



Department of Energy
Washington, DC 20585

April 11, 2019

BY EMAIL

Jerrod L. Harrison
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RE: Notice of Internal Corporate Reorganization
Port Arthur LNG, LLC
FE Docket Nos. 15-53-LNG, 18-162-LNG, and 15-96-LNG

Dear Mr. Harrison:

This correspondence constitutes the response of the Department of Energy (DOE), Office of Fossil Energy (FE), to your letters filed on January 4, 2019,¹ February 1, 2019,² and April 9, 2019,³ on behalf of Port Arthur LNG, LLC (PALNG) in the above-referenced proceedings. PALNG is a wholly owned, indirect subsidiary of Sempra Energy. In the letters, PALNG provides information regarding Sempra Energy's internal corporate reorganization, in light of DOE/FE's Change in Control Procedures.⁴

I. BACKGROUND

FTA Authorization (FE Docket Nos. 15-53-LNG and 18-162-LNG). DOE/FE Order No. 3698, as amended by Order No. 3698-A,⁵ granted PALNG a long-term authorization

¹ Port Arthur LNG, LLC, FE Docket Nos. 15-53-LNG, *et al.*, Information Regarding Internal Corporate Reorganization (Jan. 4, 2019) [hereinafter PALNG Statement I].

² Port Arthur LNG, LLC, FE Docket Nos. 15-53-LNG, *et al.*, Information Regarding Internal Corporate Reorganization (Feb. 1, 2019) [hereinafter PALNG Statement II].

³ Port Arthur LNG, LLC, FE Docket Nos. 15-53-LNG, *et al.*, Update to Information Regarding Internal Corporate Reorganization (Apr. 9, 2019) [hereinafter PALNG Statement III].

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/FE Change in Control Procedures].

⁵ *Port Arthur LNG, LLC*, DOE/FE Order No. 3698, FE Docket No. 15-53-LNG, Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Proposed Port

to export domestically produced liquefied natural gas (LNG) to any country with which the United States has a free trade agreement (FTA) requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (FTA countries), pursuant to section 3(c) of the Natural Gas Act (NGA).⁶ PALNG is authorized to export this LNG in a volume equivalent to 698 billion cubic feet per year (Bcf/yr) of natural gas.

Non-FTA Application (FE Docket No. 15-96-LNG). On June 15, 2015, PALNG filed an application,⁷ as subsequently amended,⁸ requesting authority to export domestically produced LNG to any country with which the United States has not entered into a FTA requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (non-FTA countries), pursuant to NGA section 3(a).⁹ PALNG requests authority to export LNG in a volume equivalent to 698 Bcf/yr of natural gas. That application is pending.

II. DESCRIPTION OF CHANGE IN CORPORATE OWNERSHIP

In its January 4, 2019 letter, PALNG informs DOE/FE that, in December 2018, Sempra Energy began an internal corporate reorganization, whereby the immediate parent company of PALNG changed from Port Arthur LNG Holdings, LLC to Port Arthur Liquefaction Holdings, LLC. Further, PALNG states that three wholly-owned subsidiaries will be included in the line of ownership between PALNG's immediate parent and Sempra Energy. Specifically, Port Arthur Liquefaction Holdings, LLC will be owned by Sempra PALNG Holdings, LLC, which will be owned by Sempra LNG, which in turn will be owned by Sempra Global Holdings, Inc. PALNG states that all of these companies are indirect, wholly owned subsidiaries of Sempra Energy.¹⁰ PALNG provides two charts reflecting Sempra Energy's organizational structure before and after the reorganization, respectively.¹¹

On February 1, 2019, PALNG submitted a letter to supplement the January 4, 2019 letter.¹² PALNG states that, on January 2, 2019, in the process of the internal corporate reorganization described above, PALNG merged with and into a newly formed limited liability company created for that purpose (MergeCo).¹³ Contemporaneous with the merger, the surviving entity took the name of Port Arthur LNG, LLC (as was the original authorization holder and applicant) and succeeded to all of the assets, rights, and

Arthur LNG Project in Port Arthur, Texas, to Free Trade Agreement Nations (Aug. 20, 2015), *as amended* by DOE/FE Order No. 3698-A (Nov. 20, 2018).

⁶ 15 U.S.C. § 717b(c).

⁷ Port Arthur LNG, LLC, FE Docket No. 15-96-LNG, Application for Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Countries (June 15, 2015).

⁸ Port Arthur LNG, LLC, FE Docket No. 15-96-LNG, Amendment to Application for Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Countries (Design Increase) (Oct. 19, 2018).

⁹ 15 U.S.C. § 717b(a).

¹⁰ See PALNG Statement I at 2.

¹¹ See *id.* (Attachments).

¹² See PALNG Statement II at 1.

¹³ See *id.*

liabilities of the preceding Port Arthur LNG, LLC entity by matter of law. According to PALNG, the corporate ownership of the surviving PALNG entity described in the January 4, 2019 submission is otherwise unchanged.¹⁴

PALNG submits that no transfer of control has occurred as a result of this internal reorganization and merger. PALNG states that, after the reorganization, Sempra Energy remains the ultimate parent company of PALNG and retains control of PALNG through several intermediate wholly owned subsidiaries.¹⁵ Additionally, PALNG “does not believe that such a purely internal reorganization raises the type of issues that are meant to be addressed in the DOE’s regulations and policies.”¹⁶ On this basis, PALNG asks DOE/FE to “confirm that no change in control has occurred following an internal reorganization such as the one described in the January 4, 2019 submission,” and “that no action is required on the part of PALNG under such circumstances.”¹⁷

Most recently, on April 9, 2019, PALNG informed DOE/FE that Sempra LNG—one of the companies identified in the upstream ownership of PALNG—changed its name to Sempra LNG Holding Company, effective March 26, 2019.¹⁸ PALNG states that this was a name change only, with no change to the entity or ownership arrangements described in PALNG’s January 4 and February 1 filings.¹⁹ PALNG states that it “does not believe that this name change affects DOE/FE’s change-in-control analysis.”²⁰ PALNG also provides updated charts showing Sempra Energy’s organizational structure before and after the reorganization, respectively, which we have attached to this letter.²¹

III. DISCUSSION AND CONCLUSIONS

DOE/FE 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.²² 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.²³

Upon review of the information provided by PALNG—including the most recent charts showing the change in Sempra Energy’s organizational structure—DOE/FE finds that the described internal corporate reorganization does not constitute a change in control of

¹⁴ See *id.* at 2.

¹⁵ See *id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ See PALNG Statement III at 1.

¹⁹ See *id.*

²⁰ *Id.*

²¹ See *id.* (Attachments).

²² See DOE/FE Change in Control Procedures, 79 Fed. Reg. at 65,542.

²³ See *id.*

PALNG. First, we note that DOE/FE issued the Change in Control Procedures pursuant (in part) to its regulations at 10 C.F.R. § 590.405. That regulation states: “Authorizations issued by the Assistant Secretary to import or export natural gas shall not be transferable or assignable, unless specifically authorized”²⁴ We find that the policy underlying this regulation—and therefore DOE/FE’s Change in Control Procedures—pertains to external transfers or assignments, not purely internal corporate reorganizations. For example, in the Change in Control Procedures, we refer to the “ownership or management of the exporting entity *chang[ing] hands*, resulting in a change in control (CIC).”²⁵ DOE/FE’s Procedures are thus focused on a change in control of the authorization holder from one owner to another, not simply a reshuffling of wholly-owned subsidiaries within the same parent organization.

In the current proceeding, we find that no such transfer of the ownership or management of PALNG has occurred. At all times (before, during, and after the reorganization), Sempra Energy remained the ultimate parent company of PALNG and retained control of PALNG through a succession of wholly-owned subsidiaries.²⁶ Other indicia of a change in control identified in the Change of Control Procedures—such as an asset sale, stock transfer, or other change resulting in the ownership or the power to vote, directly or indirectly, 10% or more of the voting securities of an entity—are not present here. Accordingly, we agree with PALNG that no transfer of control has occurred as a result of Sempra Energy’s internal reorganization.

No further action is required.

Sincerely,

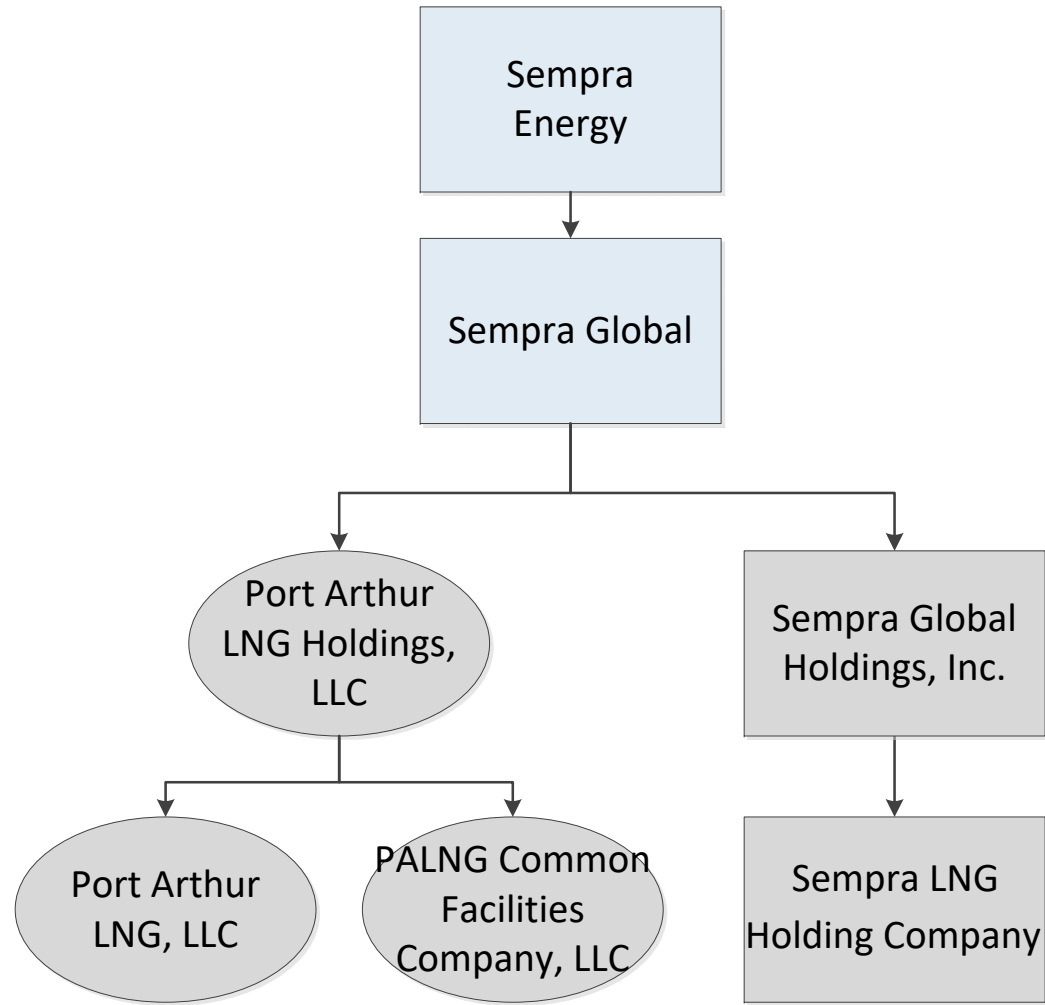
Amy R. Sweeney
Director, Division of Natural Gas Regulation

²⁴ 10 C.F.R. § 590.405.

²⁵ DOE/FE Change in Control Procedures, 79 Fed. Reg. at 65,541 (emphasis added).

²⁶ See PALNG Statement II & III (Attachments).

PRIOR STRUCTURE



FINAL STRUCTURE

