

I. INTRODUCTION AND BACKGROUND

On February 2, 2023, Pieridae Energy (USA) Ltd. (Pieridae USA) filed an application (Application)¹ with the Department of Energy’s (DOE) Office of Fossil Energy and Carbon Management (FECM)² (formerly the Office of Fossil Energy)³ requesting an extension to its deadline to commence re-exports of natural gas under section 3 of the Natural Gas Act (NGA) (Application).⁴ Pieridae USA’s applicable order⁵—DOE/FE Order No. 3768⁶—authorized the export of natural gas from the United States to Canada via the Maritimes & Northeast (M&N) US Pipeline and following liquefaction in Canada, the re-export⁷ of this U.S.-sourced natural gas in the form of liquefied natural gas (LNG). Specifically, the order authorized Pieridae USA to re-export this LNG in a volume equivalent to 292 billion cubic feet (Bcf) per year (Bcf/yr) of natural gas, or 0.8 Bcf per day (Bcf/d), by vessel from the proposed Goldboro LNG Project (Project), to be located in the Municipality of the District of Guysborough, Nova Scotia, Canada, for a 20-year term, to any country with which the United States has not entered into a free trade

¹ Request of Pieridae Energy (USA) Ltd. for Extension for Long-Term, Multi-Contract Authorization to Export U.S. Sourced Natural Gas by Pipeline to Canada for Liquefaction and Re-Export in the Form of Liquefied Natural Gas, Docket No. 14-179-LNG (Feb. 2, 2023) [hereinafter App.]. Pieridae USA also filed the opinion of counsel on Feb. 2, 2023, and the certificate of service in compliance with 10 C.F.R. § 590.202(c) on Feb. 3, 2023.

² 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 has been delegated to the Assistant Secretary for FECM in Redelegation Order No. S4-DEL-FE1-2023, issued on April 10, 2023.

³ On July 4, 2021, the Office of Fossil Energy changed its name to the Office of Fossil Energy and Carbon Management.

⁴ See 10 C.F.R. § 590.201(a) (“Any person seeking authorization to import or export natural gas into or from the United States, to amend an existing import or export authorization, or seeking any other requested action, shall file an application with [FECM] under the provisions of this part.”).

⁵ App. at 2. For purposes of this Order, DOE uses the terms “authorization” and “order” interchangeably.

⁶ *Pieridae Energy (USA) Ltd.*, DOE/FE Order No. 3768, Docket No. 14-179-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export U.S.-Sourced Natural Gas by Pipeline to Canada for Liquefaction and Re-Export in the Form of Liquefied Natural Gas to Non-Free Trade Agreement Nations (Feb. 5, 2016).

⁷ For purposes of this Order, “re-export” means to ship or transmit U.S.-sourced natural gas in its various forms (gas, compressed, or liquefied) subject to DOE’s jurisdiction under the NGA, 15 U.S.C. § 717b, from one foreign country (*i.e.*, a country other than the United States) to another foreign country.

agreement (FTA) requiring national treatment for trade in natural gas⁸ and with which trade is not prohibited by U.S. law or policy (non-FTA countries), pursuant to NGA section 3(a).⁹ Additionally, consistent with DOE practice, the authorization set forth a seven-year deadline for Pieridae USA to commence re-exports of U.S.-sourced natural gas in the form of LNG to non-FTA countries (*i.e.*, by February 5, 2023).¹⁰

Previously, under DOE/FE Order No. 3639 (Docket No. 14-179-LNG),¹¹ DOE authorized Pieridae USA to export U.S.-sourced natural gas, using the M&N US Pipeline, from the United States to Canada for end use in Canada and/or, after liquefaction in Canada, by vessel from the proposed Project to FTA countries, in a volume equivalent to 292 Bcf/yr of natural gas, for a 20-year term, pursuant to NGA section 3(c).¹² Under these authorizations, the FTA volumes are not additive to the non-FTA volumes.

On February 2, 2023, three days before the seven-year deadline, Pieridae USA submitted the Application asking DOE to amend the re-export commencement deadline in its non-FTA order, Order No. 3768—which has since expired—from February 5, 2023 to February 5, 2028.¹³ To demonstrate good cause for the extension request, Pieridae USA asserted that since the issuance of Order No. 3768 [in 2016], “the Goldboro LNG Project [] has faced a multitude of unexpected hurdles” including unsuccessful engagement with three internationally regarded

⁸ 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.

⁹ 15 U.S.C. § 717b(a).

¹⁰ *Pieridae Energy (USA) Ltd.*, DOE/FE Order No. 3768 at 228 (Ordering Para. D).

¹¹ *Pieridae Energy (USA) Ltd.*, DOE/FE Order No. 3639, Docket No. 14-179-LNG, Order Granting Long-Term, Multi-Contract Authorization to Export Natural Gas to Canada and to Other Free Trade Agreement Nations (May 22, 2015).

¹² 15 U.S.C. § 717b(c).

¹³ App. at 2. 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).

LNG engineering, procurement, and construction companies and the unprecedented COVID-19 pandemic.¹⁴ Pieridae USA stated that, if granted, the requested commencement deadline would enable Pieridae USA to complete the necessary detailed design, engineering and costing work, as well as finalizing contract awards, in order to proceed with construction and place the Project into service.¹⁵

On March 29, 2023, DOE published a notice of Pieridae USA's Application in the *Federal Register* (Notice of Application).¹⁶ DOE invited the public to submit protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments in response to the Application no later than April 28, 2023. DOE received no filings in response to the Notice of Application.

In November 2023, DOE learned that Pieridae's USA's parent, Pieridae Energy Limited, intended to sell its Goldboro assets, including the Project. After multiple requests¹⁷ for a conference call to discuss this development, Pieridae USA representatives met with DOE via a telephone call on January 23, 2024, and stated that they would provide an update on the potential sale with the submission of their next semi-annual report, on or by April 1, 2024.¹⁸ DOE did not receive the semi-annual report. Following a request for an update, a Pieridae USA representative confirmed via email on April 22, 2024, that "Pieridae is not actively pursuing development of the

¹⁴ *Id.* at 2-3.

¹⁵ *Id.* at 3-4.

¹⁶ U.S. Dep't of Energy, Pieridae Energy (USA) Ltd.; Request for Extension for Long-Term Authorization to Export Liquefied Natural Gas, 88 Fed. Reg. 18,530 (Mar. 29, 2023).

¹⁷ *See e.g.*, Emails from Peri Ulrey and Jennifer Wade, DOE, dated December 5, 2023, December 12, 2023, and January 18, 2024, to Pieridae Energy, Follow-Up Email to Pieridae Energy (USA) Ltd., Docket No. 14-179-LNG (January 18, 2024), https://www.energy.gov/sites/default/files/2024-01/RE_%20Follow-Up%20-%20Pieridae%20Energy%20%28USA%29%20Ltd.%2C%20Docket%20No%2014-179-LNG%20.pdf.

¹⁸ *See* Email from Jennifer Wade, DOE, to Adam Gray, Chief Financial Officer, Pieridae Energy (USA) Ltd., noting that DOE looked forward to receiving a project update in Pieridae's semi-annual report on or by April 1, 2024, Follow-Up Email to Pieridae Energy (USA) Ltd., Docket No. 14-179-LNG (January 23, 2024), https://www.energy.gov/sites/default/files/2024-02/RE_%20Follow-Up%20-%20Pieridae%20Energy%20%28USA%29%20Ltd.%2C%20Docket%20No%2014-179-LNG%2001.23.2024.pdf.

Goldboro LNG Project at this time [and that] Pieridae is actively attempting to sell the related land assets in Nova Scotia.”¹⁹ DOE again requested a follow-up conference call via email and voicemail to discuss this information, but Pieridae USA did not respond.²⁰ On July 25, 2024, Pieridae Energy Limited announced that it had finalized the sale of its Goldboro assets.²¹ Pieridae USA has not been in contact with DOE since its April 22, 2024 email.

II. DISCUSSION AND CONCLUSIONS

A. Scope of Review

On April 26, 2023, DOE issued a Policy Statement on Export Commencement Deadlines in Authorizations to Export Natural Gas to Non-Free Trade Agreement Countries (Policy Statement).²² The Policy Statement announced that DOE will no longer extend commencement deadlines for non-FTA LNG export authorizations “unless the authorization holder demonstrates both that: it has physically commenced construction on the associated export facility, and [that] its inability to comply with the existing export commencement deadline is the result of extenuating circumstances outside of its control.”²³ Pieridae USA’s Application was submitted before the issuance of the Policy Statement; therefore DOE is not taking action under the Policy Statement in this Order.

¹⁹ Email from Michelle Cooze, General Counsel & Corporate Secretary for Pieridae Energy Ltd., to Jennifer Wade, DOE, Response to Follow-Up Email to Pieridae Energy (USA) Ltd., Docket No. 14-179-LNG (Apr. 22, 2024), https://www.energy.gov/sites/default/files/2024-05/%5BEXTERNAL%5D%20Fw_%20Follow-Up%20-%20Pieridae%20Energy%20%28USA%29%20Ltd.%2C%20Docket%20No%2014-179-LNG%20.pdf.

²⁰ Email from Jennifer Wade, DOE, to Michelle Cooze, General Counsel & Corporate Secretary for Pieridae Energy Ltd., Response to Follow-Up Email, Docket No. 14-179-LNG (May 8, 2024), https://www.energy.gov/sites/default/files/2024-05/RE_%20Follow-Up%20-%20Pieridae%20Energy%20%28USA%29%20Ltd.%2C%20Docket%20No%2014-179-LNG.1_0.pdf.

²¹ Pieridae Energy Limited, *Pieridae Announces Sale of Goldboro, Equity Financing, Full Repayment of Bridge Loan & Production Shut-In*, <https://www.pieridaenergy.com/news-release/pieridae-announces-sale-goldboro-equity-financing-full-repayment-bridge-loan> (July 25, 2024).

²² U.S. Dep’t of Energy, Policy Statement on Export Commencement Deadlines in Authorizations to Export Natural Gas to Non-Free Trade Agreement Countries, 88 Fed. Reg. 25,272 (Apr. 26, 2023) [hereinafter Policy Statement].

²³ Policy Statement, 88 Fed. Reg. at 25,273.

DOE is reviewing Pieridae USA’s Application under NGA section 3(a), which 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.”²⁴ As with other requests to extend the commencement deadline that pre-date the issuance of the Policy Statement, when reviewing an application to amend the export commencement deadline in an existing non-FTA authorization, DOE considers whether the requested extension will alter the public interest determination it made when originally granting the non-FTA authorization under NGA section 3(a).²⁵ This inquiry, however, is not the same as reevaluating DOE’s public interest determination in granting the original Order No. 3768. The NGA does not require DOE to affirmatively reevaluate whether exports remain in the public interest during the term of an existing export authorization.

B. Dismissal of Application for Failure to Show Good Cause

Pieridae USA’s parent company, Pieridae Energy Limited, announced the sale of the Goldboro assets—including the Project—on July 25, 2024.²⁶ Consequently, all the arguments Pieridae USA presented in its Application seeking additional time to commence re-exports from the Project are moot. DOE’s regulations provide that export authorizations “shall not be transferable or assignable, unless specifically authorized by [DOE].”²⁷ Pieridae USA did not request a transfer or assignment of its authorization and has not been in touch with DOE since its

²⁴ 15 U.S.C. § 717b(a).

²⁵ See, e.g., *Port Arthur LNG, LLC*, DOE/FECM Order Nos. 3698-C & 4372-B, Docket Nos. 15-53-LNG, *et al.*, 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, at 13 (Apr. 21, 2023).

²⁶ See *supra* note 21.

²⁷ 10 C.F.R. § 590.405.

April 22, 2024 email.²⁸ Moreover, Pieridae USA did not respond to DOE’s follow-up requests for discussion. Therefore, based on this record, and because Pieridae USA is no longer developing the Project, DOE has determined that Pieridae USA has not shown good cause to justify an extension of the commencement deadline for its now-expired non-FTA authorization, Order No. 3768. DOE therefore dismisses the Application.

Pieridae USA’s non-FTA export authorization, DOE/FE Order No. 3768, which set forth a seven-year deadline for Pieridae USA to commence re-exports of U.S.-sourced natural gas in the form of LNG to non-FTA countries, has expired and is no longer in effect.

Additionally, under section 16 of the NGA, DOE is authorized “to prescribe, issue, make, amend, and rescind such orders, rules, and regulations as it may find necessary or appropriate” to carry out its responsibilities.²⁹ DOE finds that Pieridae USA representatives’ statements and Pieridae Energy Limited’s subsequent sale of the Project, as noted above, also apply to Pieridae USA’s FTA authorization. Accordingly, pursuant to this authority, DOE finds it necessary and appropriate to vacate Pieridae USA’s long-term authorization to export LNG to FTA countries granted in DOE/FE Order No. 3639 under NGA section 3(c).

ORDER

Pursuant to section 3 of the Natural Gas Act, it is ordered that:

- A. Pieridae Energy (USA) Ltd.’s Application is dismissed;
- B. DOE/FE Order No. 3768 is no longer in effect, pursuant to NGA section 3(a);
- C. DOE/FE Order No. 3639 is vacated, pursuant to NGA sections 3 and 16; and

²⁸ Pieridae USA has not filed the semi-annual reports required under both its orders since October 2023. *See Pieridae Energy (USA) Ltd.*, DOE/FE Order No. 3639, at 15 (Ordering Para. J); *Pieridae Energy (USA) Ltd.*, DOE/FE Order No. 3768, at 231 (Ordering Para. N); *see also* 10 C.F.R. §§ 590.406 (Compliance with Orders), 590.407 (Reports of Changes)

²⁹ 15 U.S.C. § 717o.

D. The administrative record for this docket is closed, effective immediately.

Issued in Washington, D.C., on January 17, 2025.

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