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April 25, 2023

**BY ELECTRONIC FILING**

Amy Sweeney  
Director, Office of Regulation, Analysis and Engagement (FE-34)  
Office of Resource Sustainability  
Office of Fossil Energy and Carbon Management  
1000 Independence Ave., S.W.  
Washington, DC 20585

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

Dear Ms. Sweeney,

Pursuant to the authorizations issued by the Department of Energy's 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* ("CIC Procedures"),<sup>1</sup> Port Arthur LNG, LLC ("PALNG") respectfully submits this Statement of Change in Control with respect to an expected change in PALNG's upstream ownership.

On March 20, 2023, Sempra LNG Holding, LP, ("Sempra LNG Holding") an indirect wholly owned subsidiary of Sempra Infrastructure Partners, LP ("SI Partners"), entered into an equity purchase and sale agreement whereby KKR Denali Holdco LLC ("KKR-Denali") will purchase from Sempra LNG Holding a non-controlling 35.7% interest in the equity of Sempra PALNG Holdings, LLC ("Sempra PALNG Member"), with an option to increase its purchased interest up to a non-controlling 69.5% interest in the equity of Sempra PALNG Member, which 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. This transaction remains subject to certain conditions but is expected to close in the third quarter of 2023.

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<sup>1</sup> 79 Fed. Reg. 65541 (Nov. 5, 2014).

## **Background**

PALNG is developing a natural gas liquefaction and export terminal in Port Arthur, Texas. PALNG holds long-term, multi-contract authorizations to export as liquefied natural gas (“LNG”) up to the equivalent of 698 billion cubic feet per year (Bcf/yr) of domestically produced natural gas both to countries with which the United States has a free trade agreement requiring national treatment for trade in natural gas (“FTA nations”) and to other countries with which trade is not prohibited by U.S. law or policy (“non-FTA nations”).

On August 20, 2015, DOE/FECM issued Order No. 3698 in FE Docket No. 15-53-LNG granting authorization to PALNG to export 517 Bcf/yr of LNG from the Port Arthur Liquefaction Project (“Project”) to FTA nations.<sup>2</sup> PALNG filed an amendment to the authorization to modify the export volume requested to 698 Bcf/yr of LNG.<sup>3</sup> On November 20, 2018, DOE/FECM issued Order No. 3698-A in FE Docket Nos. 15-53-LNG and 18-162-LNG, granting this requested amendment of PALNG’s FTA export authorization.<sup>4</sup> DOE/FECM subsequently granted PALNG’s request to extend the term of the FTA authorization to December 31, 2050.<sup>5</sup>

On May 2, 2019, the DOE/FECM issued Order No. 4372 in FE Docket No. 15-96-LNG, authorizing PALNG to export 698 Bcf/yr of LNG from the Project to Non-FTA nations.<sup>6</sup> The DOE/FECM conducted a public interest analysis in relation to the Non-FTA authorization as required under NGA section 3(a) and concluded that that the exports are not inconsistent with the public interest.<sup>7</sup> DOE/FECM subsequently extended the term of the Non-FTA authorization to December 31, 2050.<sup>8</sup>

## **Description of the Transaction**

Under the terms and conditions of the equity purchase and sale agreement, KKR-Denali will acquire a non-controlling 35.7%–69.5% equity interest in Sempra PALNG Member (the “Transaction”). Following consummation of the Transaction, Sempra LNG Holding will be the

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<sup>2</sup> *Port Arthur LNG, LLC*, DOE/FECM Order No. 3698, FE Docket No. 15-53-LNG, Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas By Bessel From the Proposed Port Arthur LNG Project in Port Arthur, Texas, to Free Trade Agreement Nations (Aug. 20, 2015).

<sup>3</sup> Application of Port Arthur LNG, LLC For Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas to Free Trade Agreement Countries, FE Docket Nos. 15-53-LNG & 18-162-LNG (Oct. 18, 2018).

<sup>4</sup> *Port Arthur LNG, LLC*, DOE/FECM Order No. 3698-A, FE Docket Nos. 15-53-LNG & 18-162-LNG, Order Amending Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas By Vessel From the Proposed Port Arthur LNG Project in Port Arthur, Texas, to Free Trade Agreement Nations (Nov. 20, 2018).

<sup>5</sup> *Port Arthur LNG, LLC*, DOE/FECM Order No. 3698-B, FE Docket Nos. 15-53-LNG & 18-162-LNG, Order Extending Export Term for Authorizations to Free Trade and Non-Free Trade Agreement Nations Through December 31, 2050 (Oct. 28, 2020).

<sup>6</sup> *Port Arthur LNG, LLC*, DOE/FECM Order No. 4372, FE Docket No. 15-96-LNG, Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Free-Trade Agreement Nations (May 2, 2019).

<sup>7</sup> *Id.* at 43-54.

<sup>8</sup> *Port Arthur LNG, LLC*, DOE/FECM Order No. 4372-A, FE Docket No. 15-96-LNG, Order Extending Export Term for Authorizations to Free Trade and Non-Free Trade Agreement Nations Through December 31, 2050 (Oct. 28, 2020).

controlling 30.5%–64.3% equity interest holder in Sempra PALNG Member, and KKR-Denali will be the non-controlling 35.7%–69.5% equity interest holder in Sempra PALNG Member with certain non-controlling member protections. Sempra LNG Holding, and indirectly its parent SI Partners, will continue to be the operator of PALNG through Sempra PALNG Member. The Transaction is anticipated to close in the third quarter of 2023.

KKR- Denali is a newly formed Delaware limited liability company under the management and control of KKR & Co. Inc. DOE/FECM previously reviewed KKR & Co. Inc.’s ownership interest in PALNG without objection.<sup>9</sup>

The ownership of PALNG prior to the Transaction is as follows: PALNG is wholly owned by PA Liquefaction Holdings, which in turn is 30% owned by ConocoPhillips Port Arthur LNG LLC (“COP-PALNG Member”) and 70% owned by Sempra PALNG Member. COP-PALNG Member is a wholly owned subsidiary of ConocoPhillips Company (“COP”). Sempra PALNG Member is wholly owned by SI Partners, which in turn is 70% owned by Sempra Energy, 20% owned by a subsidiary of KKR & Co. Inc., and 10% owned by a subsidiary of the Abu Dhabi Investment Authority. The foregoing ownership structure of PALNG was described by PALNG in a change-in-control filing concerning the acquisition by COP-PALNG Member of an interest in PA Liquefaction Holdings.<sup>10</sup> A chart illustrating the foregoing ownership structure of PALNG prior to the Transaction is attached herewith as Exhibit A.

A chart illustrating the ownership structure of PALNG following the planned Transaction is attached herewith as Exhibit B. As reflected there, KKR-Denali will acquire a 35.7%–69.5% ownership interest in Sempra PALNG Member.

### **Change in Control Procedures**

Section 590.405 of DOE’s regulations provides that “[a]uthorizations by the Assistant Secretary to import or export natural gas shall not be transferable or assignable, unless specifically authorized by the Assistant Secretary.”<sup>11</sup> DOE construes a change of 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.<sup>12</sup>

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<sup>9</sup> See DOE Response to Statement of Change in Control, *Port Arthur LNG, LLC, et al.*, FE Docket Nos. 15-53-LNG, 15-96-LNG, 18-162-LNG, *et al.* (June 29, 2021).

<sup>10</sup> See Statement of Change in Control, *Port Arthur LNG, LLC*, FE Docket No. 15-96-LNG (Dec. 21, 2022). On January 27, 2023, DOE/FECM issued a notice of this filing in the *Federal Register*. *Port Arthur LNG, LLC*, 88 Fed. Reg. 5325 (Jan. 27, 2023). No party filed comments, and DOE/FECM did not issue comments, by the date indicated in the notice. The transaction closed on March 20, 2023.

<sup>11</sup> 10 C.F.R. § 590.405 (2022).

<sup>12</sup> CIC Procedures at 65542.

DOE has explained that a rebuttable presumption that control exists will arise from the ownership or the power to vote, directly or indirectly, 10 percent or more of the voting securities of such entity.<sup>13</sup>

The procedures for notifying DOE/FECM of a change in control are set forth in the CIC Procedures. The CIC Procedures require a holder of an export authorization to notify DOE/FECM of a change in control no later than 30 days after such change has been effectuated, while adding that notices may also be filed prior to the change.<sup>14</sup>

KKR-Denali's acquisition, when the Transaction closes, of a 35.7%–69.5% ownership interest in Sempra PALNG Member, which has an indirect 70% interest in PALNG, may trigger DOE/FECM's threshold for a rebuttable presumption that a change in control has occurred. Accordingly, PALNG has elected to submit this statement now to promote certainty in advance of the closing of the Transaction and requests that DOE/FECM promptly issue a notice in the *Federal Register* under the CIC Procedures, as discussed below.

### ***FTA Export Authorizations***

With respect to FTA long-term export authorizations, the CIC Procedures provide that upon receipt of a statement of change in control, DOE/FECM will give effect to the change in control and take no further action.<sup>15</sup> With respect to the FTA export authorization noted above, PALNG respectfully requests that DOE/FECM give immediate effect to the change in control described herein upon the closing of the equity purchase and sale agreement, in accordance with the CIC Procedures.

### ***Non-FTA Export Authorizations***

For existing Non-FTA export authorizations, upon receipt of a statement of change in control, the CIC Procedures provide that DOE/FECM will give effect to the change in control and will publish a notice of the change in the *Federal Register*.<sup>16</sup> If no interested person protests the change in control and DOE/FECM takes no action of its own motion, the change in control is deemed granted 30 days after publication of the *Federal Register* notice.<sup>17</sup> If a protest is filed, DOE/FECM will make a determination as to whether the proposed change in control has been demonstrated to render the underlying authorization inconsistent with the public interest.<sup>18</sup>

Consistent with the CIC Procedures and its established practice, DOE/FECM should publish notice of this PALNG filing in the *Federal Register* and provide fifteen days for interventions and comments and state explicitly that, if no protests are filed and DOE/FECM takes no contrary action on its own, then the change in PALNG's non-FTA authorization will be deemed granted 30 days after notice publication. If any protest is submitted, DOE/FE should recognize

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<sup>13</sup> *Id.*  
<sup>14</sup> *Id.*  
<sup>15</sup> *Id.*  
<sup>16</sup> *Id.*  
<sup>17</sup> *Id.*  
<sup>18</sup> *Id.*

that the acquisition by KKR-Denali of a non-controlling ownership interest in PALNG is not inconsistent with the public interest. The Transaction does not affect the public interest determination previously made by DOE/FECM when authorizing non-FTA exports in Order No. 4372. Furthermore, KKR-Denali's investment in PALNG furthers the development of the Project and, thereby, promotes the public interest.

Where a transfer or assignment will not result in any substantive changes in the terms and conditions of the initial authorization, DOE/FECM has generally relied on its previous determination that the export is consistent with the public interest when evaluating the transfer or assignment.<sup>19</sup> For example, DOE/FECM has approved transfers of control that involve no changes to the scope of a project, total volumes of gas, date of commencement or completion, source and security of gas supply, price and other transactional terms, or proven need for the supply.<sup>20</sup> DOE/FECM has also approved transfers in control upon a finding that “the contractual terms and conditions of the . . . export arrangements upon which the section 3 determinations were based would remain the same, and there [was] no other information in the record . . . to support or compel reexamination under section 3.”<sup>21</sup> Similarly, the Transaction has no substantive effect on the terms and conditions of the Non-FTA export authorization noted above—the change in control has no effect on the scope of the project, the amount of gas exported, the commencement or completion dates of the projects, the sources of the gas supply, or the prices or other transactional terms. Operation and maintenance of the PALNG terminal will continue to be under the control of PALNG. Likewise, PALNG will continue to hold the export authorizations described herein and will remain the points of contact with DOE/FECM with respect to reporting and administration under the authorizations.

Moreover, DOE/FECM has approved applications to transfer or assign an authorization from the authorization holder to one or more of its customers where the general terms and

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<sup>19</sup> See *Cameron LNG, LLC*, DOE/FECM Order No. 3452, FE Docket Nos. 14-001-CIC, 11-162-LNG & 11-145-LNG, Order Approving Change in Control of Export Authorizations at 7 (June 27, 2014) (approving change in control application, finding “it has not been shown that the change in control will impact any of the public interest considerations evaluated by DOE/FECM in issuing [the] authorizations.”); *Brooklyn Union Gas Co.*, DOE Opinion & Order No. 561 at 7 (1991) (“To the extent that the transfer does not effect (sic) the terms and conditions of the underlying import arrangement, the DOE can rely on its previous determinations regarding the arrangement when considering the transfer application.”); *Nw. Pipeline Corp.*, DOE Opinion & Order No. 664, at 6-7 (1992), *reh’g denied*, DOE/FECM Opinion & Order No. 664-A, *order terminating long-term authorization*, DOE/FECM Order No. 664-B (1994), *order amending authorization*, DOE/FECM Order No. 664-C (1999), *order amending authorization*, DOE/FECM Order No. 664-D (1999) (“The burden of proof, however, belongs to [protesters] and they have failed to rebut DOE’s previous finding of need . . ., a finding which was based on circumstances that will not change as a result of the proposed transfer.”); *Great Lakes Gas Transmission LP*, DOE Opinion & Order No. 424 (1990); *Midwestern Gas Transmission Co.*, DOE Opinion & Order No. 318 at 3 (1989) (“Viking will succeed Midwestern as buyer under the contracts underlying the authorizations. In no other respect will the terms and conditions of these contracts change. Only the identity of the importer will change.”); *Consumer Power Co.*, DOE/Opinion & Order No. 390 (1990), *order amending authorization*, DOE/FECM Order No. 390-A (1994), *order terminating authorization*, DOE/FECM Order No. 390- B (1995).

<sup>20</sup> See *Brooklyn Union Gas Co.*, DOE Opinion & Order No. 561, at 2-3, 7.

<sup>21</sup> *Great Lakes Gas Transmission Co.*, DOE Opinion & Order No. 424, at 3.

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conditions otherwise remain unchanged and the total authorized volumes do not increase.<sup>22</sup> Similarly, there will be no substantive changes to the terms and conditions, including the volumes, of the existing authorizations as a result of the acquisition of an upstream, non-controlling ownership interest by KKR-Denali.

Based on the foregoing, PALNG submits that the Transaction and resulting change in upstream ownership have no effect on the grounds underlying the public interest determination previously made by DOE/FECM in issuing Order No. 4372 and is not inconsistent with the public interest.

### **Conclusion**

For the foregoing reasons, PALNG respectfully requests that DOE/FECM give effect to the change in control described herein.

Please contact the undersigned with any questions regarding this submission.

Respectfully submitted,

/s/ Brett A. Snyder

Brett A. Snyder

*Counsel to Port Arthur LNG, LLC*

cc: Jerrod L. Harrison

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<sup>22</sup> See *Nw. Pipeline Corp.*, DOE Opinion & Order No. 664 (1992); *Great Lakes Gas Transmission Co.*, DOE Opinion & Order No. 416 (1990); *Consumer Power Co.*, DOE Opinion & Order No. 390; *Great Lakes Gas Transmission Co.*, DOE/ERA Opinion & Order No. 207 (1987); *Great Lakes Gas Transmission Co.*, DOE/ERA Opinion & Order No. 157 (1987).

## VERIFICATION

I, William Gurrola, declare that I am Vice President – Project Development for Port Arthur LNG, LLC and am duly authorized to make this Verification; that I have read the foregoing instrument 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 in San Diego, California on April 25, 2023.

/s/ William Gurrola

William Gurrola  
Vice President – Project Development  
Port Arthur LNG, LLC  
488 8th Avenue  
San Diego, CA 92101

**OPINION OF COUNSEL**



April 25, 2023

Amy Sweeney  
Director, Office of Regulation, Analysis and Engagement (FE-34)  
Office of Resource Sustainability  
Office of Fossil Energy and Carbon Management  
1000 Independence Ave., S.W.  
Washington, DC 20585

**Re: Port Arthur LNG, LLC, FE Docket Nos. 15-53-LNG, 15-96-LNG & 18-162-LNG  
Statement of Change 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) (2022). I am counsel to Port Arthur LNG, LLC (“PALNG”).

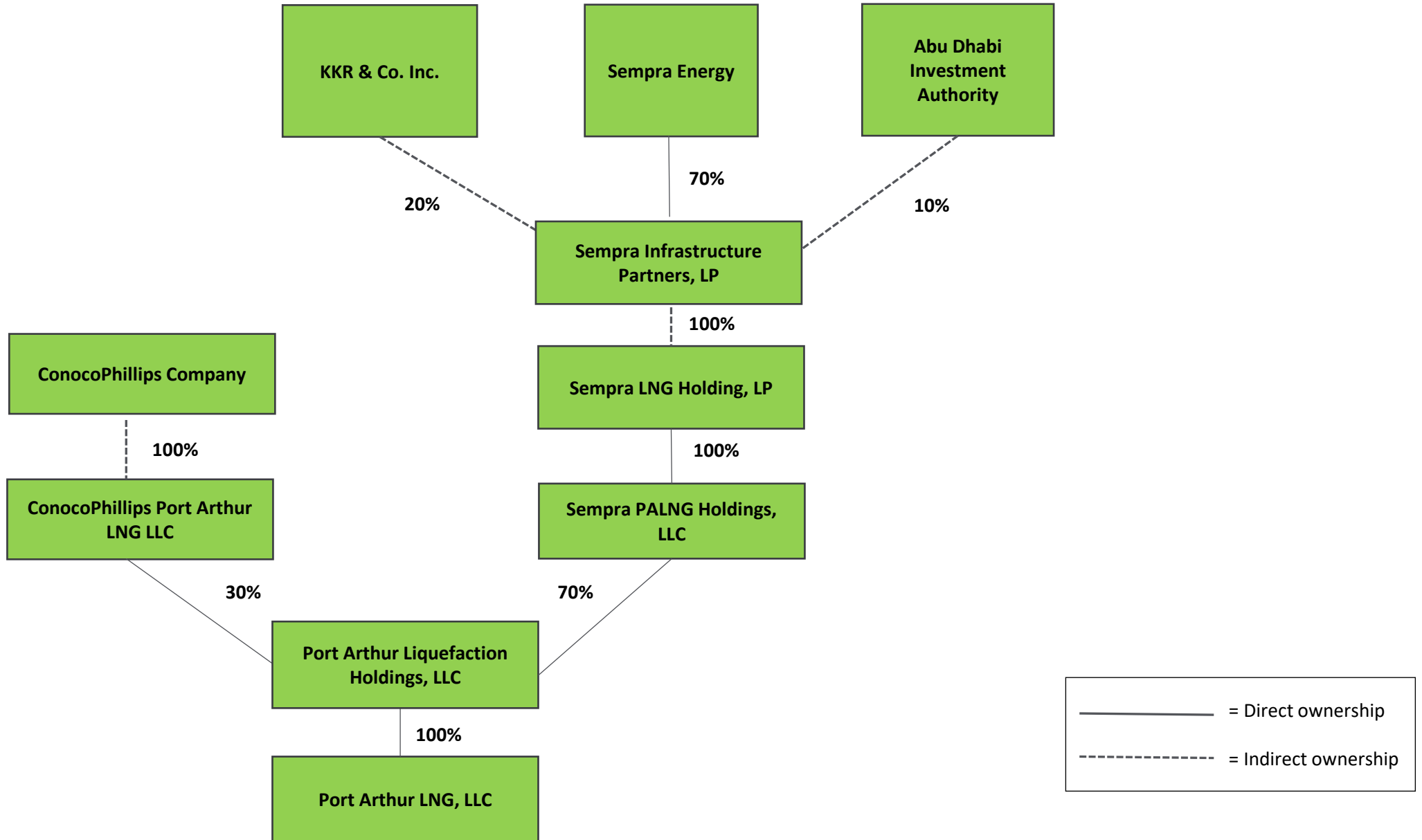
I have reviewed the organizational and internal governance documents of PALNG and it is my opinion that the Statement of Change in Control filed by PALNG with the DOE Office of Fossil Energy and Carbon Management on April 25, 2023, is within the company powers of PALNG.

Respectfully submitted,

/s/ Jerrod L. Harrison  
Assistant General Counsel  
488 8<sup>th</sup> Avenue  
San Diego, CA 92101  
619-696-2987  
JHarrison@sempraglobal.com  
*On Behalf of Port Arthur LNG, LLC*

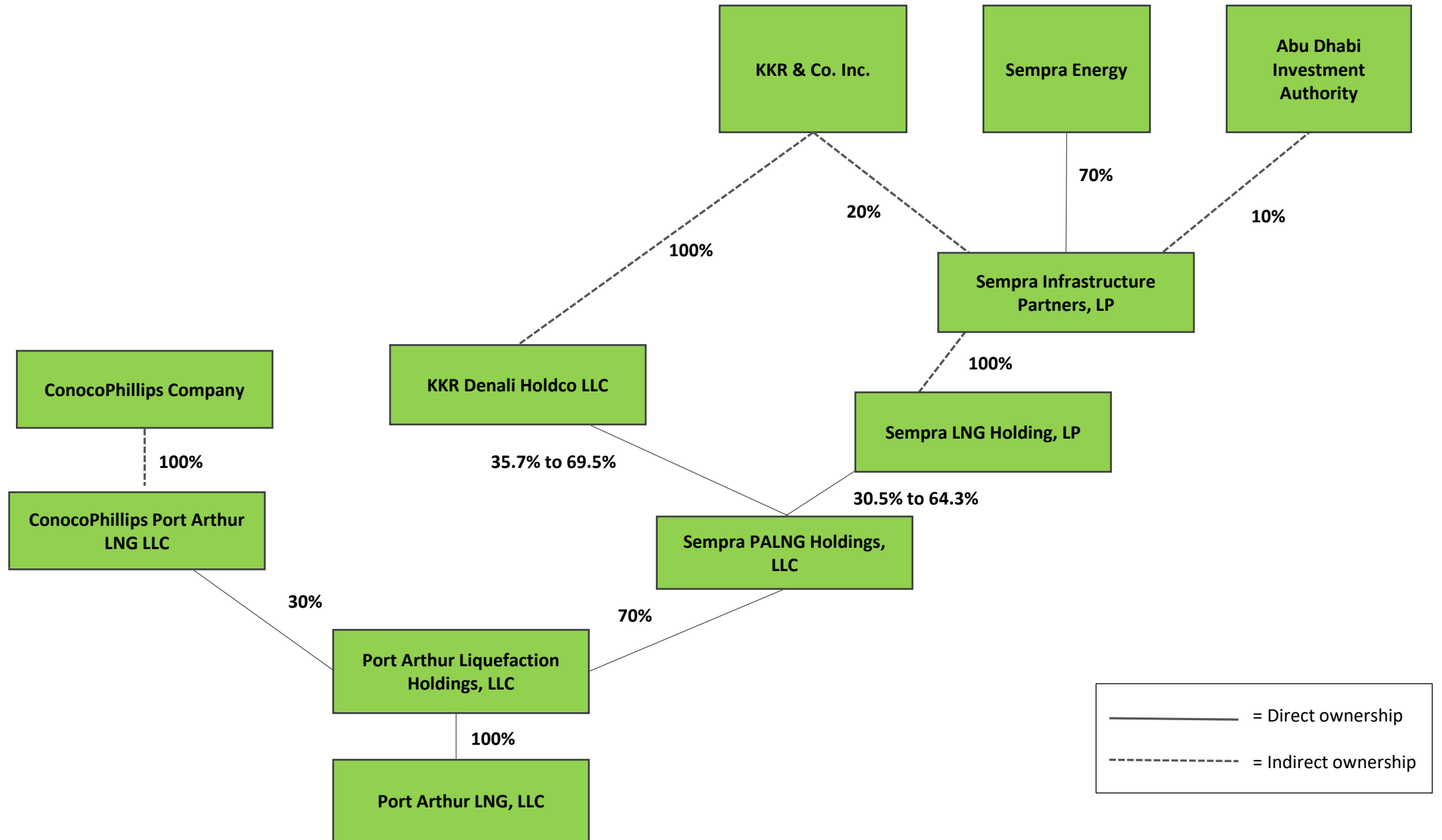
# **EXHIBIT A**

# Pre-Transaction Organization



## **EXHIBIT B**

# Post-Transaction Organization



## CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list in FE Docket Nos. 15-53-LNG, 15-96-LNG & 18-162-LNG.

Dated at New York, New York, this 25th day of April 2023.

/s/ Jane Thomas  
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