

**UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY AND CARBON MANAGEMENT**

American LNG Marketing LLC

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Docket No. 14-209-LNG

**ANSWER OF AMERICAN LNG MARKETING LLC TO
APPLICATION FOR REHEARING OF PUBLIC CITIZEN, INC.**

Pursuant to section 590.302(b) of the regulations of the U.S. Department of Energy (“DOE”),¹ American LNG Marketing LLC (“American LNG Marketing”) hereby moves for leave to answer and submits this answer (“Answer”) to the Application for Rehearing of Public Citizen, Inc. (“Public Citizen”) filed on October 1, 2024 in the captioned docket (“Application for Rehearing”)² requesting rehearing of DOE Office of Fossil Energy and Carbon Management’s (“DOE/FECM”) Order Approving Change in Control issued on September 25, 2024 (the “Order”).³ Public Citizen’s Application for Rehearing should be denied. Public Citizen does not suggest that the transaction for which American LNG Marketing filed a Statement of Change in Control⁴ would render the underlying Non-FTA Export Authorization inconsistent with the public interest. Instead, Public Citizen falsely states that American LNG Marketing’s fails to “reveal what investors, individuals or entities hold ‘power to direct the management or policies of’”⁵ Pennybacker Capital Management LLC (“Pennybacker”). As American LNG Marketing already explained in its Answer to the Motion to Intervene and Protest of Public Citizen (“Answer to the

¹ 10 C.F.R. § 590.302(b).
² *Application for Rehearing of Public Citizen, Inc.*, DOE/FECM Docket No. 14-209-LNG (filed Oct. 1, 2024).
³ *American LNG Marketing LLC*, DOE/FECM Order No. 5172 (Sept. 25, 2024).
⁴ *Statement of Change in Control: American LNG Marketing LLC*, DOE/FECM Docket No. 14-209-LNG (filed Jul. 1, 2024). Capitalized terms used but not defined herein have the meaning given in the Statement.
⁵ Application for Rehearing at 1.

Motion”), even if there were a requirement to disclose such information in a statement of change of control—which there is not—as a registered investment adviser subject to the regulations of the United States Securities and Exchange Commission (“SEC”), Pennybacker files its annual Form ADV with the SEC and has confirmed that there are “no indirect owners not disclosed that have a greater than 10% voting interest in or that otherwise control Pennybacker.”⁶ All other points raised in Public Citizen’s Application for Rehearing are outside the scope of this proceeding. Accordingly, Public Citizen’s Application for Rehearing should be denied.

I. MOTION FOR LEAVE TO ANSWER

American LNG Marketing moves for leave to file this Answer to the Application for Rehearing. Although DOE’s rules generally prohibit answers to applications for rehearing,⁷ DOE has permitted answers to applications for rehearing where the answer is “relevant to [DOE’s] consideration of the issues” in the application for rehearing.⁸ American LNG Marketing respectfully submits that this Answer provides information that will clarify the information before DOE/FECM and assist in its decision-making process. Public Citizen’s Application for Rehearing includes factual misstatements and raises issues beyond the scope of this proceeding. Because this Answer will help clarify the record on these issues, American LNG Marketing submits that good cause exists to accept its Answer.

⁶ *American LNG Marketing LLC*, Answer of American LNG Marketing LLC to Motion to Intervene and Protest of Public Citizen, Inc., DOE/FECM Docket No. 14-209-LNG at 2 n.8 (filed Aug. 20, 2024). Given Public Citizen’s apparent affinity for breaking down the exact math of upstream ownership calculations, it should not surprise Public Citizen to learn that applying a disclosure threshold of 10%, the numbers will not always add up to 100%.

⁷ 10 C.F.R. § 590.505.

⁸ *See, e.g., Magnolia LNG, LLC*, Order Granting Request for Rehearing and Motion for Leave to Answer for the Purpose of Further Consideration, FE Docket No. 13-132-LNG (Jan. 27, 2017); *Dominion Cove Point LNG, LP*, DOE/FECM Order No. 3331-B at n.42 (2016); *Freeport LNG Expansion, L.P., et al.*, DOE/FECM Order No. 3357-C at n.36 (2015).

II. ANSWER

A. **Public Citizen Does Not Attempt to Show That the Change in Control Renders American LNG Marketing's Non-FTA Export Authorization Inconsistent with the Public Interest**

In its Application for Rehearing, Public Citizen claims that the Order is erroneous because American LNG Marketing and Pennybacker have not fully disclosed all individuals or entities that own or control the power to direct the management or policies of Pennybacker.⁹ Public Citizen's claim is false. As a threshold issue, American LNG Marketing already has disclosed the individuals that own or control the power to direct the management or policies of Pennybacker. Public Citizen seems to fixate on the calculations of upstream ownership, including the fact that they do not add up to 100%, suggesting that there are secret, unrevealed upstream owners. Public Citizen misses that the relationships between non-voting and non-controlling direct and indirect owners of a registered investment adviser are not germane to DOE in this matter, and for similar reasons, are not required to be disclosed with such particularity on the Form ADV. American LNG Marketing has explicitly and correctly stated in the Answer to the Motion that "Pennybacker has confirmed there are no indirect owners not disclosed [in the form ADV] that have a greater than 10% voting interest in or that otherwise control Pennybacker."¹⁰ Thus, there was no error when DOE concluded that "all direct and indirect owners of Pennybacker are publicly disclosed in its Form ADV" because that is correct.¹¹

The procedures are clear: when reviewing a statement of a change in control for a long-term, non-FTA export authorization, DOE analyzes whether the change in control renders the underlying authorization to export natural gas inconsistent with the "public interest" standard set

⁹ Application for Rehearing at 2.

¹⁰ Answer to the Motion at 2 n.8.

¹¹ Order at 10.

forth in Natural Gas Act (“NGA”) section 3.¹² The Application for Rehearing offers no analysis nor evidence that would suggest that the change in control approved in the Order would render American LNG Marketing’s existing Non-FTA Export Authorization inconsistent with the public interest. On the contrary, Public Citizen raises meritless claims that are irrelevant to the procedural requirements and DOE’s inquiry under DOE/FECM’s CIC Procedures. Because Public Citizen has offered no fact that would alter the determinations in the Order, the Application for Rehearing should be denied.

B. Public Citizen’s Allegations Regarding Unlicensed Operation are False and Outside the Scope of this Proceeding

Public Citizen introduces a new argument in its Application for Rehearing, alleging that the Hialeah facility is operating on an “unlicensed” and “unregulated” basis because it never obtained approval from the Federal Energy Regulatory Commission (“FERC”) “despite clear statutory objectives requiring it.”¹³ This claim is: (i) irrelevant to the scope of DOE/FECM’s review of the underlying statement of change in control; and (ii) demonstrably false as reflected by documents in the public record at the time Public Citizen submitted its Application for Rehearing.

As an initial matter, the filing of a statement of change in control does not reopen the authorization process for an LNG terminal—as the Order notes, “the issue before [DOE/FECM] is not whether any exports are in the public interest under NGA section 3(a).”¹⁴ Rather, “[t]his portion of the proceedings is limited to American LNG Marketing’s proposed change in upstream ownership.”¹⁵ Public Citizen’s claims are thus beyond the scope of what is before DOE/FECM in

¹² 15 U.S.C. § 717b(a).

¹³ Application for Rehearing at 2.

¹⁴ Order at 9.

¹⁵ *Id.*

this proceeding. Moreover, Public Citizen raises this baseless argument for the first time in the Application for Rehearing, which is procedurally improper.

More importantly, however, Public Citizen's claims are false. As American LNG Marketing explained at length in its application for its FTA Export Authorization and Non-FTA Export Authorization,¹⁶ the Hialeah facility is not subject to FERC jurisdiction under NGA section 3 or 7.¹⁷ Accordingly, Public Citizen's allegations should be rejected as irrelevant and false.

III. CONCLUSION

For the reasons set forth above, American LNG Marketing respectfully requests that DOE/FECM deny Public Citizen's Application for Rehearing.

Respectfully submitted,



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Dated: October 10, 2024

¹⁶ *American LNG Marketing LLC*, Application of American LNG Marketing LLC for Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas to Free Trade Agreement and Non-Free Trade Agreement Nations, DOE/FECM Docket No. 14-209-LNG (Dec. 31, 2014).

¹⁷ *See id.* at 15-19.

VERIFICATION

I, Cameron MacDougall, declare that I am General Counsel for New Fortress Energy Inc. and 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.

Dated at New York, New York this 9th day of October, 2024.




Cameron MacDougall
General Counsel
New Fortress Energy Inc.

VERIFICATION

I, Lindsey Jacot, declare that I am Chief Financial Officer for Pennybacker Capital Management LLC (“Pennybacker”) and am duly authorized to make this Verification, that I have read the foregoing filing and that the facts therein stated with regard to Pennybacker 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.

Dated at Austin, TX this 8th day of October, 2024.

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Lindsey Jacot
Chief Financial Officer
Pennybacker Capital Management LLC

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. this 10th day of October, 2024.

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