



Department of Energy
Washington, DC 20585

October 20, 2023

Via Email

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RE: Statement of Change in Control
Port Arthur LNG, LLC
Docket Nos. 15-53-LNG, 15-96-LNG, and 18-162-LNG

Dear Mr. Snyder:

This correspondence constitutes the response of the Department of Energy (DOE), Office of Fossil Energy and Carbon Management (FECM),¹ to the Statement of Change in Control filed on behalf of your client, Port Arthur LNG, LLC (PALNG), on April 25, 2023,² and updated with a Notice of Transaction filed on September 15, 2023.³ PALNG provides notice of a change in its upstream ownership, in light of DOE's Change in Control Procedures.⁴

I. BACKGROUND

PALNG is authorized to export domestically produced liquefied natural gas (LNG) by vessel from the proposed Port Arthur LNG Project, to be located in Port Arthur, Texas, under the following orders issued by DOE under section 3 of the Natural Gas Act (NGA):⁵

- (i) DOE/FE Order No. 3698, as amended,⁶ authorizing exports in a volume

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

² Port Arthur LNG, LLC, Statement of Change in Control, Docket Nos. 15-53-LNG, *et al.* (Apr. 25, 2023), <https://www.energy.gov/sites/default/files/2023-05/Port%20Arthur%20LNG%20LLC%20CIC.pdf> [hereinafter Statement of Change in Control].

³ Port Arthur LNG, LLC, Notice of Transaction, Docket Nos. 15-53-LNG, *et al.* (Sept. 15, 2023) [hereinafter Notice of Transaction], <https://www.energy.gov/sites/default/files/2023-09/KKR%20CIC%20Notice%20of%20Transaction.pdf>.

⁴ See U.S. Dep't of Energy, Procedures for Changes in Control Affecting Applications and Authorizations to Import or Export Natural Gas, 79 Fed. Reg. 65,541 (Nov. 5, 2014) [hereinafter DOE Change in Control Procedures].

⁵ 15 U.S.C. § 717b.

⁶ *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

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, or in the future will have entered into, a free trade agreement (FTA) requiring national treatment for trade in natural gas (FTA countries), pursuant to NGA section 3(c);⁷ and

- (ii) DOE/FE Order No. 4372, as amended,⁸ authorizing exports in a volume equivalent to 698 Bcf/yr of natural gas through 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).⁹

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

II. DESCRIPTION OF CHANGE IN CORPORATE OWNERSHIP

In the Statement of Change in Control, PALNG described a change in its upstream ownership. PALNG stated that, on March 20, 2023, Sempra LNG Holding, LP (Sempra LNG Holding) (an indirect, wholly-owned subsidiary of Sempra Infrastructure Partners, LP (SI Partners) and the indirect upstream owner of PALNG) and KKR Denali Holdco LLC (KKR-Denali) entered into an equity purchase and sale agreement (Transaction). PALNG further stated that, through this Transaction, KKR-Denali will purchase from Sempra LNG Holding a non-controlling 35.7% equity interest in Sempra PALNG Holdings, LLC (Sempra PALNG Member), with an option to increase its purchased interest up to a non-controlling 69.5% equity interest in Sempra PALNG Member. PALNG stated that Sempra PALNG Member directly holds 70% of the equity interest in Port Arthur Liquefaction Holdings, LLC (PA Liquefaction Holdings), which directly owns 100% of the equity interest in PALNG.¹⁰

According to PALNG, following consummation of the Transaction, Sempra LNG Holding, and indirectly its parent SI Partners, will continue to be the operator of PALNG as the controlling 30.5-64.3% equity interest holder in Sempra PALNG Member.¹¹ KKR-Denali will have certain non-controlling member protections as the non-controlling 35.7-69.5% equity interest holder 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), *further amended by* DOE/FECM Order No. 3698-C (Apr. 21, 2023) (amending start date of FTA 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.

⁷ 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.

⁸ *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), *further amended by* DOE/FECM Order No. 4372-B (Apr. 21, 2023) (extending export commencement deadline).

⁹ 15 U.S.C. § 717b(a).

¹⁰ Statement of Change in Control at 1.

¹¹ *Id.* at 2-3.

Sempra PALNG Member.¹² PALNG stated that the Transaction “is expected to close in the third quarter of 2023.”¹³

Subsequently, in the Notice of Transaction, PALNG informed DOE that the Transaction was completed on September 12, 2023.¹⁴

III. DISCUSSION AND CONCLUSIONS

DOE 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.¹⁵ A rebuttable presumption that control exists will arise from the ownership or the power to vote, directly or indirectly, 10% or more of the voting securities of such entity.¹⁶

Upon review of these facts, we find that KKR-Denali’s acquisition of a non-controlling 35.7%-69.5% ownership interest in Sempra PALNG Member, which has an indirect 70% interest in PALNG, represents a change in control.¹⁷ Sempra LNG Holding, and indirectly its parent SI Partners, will continue to be the operator of PALNG as the controlling 30.5%-64.3% equity interest holder in Sempra PALNG Member.¹⁸

In reaching this conclusion, we reiterate PALNG’s statement that KKR-Denali has “an option to increase its purchased interest up to a non-controlling 69.5% interest in the equity of Sempra PALNG Member.”¹⁹ PALNG does not state how long this option may last. However, based on the facts presented, we are comfortable reaching the conclusions herein with respect to this 35.7%-69.5% range of non-controlling ownership interest. If and when KKR-Denali exercises this option, PALNG should submit a notice of that transaction to DOE to ensure that DOE’s record of PALNG’s upstream ownership remains current.

A. FTA Export Authorization

DOE’s Change in Control Procedures provide that, upon receipt of a statement of change in control relating to existing FTA export authorizations, DOE will give immediate effect to the change in control and will take no further action.²⁰ Accordingly, the change in control described

¹² *See id.* In the Statement of Change in Control, PALNG provided charts illustrating its ownership structure before and after the Transaction as Exhibits A and B, respectively.

¹³ *Id.* at 3.

¹⁴ Notice of Transaction at 1.

¹⁵ *See* DOE Change in Control Procedures, 79 Fed. Reg. at 65,542.

¹⁶ *Id.*

¹⁷ *See* Statement of Change in Control at 3-4.

¹⁸ *Id.* at 2-3.

¹⁹ *Id.* at 1.

²⁰ DOE Change in Control Procedures, 79 Fed. Reg. at 65,542.

above has taken effect insofar as it relates to PALNG's FTA authorization in DOE/FE Order No. 3698, as amended.

B. Non-FTA Export Authorization

DOE's Change in Control Procedures state that, with respect to existing non-FTA authorizations, DOE will give effect to the change in control and will publish a notice of the change in the *Federal Register*.²¹ If no interested person protests the change in control and DOE takes no action on its own motion, the amendment to the existing non-FTA authorization will be deemed granted 30 days after publication in the *Federal Register*.²²

Consistent with these procedures, DOE published a notice of PALNG's change in control in the *Federal Register* on May 25, 2023 (Notice).²³ DOE invited protests, motions to intervene, and written comments to be filed no later than June 9, 2023.²⁴ DOE received no filings in response to the Notice. Because more than 30 days have passed since the Notice was published in the *Federal Register*, the change in control with respect to PALNG's non-FTA authorization, DOE/FE Order No. 4372, as amended, is deemed granted. No further action is required.

Sincerely,

Amy R. Sweeney
Director, Office of Regulation, Analysis, and Engagement
Office of Resource Sustainability

²¹ *See id.*

²² *Id.*

²³ U.S. Dep't of Energy, Change in Control; Port Arthur LNG, LLC, 88 Fed. Reg. 33,875 (May 25, 2023).

²⁴ *Id.*