

July 11, 2023

By Electronic Mail

Amy Sweeney, Director
Office of Regulation, Analysis and Engagement (FE-34)
Office of Fossil Energy and Carbon Management
U.S. Department of Energy
1000 Independence Ave., S.W.
Washington, D.C. 20585
fergas@hq.doe.gov

Attention: Cove Point LNG, LP
FECM Docket Nos. 11-115-LNG, 11-128-LNG, 22-22-LNG, and 22-155-LNG
Notification In Accordance with Procedures for Changes in Control

Dear Ms. Sweeney:

Pursuant to the authorizations to export and import natural gas issued by the Department of Energy, Office of Fossil Energy and Carbon Management (“DOE/FECM”) in the above-captioned proceedings and the “Procedures for Changes in Control Affecting Applications and Authorizations To Import or Export Natural Gas,”¹ Cove Point LNG, LP (“CPLNG”)² provides notification of a planned transaction in which Eastern MLP Holding Company II, LLC (“Eastern MLP II”), a wholly owned subsidiary of Berkshire Hathaway Energy Company (“BHE”), an Iowa corporation and a subsidiary of Berkshire Hathaway Inc., a Delaware corporation, which currently indirectly owns twenty-five percent (25%) of the limited partnership interest in CPLNG and one hundred percent (100%) of the general partnership interest in CPLNG, will acquire from DECP Holdings, Inc. (“DECP Holdings”), an indirect wholly owned subsidiary of Dominion Energy, Inc. (“DEI”), a Virginia corporation, DEI’s remaining indirectly owned fifty percent (50%) limited partnership interest in CPLNG (“Notification”). Following the closing of the transaction, BHE will indirectly own seventy-five percent (75%) of the limited partnership interest in CPLNG. As explained below, this change in control does not affect DOE/FECM’s determinations regarding natural gas exports and imports by CPLNG, which remain unchanged and consistent with the public interest.

BHE, Eastern MLP II, DECP Holdings and DEI have entered into a Purchase and Sale Agreement dated as of July 9, 2023 (the “PSA”) under which DEI’s indirect wholly owned subsidiary, DECP Holdings, will transfer all of its fifty percent (50%) limited partnership interest in CPLNG to BHE’s wholly owned subsidiary, Eastern MLP II, which currently owns

¹ 79 Fed. Reg. 65,541 (Nov. 5, 2014)(the “CIC Procedures”).

² Cove Point LNG, LP (formerly Dominion Energy Cove Point LNG, LP), DOE/FECM Order No. 3019-C, *et al.*, FECM Docket No. 11-115-LNG, *et al.* (Dec. 2, 2020)(reflecting corporate name change to Cove Point LNG, LP).

July 11, 2023

Page 2

twenty-five percent (25%) of the limited partnership interest in CPLNG. After closing, BHE's wholly owned subsidiary Eastern MLP II will own seventy-five percent (75%) of the limited partnership interest in CPLNG. The parties anticipate closing the transaction upon receipt of all regulatory approvals.

The transaction does not affect the governance of CPLNG, and the internal change in ownership of limited partnership interests among the existing owners does not amount to a change in control over CPLNG, however, to avoid any potential uncertainty about the continued effectiveness of CPLNG's export authorizations following the transaction, CPLNG is submitting this Notification in accordance with the CIC Procedures, and respectfully requests that DOE/FECM issue an order consistent with this request, if one is required under the CIC Procedures, at DOE/FECM's earliest opportunity and by no later than August 25, 2023.

Background Regarding CPLNG Authorizations and the CIC Procedures

CPLNG, a Delaware limited partnership, is the owner and operator of the Cove Point Terminal located in Lusby, Maryland ("the Terminal"), as well as an 88-mile natural gas pipeline corridor connecting the Terminal to the interstate pipeline grid. The Terminal has long been used to import liquefied natural gas ("LNG"). Beginning in 2018, CPLNG began to export LNG from the Terminal, rendering it a bi-directional facility capable of both imports and exports.

CPLNG currently holds long-term, multi-contract authority to export LNG from the Terminal (1) to any nation with whom the United States has entered into a Free Trade Agreement ("FTA") requiring the national treatment of natural gas, pursuant to Order No. 3019³ and (2) to any non-FTA nation, pursuant to Order No. 3331-B.⁴ In addition, CPLNG currently holds blanket authorizations applicable for two year periods (1) to import LNG from various international sources pursuant to Order No. 4940⁵ and (2) to export both domestically produced and previously imported LNG to both FTA and non-FTA nations pursuant to Order No. 4849.⁶

Ordering Paragraph P of Order No. 3331-A specifically requires CPLNG to obtain DOE/FECM approval of any "change in control," citing the CIC Procedures. More generally,

³ *Cove Point LNG, LP*, DOE/FECM Order No. 3019, FECM Docket No. 11-115-LNG (Oct. 7, 2011), *amended* Order No. 3019-A (Aug. 4, 2017)(reflecting corporate name change to DECP); *amended* Order No. 3019-B (Oct. 21, 2021)(extending export term through Dec. 31, 2050); *further amended by* Order No. 3019-C (Dec. 2, 2020)(reflecting corporate name change to CPLNG).

⁴ *Cove Point LNG, LP*, DOE/FECM Order No. 3331-A, FECM Docket No. 11-128-LNG (May 7, 2015)(final order), *reh'g denied*, Order No. 3331-B (Apr. 18, 2016), *amended* Order No. 3331-C (Aug. 4, 2017)(reflecting corporate name change to DECP); *amended by* DOE/FECM Order No. 3331-D (Oct. 21, 2020) (extending export term through Dec. 31, 2050); *further amended by* DOE/FECM Order No. 3331-E (Dec. 2, 2020)(reflecting corporate name change to CPLNG).

⁵ *Cove Point LNG, LP*, DOE/FECM Order No. 4940, FECM Docket No. 22-155-LNG (Dec. 15, 2022).

⁶ *Cove Point LNG, LP*, DOE/FECM Order No. 4849, FECM Docket No. 22-22-LNG (July 8, 2022).

July 11, 2023

Page 3

DOE/FECM policies also require this notification of a planned change in control of CPLNG. The CIC Procedures require notification of DOE/FECM within thirty days after any change in control of the holder of an export authorization is effectuated, while adding that notices of changes may also be filed prior to the change being effectuated. CPLNG has chosen to provide DOE/FECM with this notice in advance of the closing of the transaction between BHE and DEI, to promote certainty regarding the continued effectiveness of CPLNG's authorizations.

As explained in the CIC Procedures, DOE/FECM's regulations at 10 C.F.R. Section 590.405 state that authorizations to import or export natural gas shall not be transferable or assignable, unless specifically authorized by the Assistant Secretary for Fossil Energy.⁷ In applying Section 590.405, DOE/FECM has stated that a change in control of an authorization holder may occur through asset sale or stock transfer or by other means. DOE/FECM has further explained that it construes a change in control to mean a change, directly or indirectly, of the power to direct the management or policies of an entity, whether such power is exercised through one or more intermediary companies or pursuant to an agreement, written or oral, and whether such power is established through ownership or voting of securities, or common directors, officers, or stockholders, or voting trusts, holding trusts, or debt holdings, or contract, or any other direct or indirect means. Finally, DOE/FECM has explained that a rebuttable presumption that control exists will arise from the ownership or the power to vote, directly or indirectly, ten percent (10%) or more of the voting securities of an entity.

The CIC Procedures provide that, with respect to existing FTA long-term export authorizations, as well as import authorizations, DOE will give immediate effect to a change in control upon receipt of the notification and take no further action. With respect to previously issued non-FTA long-term export authorizations, DOE similarly will give immediate effect to a change in control and then will publish notice of the change in the Federal Register, allowing fifteen days for interventions, comments or answers. If no protests are filed and DOE/FECM takes no action of its own on the notification, authorization for a change in control is deemed granted thirty days after publication of the notice in the Federal Register. If protests are submitted, DOE/FECM then will issue a determination whether a change in control has been demonstrated by the protestor(s) to render the underlying authorization inconsistent with the public interest.

The Planned Transaction

Currently, (i) twenty-five percent (25%) of CPLNG's limited partnership interest is owned by Eastern MLP II, a Virginia limited liability company, which is a wholly owned indirect subsidiary of BHE, and (ii) fifty percent (50%) of CPLNG's limited partnership interest is owned by DECP Holdings, a Virginia corporation, which is a wholly owned indirect subsidiary of DEI.⁸ The limited partners have essentially economic interests in CPLNG, along with

⁷ 10 C.F.R. § 590.405 (2023).

⁸ The remaining twenty-five percent (25%) limited partnership interest in CPLNG is owned by Bowie Acquisitions LLC, a wholly owned indirect subsidiary of Brookfield Asset Management Inc. ("Brookfield"), and is unaffected by this transaction. Brookfield's acquisition of its limited partnership interest was the subject of a

July 11, 2023

Page 4

voting rights with respect to certain major decisions. One hundred percent (100%) of the general partnership interest of CPLNG is owned by Cove Point GP Holding Company, LLC, a wholly owned indirect subsidiary of BHE. BHE's general partnership interest in CPLNG provides BHE with day-to-day management and control of CPLNG.

BHE obtained its indirect twenty-five percent (25%) limited partnership interest in CPLNG and one hundred percent (100%) general partnership interest in CPLNG from DEI in 2020. BHE's acquisition of its limited partnership and general partnership interest from DEI was the subject of a notification pursuant to the CIC Procedures submitted by CPLNG on July 9, 2020, and reflected in a responsive letter from DOE/FECM dated September 30, 2020.

Pursuant to the PSA, DEI's indirect wholly owned subsidiary DECP Holdings will transfer all of its remaining fifty percent (50%) limited partnership interest in CPLNG to BHE's wholly owned subsidiary Eastern MLP II, such that after closing BHE will be the indirect owner of seventy-five percent (75%) of the limited partnership interest in CPLNG, and DEI will no longer own any interest in CPLNG. There is no other change effected by the transaction. The transaction will have no effect on the day-to-day management of CPLNG, which BHE will continue to perform pursuant to its existing one hundred percent (100%) ownership of the general partnership interest in CPLNG.

The CPLNG corporate structure (i) currently in effect before the closing, and (ii) to be in effect following the closing of the transaction between BHE and DEI is reflected on the simplified organization charts appended as Attachments A-1 and A-2 hereto. While the transaction remains subject to certain approvals and conditions, the parties expect it to close upon receipt of all regulatory approvals.

Application of the CIC Procedures to the Transaction

CPLNG itself will remain the holder of the export authorizations. BHE, as the indirect owner of the general partnership interest of CPLNG, will continue to have day-to-day management and control of CPLNG. BHE will continue to operate the Terminal after the closing just as it does today, and there will be no change in any aspect of CPLNG's export and import operations as a result of BHE's acquisition of DEI's remaining fifty percent (50%) limited partnership interest in CPLNG. All of CPLNG's commercial agreements with its customers will remain in effect and unaltered, and all of the key employees currently involved in CPLNG's operations will remain employees of CPLNG, with no change in employees resulting from the transaction.

The change in ownership of limited partnership interests in CPLNG will have no effect on the operation of CPLNG. Moreover, because the transfer in limited ownership interests is from DEI to BHE, both of which are already upstream owners of CPLNG, the transaction is entirely

notification pursuant to the CIC Procedures submitted by CPLNG on October 23, 2019, and reflected in a responsive letter from DOE/FECM dated March 13, 2020.

July 11, 2023

Page 5

internal to the current owners of CPLNG, and no new external owners or entities are introduced by the transaction.

As was discussed in CPLNG's July 9, 2020 CIC notification to DOE/FECM pursuant to which BHE first assumed control of the day-to-day management of CPLNG, BHE is a large U.S. energy company with a diverse portfolio of over \$130 billion in assets of high-quality, locally managed businesses that share a vision for a secure and sustainable energy future, including regulated electric and natural gas utility operations in 28 states, and electric transmission and distribution operations in Great Britain and Canada. These businesses deliver affordable, safe and reliable service each day to 12 million customers and end-users, and consistently rank high among energy companies in customer satisfaction. The BHE assets include, inter alia, approximately 49,400 pipeline miles of natural gas transmission and distribution stretching from Texas to Michigan and from Maryland to California, held by its subsidiaries BHE GT&S, LLC, Northern Natural Gas Company and Kern River Gas Transmission Company. BHE and all its businesses adhere to a policy of strict regulatory compliance and pursue frequent, open communication with regulators. BHE is headquartered in Des Moines, Iowa.

Backed by the financial resources of Berkshire Hathaway Inc., BHE invests in hard assets and focuses on long-term operations and opportunities that will contribute to the future strength of the company. BHE acquired its controlling interest in CPLNG in 2020, as both the one hundred percent (100%) indirect owner of the general partnership interest in CPLNG and the indirect owner of twenty-five percent (25%) of the limited partnership interest in CPLNG. BHE has successfully operated CPLNG since that time. The transaction addressed herein will simply result in BHE being the indirect owner of seventy-five percent (75%) of the limited partnership interest in CPLNG, rather than its current indirect ownership of twenty-five percent (25%) of the limited partnership interest.

DOE/FECM has consistently approved changes of control in the absence of a demonstration that the change impacts the public interest considerations it evaluated when issuing the export authorization.⁹ BHE's acquisition of a controlling interest in CPLNG provides absolutely no basis to question the DOE/FECM decisions to authorize LNG exports by CPLNG. The public interest considerations addressed in Order No. 3331-A, and the other authorizations for CPLNG, did not focus in any way on DEI's remaining fifty percent (50%) limited partnership ownership interest in CPLNG. In any event, BHE has demonstrated that it is fully capable – financially and otherwise – of continuing to operate CPLNG as the indirect owner of the general partnership interest in CPLNG, perform its contractual obligations to export and import LNG, and fully comply with all regulatory requirements.

⁹ *E.g.*, *Freeport LNG Expansion, L.P., et al.*, Order Approving Change in Control in Export Authorization, DOE/FECM Order No. 3495 (Sept. 23, 2014); *Cameron LNG, LLC*, Order Approving Change in Control in Export Authorization, DOE/FECM Order No. 3452 (June 27, 2014); DOE/FECM response regarding notice of change of control of Jordan Cove Energy Project, LP issued in FECM Docket Nos. 11-127-LNG and 12-32-LNG, dated July 20, 2018; DOE/FECM response regarding notice of change of control of Delfin LNG, LLC issued in FECM Docket Nos. 13-147-LNG, dated March 11, 2019.

July 11, 2023

Page 6

In accordance with the CIC Procedures, DOE/FECM should give immediate effect to this notification upon receipt and the expected closing of the BHE-DEI transaction.¹⁰ That effect is considered final upon receipt of this notice and no further action is needed with respect to the FTA export authorization issued in Order No. 3019, the import blanket authorization issued in Order No. 4320, and the FTA portion of the blanket export authorization of Order No. 5408. With respect to the non-FTA authorization issued in Order No. 3331-A, DOE/FECM should publish notice of this CPLNG notification in the Federal Register, providing fifteen days for interventions, comments or answers, and stating explicitly that, if no protests are filed and DOE/FECM takes no action of its own on the notification, authorization for the change in ownership will be deemed granted thirty days after publication of the notice in the Federal Register. If any protest is submitted, DOE/FECM then should issue a determination reaffirming its prior conclusion that the authorized LNG exports by CPLNG remain not inconsistent with the public interest.

As noted above, DEI and BHE plan to close their agreed-upon transaction upon receipt of all regulatory approvals. If thirty days pass after public notice in the Federal Register of this filing without any protest or action by DOE/FECM, the change of control becomes effective pursuant to the CIC Procedures and no further action is needed by DOE/FECM for the parties to close the transaction. If this filing is protested, however, CPLNG respectfully requests that DOE/FECM act on that protest by issuing an order consistent with this request by August 25, 2023, to remove any potential uncertainty about the continued effectiveness of CPLNG's authorizations.

If you have any questions about this notification or related matters, please contact the undersigned counsel for CPLNG.

Respectfully,



William R. Hollaway Ph.D.

Partner

Gibson, Dunn & Crutcher LLP

1050 Connecticut Avenue, N.W.

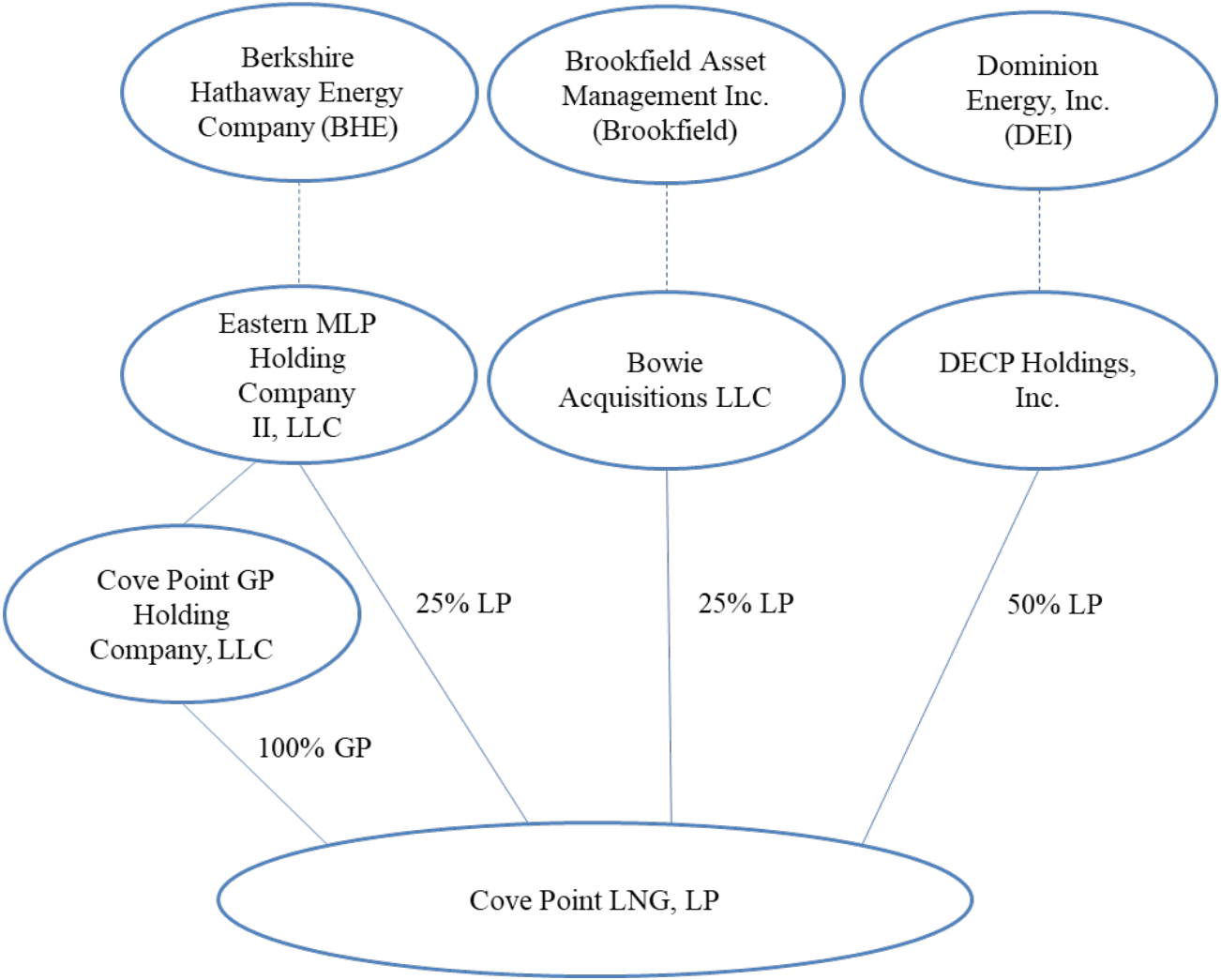
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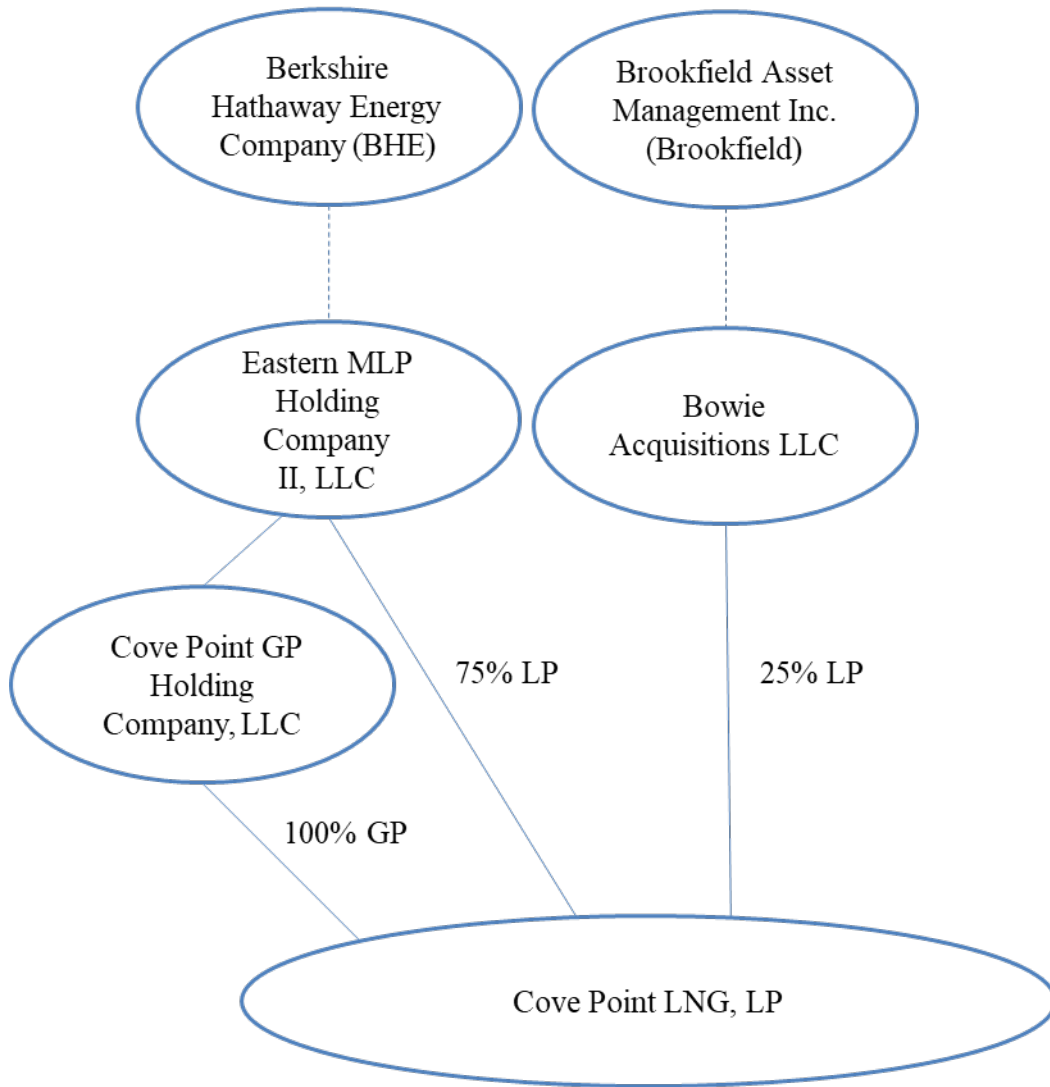
(202) 955-8592 (office)

¹⁰ Counsel for CPLNG will notify DOE/FECM once the BHE-DEI transaction closes, which is expected to occur upon receipt of all regulatory approvals.

Attachment A-1
Simplified Organizational Chart - Pre-Closing



Attachment A-2
Simplified Organizational Chart - Post-Closing



VERIFICATION

I, Paul Ruppert, declare that I am President, BHE GT&S, LLC and Eastern Gas Transmission and Storage Inc. and I am duly authorized to make this Verification; that I have read the foregoing filing and that the facts therein stated are true and correct to the best of my knowledge, information, and belief.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed at Richmond, Virginia on July 11, 2023.

/s/ Paul Ruppert

Paul Ruppert
President, BHE GT&S, LLC and
Eastern Gas Transmission and Storage Inc.
6603 West Broad Street
Richmond, Virginia 23230

OPINION OF COUNSEL

July 11, 2023

Amy Sweeney, Director
Office of Regulation, Analysis and Engagement (FE-34)
Office of Fossil Energy and Carbon Management
U.S. Department of Energy
1000 Independence Ave., S.W.
Washington, D.C. 20585

Re: Cove Point LNG, LP
FECM Docket Nos. 11-115-LNG, 11-128-LNG, 22-22-LNG, and 22-155-LNG
Notification In Accordance with Procedures for Changes in Control

Dear Ms. Sweeney:

This opinion of counsel is submitted pursuant to Section 590.202(c) of the regulations of the United States Department of Energy (“DOE”), 10 C.F.R. § 590.202(c) (2023). I am counsel to Cove Point LNG, LP (“CPLNG”).

I have reviewed the organizational and internal governance documents of CPLNG and it is my opinion that the Notification In Accordance with Procedures for Changes in Control filed by CPLNG with the DOE Office of Fossil Energy and Carbon Management on July 11, 2023, is within the company powers of CPLNG.

Respectfully submitted,

/s/ Christopher Lang

Christopher Lang

Partner

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Attorney for Cove Point LNG, LP

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was service on the persons listed on the office service list in FECM Docket Nos. 11-115-LNG, 11-128-LNG, 22-22-LNG, and 22-155-LNG.

Dated in Washington, D.C. this 11th day of July, 2023.

Respectfully submitted,

/s/ Janine Durand

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Attorney for Cove Point LNG, LP