOE’s prior findings on distributional impacts associated with exports of U.S. LNG to non-FTA countries).

<sup>72</sup> *Cf.* FERC Extension Order at P 11 (“The request under consideration . . . concerns only the timing, not the nature, of Port Arthur’s projects.”); *see also id.* (Danly, Comm’r, concurring) (“Our inquiry when reviewing a request for extension of time is narrow—it is not an opportunity to revisit the determinations made in Natural Gas Act authorizations after orders have become final and unappealable.”).

<sup>73</sup> Public Citizen Pleading at 1.

## ORDER

Pursuant to section 3 of the Natural Gas Act, DOE hereby orders that:

A. **DOE/FE Order No. 3698 (Docket Nos. 15-53-LNG, 18-162-LNG, FTA Authorization)**. The relevant sentence in Ordering Paragraph A of DOE/FE Order No. 3698, as amended most recently by Order No. 3698-B, is amended to state in full:

Port Arthur LNG, LLC (Port Arthur LNG) is authorized to export domestically produced LNG by vessel from the Port Arthur LNG Project to be located in Port Arthur, Texas. The volume authorized in this Order is equivalent to approximately 698 Bcf/yr of natural gas for a term beginning on the date of first export and extending through December 31, 2050. Port Arthur LNG is authorized to export this LNG on its own behalf and as agent for other entities that hold title to the natural gas, pursuant to one or more contracts of any duration.<sup>74</sup>

B. **DOE/FE Order No. 4372 (Docket No. 15-96-LNG, Non-FTA Authorization)**.

Ordering Paragraph D of DOE/FE Order No. 4372 is amended to state:

Port Arthur LNG must commence export operations using the planned liquefaction facilities no later than June 18, 2028.

This amended Ordering Paragraph D supersedes Ordering Paragraph D in Order No. 4372 in its entirety.<sup>75</sup>

C. All other obligations, rights, and responsibilities established by DOE/FE Order

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<sup>74</sup> See U.S. Dep't of Energy, Including Short-Term Export Authority in Long-Term Authorizations for the Export of Natural Gas on a Non-Additive Basis; Policy Statement, 86 Fed. Reg. 2,243 (Jan. 12, 2021).

<sup>75</sup> This amendment renders moot Term and Condition (B) of DOE/FE Order No. 4372, "Commencement of Operations." See *Port Arthur LNG, LLC*, DOE/FE Order No. 4372, at 66-67.

Nos. 3698 and 4372, as amended, remain in effect.

D. Public Citizen's motion to intervene is denied, pursuant to 10 C.F.R. § 590.303(b).

Issued in Washington, D.C., on April 21, 2023.



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Brad Crabtree  
Assistant Secretary  
Office of Fossil Energy and Carbon Management