

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

Mexico Pacific Limited LLC

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Docket No. 22-167-LNG

**ANSWER OF MEXICO PACIFIC LIMITED LLC TO SUPPLEMENTAL COMMENTS
OF SIERRA CLUB**

Pursuant to Section 590.304(f) of the Department of Energy’s (“DOE”) regulations,¹ Mexico Pacific Limited LLC (“MPL”) hereby submits this answer (“Answer”) in opposition to the Supplemental Comments of Sierra Club.² The Supplemental Comments concern MPL’s application submitted on December 28, 2022, to the DOE Office of Fossil Energy and Carbon Management (“DOE/FECM”) for additional long-term, multi-contract authorization to export domestically produced natural gas to Mexico and to re-export quantities of that natural gas not consumed in Mexico in the form of liquefied natural gas (“LNG”) to both free trade agreement (“FTA”) and non-free trade agreement (“non-FTA”) nations.³ On April 28, 2023, DOE/FECM granted MPL long-term authorization to export natural gas to Mexico and other FTA nations.⁴

For the reasons stated in this Answer, DOE/FECM must reject the Supplemental Comments. But even if DOE/FECM accepts the Supplemental Comments, they should have no bearing on its analysis of MPL’s application, since nothing in the Supplemental Comments provides a basis on which DOE/FECM could conclude that the export authorization MPL is

¹ 10 C.F.R. § 590.304(f) (2022).

² Supplemental Comments of Sierra Club, FE Docket No. 22-167-LNG (submitted July 28, 2023) (“Supplemental Comments”).

³ Application of Mexico Pacific Limited LLC for Additional Long-Term, Multi-Contract Authorization to Export Natural Gas to Mexico and to Re-Export Liquefied Natural Gas to Free Trade Agreement and Non-Free Trade Agreement Nations, Docket No. 22-267-LNG (Dec. 28, 2022) (“MPL Application”).

⁴ See *Mexico Pacific Limited LLC*, DOE/FECM Order No. 4996, Docket No. 22-167-LNG (Apr. 28, 2023).

seeking is inconsistent with the public interest. MPL submits that on the basis of the information provided in the MPL Application, the MPL Motion,⁵ and this Answer, DOE/FECM can conclude that the export authorization to non-FTA nations requested by MPL is not inconsistent with the public interest.

In support of its Answer, MPL states the following:

I. Answer

A. DOE/FECM Must Reject Sierra Club’s Supplemental Comments Because The Supplemental Comments Are Late And Procedurally Impermissible.

The Supplemental Comments are late, and on this basis alone must be rejected. The Federal Register notice issued in this proceeding stated, “Protests, motions to intervene, or notices of intervention, as applicable, and *written comments* are to be filed electronically as detailed in the Public Comment Procedures section *no later than 4:30 p.m., Eastern time, April 3, 2023.*”⁶ Now, nearly four months after the governing due date, Sierra Club has submitted the Supplemental Comments, without explanation and without attempting to establish that good cause exists for its tardiness. DOE/FECM has observed that late filings unnecessarily delay final agency action, stating that “late filings are both unfairly prejudicial to the applicant (and any other parties) and disruptive to DOE’s interests in administrative efficiency and fairness.”⁷ With this in mind, and

⁵ Conditional Motion for Leave to Submit an Answer One Day Out of Time and Answer of Mexico Pacific Limited LLC to Protests, Docket No. 22-167-LNG (Apr. 19, 2023) (“MPL Motion”). MPL incorporates by reference the MPL Motion in this Answer, and attaches a copy of the MPL Motion to this Answer as Exhibit A.

⁶ Application [of Mexico Pacific Limited LLC] for Additional Long-Term, Multi-Contract Authorization To Export U.S.-Sourced Natural Gas to Mexico and To Re-Export Liquefied Natural Gas From Mexico to Non-Free Trade Agreement Countries, 88 Fed. Reg. 6716 (Feb. 1, 2023) (emphasis added). On March 29, 2023, in response to this notice, Sierra Club timely filed a Motion to Intervene and Protest. *See* Motion to Intervene and Protest of Sierra Club, Docket No. 22-167-LNG (Mar. 29, 2023) (“Sierra Club Protest”).

⁷ *See Energía Costa Azul, S. de R.L. de C.V.*, DOE/FECM Order No. 4365-B at 52, Docket No. 18-14-LNG (Dec. 20, 2022).

as it has in other proceedings, DOE/FECM must reject the late filed Supplemental Comments out of hand.⁸

The Supplemental Comments are procedurally impermissible for an additional reason: there is no mechanism in DOE's regulations providing for intervening parties to submit supplemental comments.⁹ Sierra Club cites no regulation authorizing its submission of the Supplemental Comments because no such regulation exists.

The Supplemental Comments flout DOE regulations because they are late filed and procedurally impermissible. Accordingly, MPL respectfully requests that DOE/FECM reject them.

B. Granting MPL's Request For Non-FTA Export Authorization Would Not Be Inconsistent With The Public Interest; Nothing In The Supplemental Comments Proves Otherwise.

The Supplemental Comments submit two items: (1) an Energy Information Administration ("EIA") report titled "AEO2023 Issues in Focus: Effects of Liquefied Natural Gas Exports on the U.S. Natural Gas Market ("EIA 2023 Report");" and (2) an article reporting on MPL's execution of an LNG sale and purchase agreement with counterparty Zhejiang Energy International Limited (the "Zhejiang SPA"). In the event DOE/FECM does accept the Supplemental Comments, it should conclude that nothing in the Supplemental Comments, or the Sierra Club Protest,

⁸ See *id.* at 53 (dismissing Sierra Club's late filed intervention); *Driftwood LNG LLC*, Order Dismissing Industrial Energy Consumers of America's Motion to Intervene and Protest and Accepting Late-Filed Comments, DOE/FE Docket No. 16-144-LNG (Apr. 10, 2019) (rejecting a protest and motion to intervene filed after due date to respond to a supplemental filing); *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 3357, DOE/FE Docket No. 11-161-LNG, at 88 (Nov. 15, 2013) (rejecting late filed motions to intervene and protest); *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 2961-A, FE Docket No. 10-111-LNG (Aug. 7, 2012) (rejecting Sierra Club's late motion to intervene); *Sabine Pass Liquefaction, LLC*, FE Docket No. 10-111-LNG, Procedural Order on Late Filed Pleadings, at 5 (Mar. 25, 2011) (rejecting late-filed motion to intervene).

⁹ DOE regulations do, however, provide that *applicants*, such as MPL, can "supplement" an application "whenever there are changes in material facts or conditions upon which the proposal is based." See 10 C.F.R. § 590.204(a).

establishes that the non-FTA export authorization MPL is seeking is inconsistent with the public interest.

Sierra Club states that the EIA 2023 Report provides evidence to support its argument that increased LNG exports will increase domestic natural gas prices.¹⁰ DOE/FECM has heard this argument from Sierra Club and other opponents of LNG exports before, and it has consistently dismissed it, finding that increasing LNG exports “under any given set of assumptions about U.S. natural gas resources and their production leads to only small increases in U.S. natural gas prices.”¹¹ Furthermore, DOE/FECM has repeatedly, and recently, held that public interest benefits associated with exports of LNG outweigh any small increases in U.S. natural gas prices that might occur.¹² DOE/FECM should reach the same conclusion here.

In any event, the EIA 2023 Report identified in the Supplemental Comments actually *supports* the proposition that LNG exports are not inconsistent with the public interest. When considering the potential for domestic price increases in evaluating recent export authorizations, DOE/FECM has compared the pricing assumptions that underpin the 2018 LNG Export Study¹³ with the pricing assumptions incorporated in the EIA Annual Energy Outlook 2022 (“AEO 2022”). On the basis of this comparison, DOE/FECM has noted that EIA AEO 2017, on which the 2018 LNG Export Study relies, projected a Henry Hub price through 2050 of \$6.27 per MMBtu,

¹⁰ Supplemental Comments at 1.

¹¹ *Magnolia LNG LLC*, DOE/FE Order No. 3909-C at 16, Docket No. 13-132-LNG (Apr. 27, 2022); *Energía Costa Azul, S. de R.L. de C.V.*, DOE/FECM Order No. 4365-B at 60, Docket No. 18-14-LNG (Dec. 20, 2022).

¹² *See id.* at 56; *Vista Pacífico LNG S.A.P.I. de C.V.*, DOE/FECM Order No. 4929, Docket No. 20-153-LNG (Dec. 20, 2022).

¹³ *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports*, NERA Economic Consulting (Jun. 7, 2018), *available at* <https://www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf> (the “2018 LNG Export Study”).

compared to the EIA AEO 2022 projection for 2050 of \$3.59 per MMBtu, using 2021 dollars in each case.¹⁴ The EIA 2023 Report projects a reference case price of \$3.80 per MMBtu, which is consistent with the EIA AEO 2022 price for Henry Hub natural gas DOE/FECM has credited in other recent orders. Thus, the EIA 2023 Report simply does not provide evidence to support Sierra Club’s argument that increased LNG exports will increase domestic natural gas prices. Accordingly, DOE must reject Sierra Club’s specious argument as it has in numerous cases.¹⁵

Sierra Club seems to suggest that the existence of the Zhejiang SPA requires DOE/FECM to determine whether “gas exported from MPL would displace coal as opposed to renewable and/or low-carbon energy sources; and thus to what extent the MPL proposal would influence [greenhouse gas emission (“GHG”)] emissions.”¹⁶ Sierra Club makes no attempt to explain why this might be the case. Moreover, it is advocating that DOE/FE subject the MPL application to a downstream GHG emissions analysis that DOE/FECM and appellate courts have regularly rejected. As the U.S. Court of Appeals for the District of Columbia Circuit (“D.C. Circuit”) has held, the scope of DOE’s review of LNG export project proposals under the National Environmental Policy Act is limited to the reasonably foreseeable direct and indirect effects of its actions.¹⁷ DOE/FECM has held that such effects do not include impacts on global GHG emissions:

[T]o model the effect that U.S. LNG exports would have on net global GHG emissions would require projections of how each of these fuel sources would be affected in each LNG-importing nation. Such an analysis would not only have to consider market dynamics in each of these countries over the coming decades, but also the interventions of numerous foreign governments in those markets. Moreover, the uncertainty associated with estimating each of these factors would likely render such an analysis too speculative to inform the public interest

¹⁴ See *Cheniere Marketing LLC & Corpus Christi Liquefaction, LLC*, DOE/FE Order No. 4799 at 53 (Mar. 16, 2022).

¹⁵ See, e.g., cases cited *supra* notes 11 and 12.

¹⁶ Supplemental Comments at 1.

¹⁷ *Sierra Club v. DOE*, 867 F.3d 189, 198 (D.C. Cir. 2017) (“*Sierra Club*”) (explaining that an agency “need not foresee the unforeseeable”).

determination in DOE's non-FTA proceedings . . . Based on the evidence, [DOE] see[s] no reason to conclude that U.S. LNG exports will increase global GHG emissions in a material or predictable way.¹⁸

DOE/FECM must evaluate the reasonably foreseeable direct and indirect effects of the MPL Application; as the D.C. Circuit has held, DOE/FECM “need not foresee the unforeseeable.”¹⁹ In pointing to the Zhejiang SPA, Sierra Club is asking DOE/FECM to do exactly that. As it has in other cases with D.C. Circuit approval, DOE/FECM should disregard Sierra Club’s insistence that it must evaluate downstream GHG emissions.

II. CONCLUSION

For the foregoing reasons, MPL requests that DOE/FECM reject the Supplemental Comments. In the event that DOE/FECM accepts the Supplemental Comments, MPL urges DOE/FECM, when acting on the MPL Application, to reject the arguments raised in the Supplemental Comments. MPL submits that on the basis of the information provided in the MPL Application, the MPL Motion (incorporated herein by reference), and this Answer, DOE/FECM can conclude that the non-FTA export authorization requested by MPL is not inconsistent with the public interest.

Respectfully submitted,

MEXICO PACIFIC LIMITED LLC

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¹⁸ Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update-Response to Comments, 85 Fed. Reg. 72 (Jan. 2, 2020).

¹⁹ *Sierra Club*, 867 F.3d at 198.

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Dated: August 2, 2023

**UNITED STATES OF AMERICA
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Mexico Pacific Limited LLC

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Docket No. 22-167-LNG

CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R. § 590.107, I, Tyler R. Brown, hereby certify that I caused the above documents to be served on the persons included on the official service list for this docket, as provided by DOE/FECM, on August 2, 2023.

/s/Tyler R. Brown
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Exhibit A

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

Mexico Pacific Limited LLC

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Docket No. 22-167-LNG

**CONDITIONAL MOTION FOR LEAVE TO SUBMIT AN ANSWER ONE DAY OUT OF
TIME AND ANSWER OF MEXICO PACIFIC LIMITED LLC TO PROTESTS**

Pursuant to Sections 590.302(a), (b), and 590.304(f) of the Department of Energy’s (“DOE”) regulations,¹ Mexico Pacific Limited LLC (“MPL”) hereby submits this conditional motion to submit an answer one day out of time (“Motion”) and answer (“Answer”) in response to (1) the Motion to Intervene and Protest of Public Citizen, Inc. (“Public Citizen”)² and (2) the Motion to Intervene and Protest of Sierra Club.³ The Protests concern MPL’s application submitted on December 28, 2022, to the DOE Office of Fossil Energy and Carbon Management (“DOE/FECM”) for additional long-term, multi-contract authorization to export domestically produced natural gas to Mexico and to re-export quantities of that natural gas not consumed in Mexico in the form of liquefied natural gas (“LNG”) to both free trade agreement (“FTA”) and non-free trade agreement (“non-FTA”) nations.⁴

For the reasons stated in this Answer, nothing in the Protests provides a basis on which DOE/FECM could conclude that the export authorization MPL is seeking is inconsistent with the public interest. Many of Sierra Club’s arguments are the same stale arguments Sierra Club has

¹ 10 C.F.R. §§ 590.302(a)-(b) and 590.304(f) (2022).

² Motion to Intervene and Protest of Public Citizen, Inc., Docket No. 22-167-LNG (Apr. 3, 2023) (“Public Citizen Protest”).

³ Motion to Intervene and Protest of Sierra Club, Docket No. 22-167-LNG (Mar. 29, 2023) (“Sierra Club Protest” and collectively with the Public Citizen Protest, the “Protests”).

⁴ Application of Mexico Pacific Limited LLC for Additional Long-Term, Multi-Contract Authorization to Export Natural Gas to Mexico and to Re-Export Liquefied Natural Gas to Free Trade Agreement and Non-Free Trade Agreement Nations, Docket No. 22-267-LNG (Dec. 28, 2022) (“MPL Application”).

been making in other export proceedings; these arguments have been considered and rejected by DOE/FECM numerous times, and DOE/FECM should do so again in this proceeding. The Public Citizen Protest also contains arguments that the DOE/FECM has previously rejected, but Public Citizen further includes insinuations and accusations that have no basis in fact and have no relevance to the MPL Application. In sum, Sierra Club and Public Citizen, two avowed opponents of LNG exports, offer no compelling analysis or argument specific to the MPL proposal that in any way establish that DOE/FECM's authorization of the additional natural gas exports and LNG re-exports MPL has proposed is inconsistent with the public interest.

In support of its Motion and Answer, MPL states the following:

I. CONDITIONAL MOTION FOR LEAVE TO SUBMIT AN ANSWER ONE DAY OUT OF TIME

To the extent DOE/FECM considers this Answer to be submitted beyond the fifteen-day due date established in DOE regulations, MPL moves that the Assistant Secretary grant MPL leave to submit the Answer after 4:30 pm on April 18, 2023. The Federal Register notice issued in this proceeding set the due date for protests and comments in response to MPL's Application as April 3, 2023, at 4:30 pm ET.⁵ MPL is submitting its Answer on April 18, 2023, but shortly after 4:30 pm ET.

Good cause exists to grant MPL leave to submit the Answer on April 18, 2023, less than one full day out of time.⁶ MPL was delayed in filing the Answer before 4:30 pm on April 18, 2023, due to the need to coordinate with MPL offices and reviewing officials located in Singapore and Houston. Undersigned counsel did not receive the final authorization to submit MPL's Answer

⁵ Mexico Pacific Limited LLC; Application for Additional Long-Term, Multi-Contract Authorization To Export U.S.-Sourced Natural Gas to Mexico and To Re-Export Liquefied Natural Gas From Mexico to Non-Free Trade Agreement Countries, 88 Fed. Reg. 6716 (Feb. 1, 2023).

⁶ 18 C.F.R. § 590.304(f).

until just after 5:00 pm ET on April 18, and counsel submitted this Motion and Answer as soon thereafter as practicable given the need to incorporate client comments. Finally, because MPL is making the filing on April 18, 2023 (the due date), even if some time after the 4:30 pm ET deadline, and because DOE procedural rules do not provide for answers to answers, no party will be prejudiced by MPL submitting the Answer on April 18, 2023 (the due date), albeit after 4:30 pm ET.

Accordingly, MPL respectfully requests that it be granted leave to file its Answer less than one day out of time.

II. BACKGROUND

A. MPL's Existing Authorization to Export 621 Bcf/year.

As recounted in the Application, in 2018, DOE/FECM⁷ granted MPL long-term, multi-contract authorization to export 621 Bcf/year of domestically produced natural gas to Mexico and to re-export quantities of that natural gas not consumed in Mexico in the form of LNG from the MPL Facility to both FTA and non-FTA nations.⁸ MPL sought the authorization granted in the 2018 Orders in connection with its development of an LNG production and offtake facility located in the State of Sonora, Mexico (the "MPL Facility"). At the time of the 2018 Orders, MPL planned to install liquefaction trains capable of producing a quantity of LNG equal to 4 mtpa, or 207 Bcf/year, and MPL envisioned increasing its production capacity by increments of 4 mtpa (or by

⁷ Known at the time as the Office of Fossil Energy.

⁸ *Mexico Pacific Limited LLC*, DOE/FE Order No. 4248, Docket No. 18-70-LNG (Sept. 19, 2018); *Mexico Pacific Limited LLC*, DOE/FE Order No. 4312, Docket No. 18-70-LNG (Dec. 14, 2018) (collectively the "2018 Orders").

tranches of three trains each), to yield total liquefaction capacity of at least 12 mtpa, or 621 Bcf/year.⁹

DOE/FECM granted MPL's export authorizations upon finding that such exports would not be inconsistent with the public interest.¹⁰ MPL's authorizations to export 621 Bcf/year to FTA and non-FTA nations are *not* at issue in the current proceeding.

B. The MPL Application.

On December 28, 2022, MPL requested in the MPL Application DOE/FECM authorization to engage in additional natural gas and LNG exports as follows:

- (1) The export of 291.22 Bcf/year of natural gas by pipeline to Mexico, to be liquefied in Mexico and re-exported to both FTA and non-FTA nations; and
- (2) The export of up to 134.35 Bcf/year of natural gas by pipeline to Mexico, a FTA nation, for use as fuel for pipeline transportation or liquefaction in Mexico.

MPL filed the MPL Application in connection with its continuing development of the MPL Facility. As MPL has advanced and refined the MPL Facility design in order to enhance its efficiency and optimize its operational capabilities, MPL has found that the design MPL has selected is capable of producing significantly more LNG per train than the design MPL had previously assumed. As recounted in the MPL Application, MPL expects that the three natural gas liquefaction trains it intends to construct will have a total projected capacity of 17.6274 mtpa (912.22 Bcf/year).¹¹ Thus, in the MPL Application MPL is proposing to increase the quantity of

⁹ Mexico Pacific Limited LLC, Supplement to Application for Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas to Free Trade Agreement and Non-Free Trade Agreement Nations – Additional Information on Planned Liquefaction Capacity, Docket No. 18-70-LNG (Dec. 12, 2018).

¹⁰ *Mexico Pacific Limited LLC*, DOE/FE Order No. 4312 at 37, Docket No. 18-70-LNG (Dec. 14, 2018).

¹¹ MPL Application at 8.

natural gas and LNG it will be authorized to export to reflect the MPL Facility’s use of more advanced technology and MPL’s more refined understanding of the peak capability of the MPL Facility as currently designed.

On February 1, 2023, DOE/FECM published notice of the MPL Application in the Federal Register, setting a deadline for “protests, motions to intervene, or notices of intervention, as applicable, and written comments” by April 3, 2023.¹² On April 3, 2023, Sierra Club submitted the Sierra Club Protest and Public Citizen submitted the Public Citizen Protest.

III. ANSWER

A. DOE/FECM Must Grant MPL’s Request for Authorization to Export Natural Gas and LNG to FTA Nations, Notwithstanding the Protests.

Section 3(c) of the Natural Gas Act (“NGA”) requires that applications for authorization to export natural gas, including LNG, to a FTA nation be “deemed to be consistent with the public interest” and “granted without modification or delay.”¹³ Because the question whether to authorize exports to FTA nations has been conclusively resolved by Congress in favor of such exports, the Protests are irrelevant to DOE/FECM’s consideration of MPL’s request for authorization to export natural gas and LNG to Mexico and other FTA nations. Accordingly, MPL reiterates its request that DOE/FECM issue the requested authorization to export natural gas and LNG to FTA nations as soon as practical, consistent with the statutory mandate.¹⁴

¹² Mexico Pacific Limited LLC; Application for Additional Long-Term, Multi-Contract Authorization To Export U.S.-Sourced Natural Gas to Mexico and To Re-Export Liquefied Natural Gas From Mexico to Non-Free Trade Agreement Countries, 88 Fed. Reg. 6716 (Feb. 1, 2023).

¹³ 15 U.S.C. § 717b(c).

¹⁴ 15 U.S.C. § 717b(a).

B. Authorizing MPL to Export LNG to Non-FTA Nations is not Inconsistent with the Public Interest.

With respect to exports to non-FTA nations, Section 3(a) of the NGA creates a rebuttable presumption that proposed exports of natural gas are in the public interest, and DOE/FECM must grant an application for authorization to engage in such exports unless those who oppose the application overcome that presumption.¹⁵ To do this, an opponent must affirmatively demonstrate that the proposal is inconsistent with the public interest.¹⁶ The Protests contain no basis upon which DOE/FECM could find that this rebuttable presumption has been overcome and conclude that approval of the MPL Application would be inconsistent with the public interest.¹⁷

¹⁵ See, e.g., *Freeport LNG Expansion, L.P. & FLNG Liquefaction, LLC*, DOE/FE Order No. 3282 at 5-6, Docket No. 10-161-LNG (May 17, 2013); *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 2961 at 28, Docket No. 10-111-LNG (May 20, 2011); *Cameron LNG, LLC*, DOE/FE Order No. 3391, Docket No. 11-162-LNG (Feb. 11, 2014).

¹⁶ See *Sierra Club v. U.S. Dept. of Energy*, 867 F.3d 189, 203 (D.C. Cir. 2017); *Freeport LNG*, DOE/FE Order No. 3282 at 6; see also *Phillips Alaska Natural Gas Corp. & Marathon Oil Co.*, DOE/FE Order No. 1473 at 13, n. 42, Docket No. 96-99-LNG (Apr. 2, 1999) (“Section 3 creates a statutory presumption in favor of approval of an export application and the Department must grant the requested export [application] unless it determines the presumption is overcome by evidence in the record of the proceeding that the proposed export will not be consistent with the public interest.”).

¹⁷ NGA section 3(a) establishes a broad public interest standard and a presumption favoring export authorizations, it does not define “public interest” or identify the criteria that must be considered. DOE/FECM has explained that in evaluating the extent to which an export application is consistent with the public interest, it focuses on (i) the domestic need for the natural gas proposed to be exported, (ii) whether the proposed exports pose a threat to the security of domestic natural gas supplies, (iii) whether the arrangements are consistent with DOE/FECM’s policy of promoting market competition, and (iv) any other factors bearing on the public interest. See, e.g., *Golden Pass Prods. LLC*, DOE/FE Order No. 3978-E at 25, Docket No. 12-156-LNG (Apr. 27, 2022). DOE/FECM has identified some of these “other factors” as including, for example, whether exports are beneficial for regional economies, the extent to which exports will mitigate trade imbalances, various international impacts, security of the domestic natural gas supply, and other economic and environmental impacts. See, e.g., *Vista Pacifico LNG S.A.P.I. de C.V.*, DOE/FECM Order No. 4929 at 26, Docket No. 20-153-LNG (Dec. 20, 2022).

1. Authorizing MPL’s Proposed Exports Will Result in Net Economic Benefits.

DOE/FECM has concluded in a number of cases that the United States will experience net economic benefits from the issuance of authorizations to export LNG,¹⁸ and has reached this conclusion specifically with respect to the exports of natural gas and LNG MPL has previously proposed.¹⁹ It has based this conclusion on, among other things, a 2018 study prepared for DOE/FECM by NERA Economic Consulting.²⁰ Public Citizen asserts that this 2018 LNG Export Study, on which DOE/FECM relies in evaluating whether proposed natural export authorizations would be consistent with the public interest, is “obsolete and discredited.”²¹ For its part, Sierra Club claims “the current surge in gas prices” calls into question the continuing validity of DOE’s prior studies, including the 2018 LNG Export Study.²²

Contrary to Public Citizen’s and Sierra Club’s assertions, the DOE studies are not obsolete, discredited, or static. In fact, in its individual export authorization orders DOE/FECM revisits and supplements its studies; in one such order issued just four months ago, on December 20, 2022, DOE/FECM found that “[t]he assumptions underlying the 2018 LNG Export Study’s findings remain consistent with more recent assessments of current and future natural gas supply, demand, and prices” and that “the 2018 LNG Export Study is fundamentally sound.”²³ Thus DOE/FECM

¹⁸ 2018 Study Response to Comments, 83 Fed. Reg. 67,251, 67,272 (Dec. 28, 2018).

¹⁹ See *Mexico Pacific Limited LLC*, DOE/FE Order No. 4312 at 36, Docket No. 18-70-LNG (Dec. 14, 2018) (“On balance, we find that the potential negative impacts of MPL’s proposed exports are outweighed by the likely net economic benefits and by other non-economic or indirect benefits.”).

²⁰ *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports*, NERA Economic Consulting (Jun. 7, 2018), available at <https://www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf> (the “2018 LNG Export Study”).

²¹ Public Citizen Protest at 1.

²² Sierra Club Protest at 14.

²³ *Energía Costa Azul, S. de R.L. de C.V.*, DOE/FECM Order No. 4365-B at 54, Docket No. 18-14-LNG (Dec. 20, 2022).

has in effect responded to claims that its reliance on the 2018 LNG Export Study is no longer appropriate by showing that these claims are unfounded. The Protests do not address this most recent analysis or offer anything that would counter DOE/FECM's recent conclusions reaffirming the appropriateness of its continued reliance on the 2018 LNG Export Study.

Furthermore, the Protests do not acknowledge that DOE/FECM relies on a number of more recent studies other than those mentioned in the Protests to supplement the 2018 LNG Export Study and to inform its evaluation of the benefits of export authorizations. DOE/FECM recently has pointed to the Annual Energy Outlook 2022 ("AEO 2022") issued by the Energy Information Administration ("EIA") on March 3, 2022, as well EIA's Short-term Energy Outlook issued on March 8, 2022, as offering yet further support for the findings and conclusions of the 2018 LNG Export Study. The most recent analyses of natural gas markets available in fact support DOE/FECM's findings that increases in LNG exports will not be inconsistent with the public interest. Having essentially ignored much of what DOE/FECM has found and concluded on the basis of the most recent authoritative governmental analyses available, the Protests provide no reason for DOE/FECM to depart from its conclusion that it may continue to rely on the 2018 LNG Export Study, as well as a number of other more recent analyses, to conclude that increases in LNG exports will not be inconsistent with the public interest.

DOE/FECM has quite recently granted two applications for authorization to export U.S.-sourced natural gas to Mexico and in the form of LNG from Mexico to non-FTA countries.²⁴ In these recent proceedings DOE/FECM undertook a thorough analysis of the public interest considerations relevant to re-export proposals, and concluded that, while many of the benefits of

²⁴ See *Energía Costa Azul, S. de R.L. de C.V.*, DOE/FECM Order No. 4365-B at 8, Docket No. 18-14-LNG (Dec. 20, 2022); *Vista Pacífico LNG S.A.P.I. de C.V.*, DOE/FECM Order No. 4929 at 7, Docket No. 20-153-LNG (Dec. 20, 2022).

constructing LNG export infrastructure in Mexico may accrue to citizens of Mexico, not to citizens of the United States, “there are still sufficient benefits to conclude that the market will be capable of sustaining the level of additional re-exports . . . over the authorization term without negative economic impacts.”²⁵ DOE/FECM concluded that “the economic benefits from the production and initial sale of the natural gas from U.S. suppliers to [applicant] or its offtakers would benefit the United States, as considered in the 2018 [LNG Export] Study.”²⁶ Thus, Public Citizen has fundamentally mischaracterized DOE/FECM’s statement that “proposals to re-export U.S.-sourced natural gas in the form of LNG from Mexico or Canada to non-FTA countries raise public interest considerations that are not present for domestic exports of LNG . . . DOE will carefully consider the development of this market segment.”²⁷ In the two cases in which DOE/FECM has undertaken this careful consideration, it has *granted* the requested export authorizations, an important point which Public Citizen conveniently fails to acknowledge.

In the MPL Application, MPL properly relied on DOE studies as well as more recent information to support the conclusion that the additional export authorization it has sought would not be inconsistent with the public interest. MPL also offered information describing the enormous domestic natural gas resource base that is available to support exports,²⁸ the environmental benefits of fuel switching and decreased gas flaring,²⁹ and the substantial benefits of natural gas exports to the U.S. balance of trade and geopolitical strategy.³⁰ With this information and other information

²⁵ *Energía Costa Azul, S. de R.L. de C.V.*, DOE/FECM Order No. 4365-B at 8, Docket No. 18-14-LNG (Dec. 20, 2022).

²⁶ *See Energía Costa Azul, S. de R.L. de C.V.*, DOE/FECM Order No. 4365-B at 56, Docket No. 18-14-LNG (Dec. 20, 2022)

²⁷ Public Citizen Protest at 3 (citing *Energía Costa Azul, S. de R.L. de C.V.*, DOE/FECM Order No. 4365-B at 8, Docket No. 18-14-LNG (Dec. 20, 2022)).

²⁸ MPL Application at 20.

²⁹ MPL Application at 26.

³⁰ MPL Application at 24.

MPL has presented, DOE/FECM has ample evidence on which to conclude that MPL’s proposed exports to non-FTA nations will not be inconsistent with the public interest. Nothing Sierra Club and Public Citizen offer in their Protests effectively rebuts this evidence.

2. The Protests Do Not Accurately Characterize the Impacts which Natural Gas and LNG Exports Have on Natural Gas Prices.

Both Protests inaccurately claim that DOE/FECM approval of MPL’s proposal will lead to domestic supply shortages and higher domestic energy prices. Pointing to several articles from 2021 and 2022, Public Citizen posits that natural gas exports push natural gas prices higher, which harms “tens of millions of American families.”³¹ Sierra Club makes a similar argument, asserting that high prices during the winters of 2021 and 2022 demonstrate that LNG exports are harming U.S. consumers. Sierra Club goes on to claim that “the current surge in gas prices” calls into question the continuing validity of DOE’s prior studies, including the 2018 LNG Export Study.³² Both Protests reference the Freeport LNG fire in June 2022 and resulting short-term declines in natural gas prices as evidence that LNG exports inevitably lead to higher prices.³³ These arguments suffer from the same defects: they fail to acknowledge the complexity and responsiveness of domestic and global gas markets, and they make sweeping generalizations about long-term price trends on the basis of a few cherry-picked data points. The Protests’ arguments regarding the impacts of natural gas exports on natural gas prices may be disregarded.

First, the spike in domestic natural gas prices that occurred in 2021 and 2022, which MPL acknowledged in the MPL Application, does not demonstrate that authorization of MPL’s proposed exports would be contrary to the public interest. As stated in the MPL Application, DOE/FECM has relied on the projections in EIA AEO 2022 and the 2018 LNG Export Study to

³¹ Public Citizen Protest at 6.

³² Sierra Club Protest at 14.

³³ Public Citizen Protest at 6; Sierra Club Protest at 8.

find that “[i]ncreasing U.S. LNG exports under any set of assumptions about U.S. natural gas resources and their production leads to only small increases in U.S. natural gas prices.”³⁴ When considering domestic price increases in evaluating recent export authorizations, DOE/FECM has compared the pricing assumptions that underpin the 2018 LNG Export Study with the pricing assumptions incorporated in the EIA AEO 2022. On the basis of this comparison, DOE/FECM has found that the EIA AEO 2017, on which the 2018 LNG Export Study relies, projected a Henry Hub price through 2050 of \$6.27 per MMBtu, compared to the EIA AEO 2022 projection for 2050 of \$3.59 per MMBtu, using 2021 dollars in each case.³⁵ That is, more recent projections, which assume continued growth in U.S. natural gas exports, indicate that domestic natural gas prices in 2050 will be *significantly lower than* the prices EIA projected five years ago. Moreover, contrary to Sierra Club’s assertions, domestic natural gas prices are not currently “surging”; they have been falling steadily since their highs in 2021-2022. The EIA forecasts that the average natural gas price at Henry Hub will remain around \$3 in the near term.³⁶

Since MPL filed the MPL Application, the conclusion that natural gas exports will lead only to small increases in U.S. natural prices has only been bolstered. EIA’s recently released AEO for 2023 forecasts that natural gas prices at Henry Hub will remain below \$4.02 through 2050.³⁷ Thus, recent EIA pricing data is *more supportive* of LNG exports than the data forming the basis of the 2018 LNG Export Study, on which DOE/FECM has repeatedly relied in rejecting

³⁴ *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 4800 at 53, Docket No. 19-125-LNG (Mar. 16, 2022); *Golden Pass LNG Terminal LLC*, DOE/FE Order No. 3978-E at 51, Docket No. 12-156-LNG (Apr. 27, 2022); *see also Energía Costa Azul, S. de R.L. de C.V.*, DOE/FECM Order No. 4365-B at 58-60, Docket No. 18-14-LNG (Dec. 20, 2022).

³⁵ *See Cheniere Marketing LLC & Corpus Christi Liquefaction, LLC*, DOE/FE Order No. 4799 at 53 (Mar. 16, 2022).

³⁶ *Short-Term Energy Outlook*, U.S. Energy Information Administration (Apr. 2023), *available at* https://www.eia.gov/outlooks/steo/pdf/steo_full.pdf.

³⁷ *Annual Energy Outlook*, U.S. Energy Information Administration (Mar. 2023), *available at* https://www.eia.gov/outlooks/aeo/pdf/AEO2023_Narrative.pdf.

arguments that increased LNG exports will necessarily lead to significant increases in domestic natural gas prices.

It is worth noting that on March 8, 2023, Freeport LNG received approval from the Federal Energy Regulatory Commission (“FERC”) to resume commercial operations. Since that time, Freeport LNG has resumed receipts of feed gas and ramping up deliveries. Based on the Sierra Club and Public Citizen assertion that LNG export drives up higher prices, one would expect to see an increase in natural gas prices as a result of Freeport LNG coming back online; however, as detailed above, there has been no surge in natural gas prices at Henry Hub.³⁸ Indeed, pricing at the Waha pooling point, from which MPL anticipates most gas it exports will be sourced, has declined precipitously: the most recent NGI Monthly Waha Gas Price Index – for April 2023 – settled at \$0.08/MMBtu. On the basis of this evidence of real-world natural gas price behavior, the alarmist arguments Public Citizen and Sierra Club have advanced regarding natural gas price increases may safely be rejected.

DOE/FECM can conclude here, as it has done in recent cases, that exports of the amounts of LNG which MPL seeks to make available to non-FTA nations will not drive substantial increases in U.S. natural gas prices.

3. The Protests’ Claims Regarding Adverse Distributional Impacts of Natural Gas Exports are Unsupported.

As it has in many other proceedings before DOE, Sierra Club advances the unsubstantiated claim that, “to date, DOE has never grappled with the distributional impacts of LNG exports.”³⁹

³⁸ *Gas markets keep watchful eye as feedgas to Freeport LNG returns in fits and starts*, S&P Global (Mar. 24, 2023) available at <https://www.spglobal.com/commodityinsights/en/market-insights/latest-news/natural-gas/032423-gas-markets-keep-watchful-eye-as-feedgas-to-freeport-lng-returns-in-fits-and-starts> (paywall) (“the US gas futures market has so far largely shrugged off the restart of feedgas demand at Freeport”).

³⁹ Sierra Club Protest at 12.

Public Citizen similarly states, “DOE currently performs no distributional analysis to measure the impact that LNG exports have on families at different incomes, and provides no assessment of the impact exports have on energy burdens of communities of color.”⁴⁰

DOE/FECM *has*, in fact, considered and rejected arguments similar to those Sierra Club and Public Citizen make here. It is not alone on this score: the United States Court of Appeals for the District of Columbia Circuit has held that DOE/FECM has adequately addressed concerns of distributional impacts.⁴¹ “[G]iven that ‘exports will benefit the economy as a whole’ and ‘absent stronger record evidence on the distributional consequences,’” the D.C. Circuit concluded, “[DOE] could not say that . . . exports were inconsistent with the public interest on these grounds.”⁴² Moreover, DOE/FECM specifically considered, and rejected, Sierra Club’s arguments regarding distributional impacts when Sierra Club commented on the 2018 LNG Export Study; in recent orders, DOE/FECM has several times considered and rejected similar arguments.⁴³ Consistent with its precedent, DOE/FECM should do likewise here.

4. MPL’s Proposed Exports Will Provide International Trade Benefits.

Sierra Club argues that, because the gas exported from the MPL Facility may end up in Asia, instead of Europe, the MPL export authorization will provide “little strategic or security benefits [*sic*]” to the United States.⁴⁴ Public Citizen states MPL’s exports “will likely be destined

⁴⁰ Public Citizen Protest at 7.

⁴¹ *See Sierra Club v. U.S. Dep’t of Energy*, 703 Fed. Appx. 1, at *3 (D.C. Cir. Nov. 1, 2017).

⁴² *Id.*

⁴³ *See, e.g., Cheniere Marketing LLC & Corpus Christi Liquefaction, LLC*, DOE/FE Order No. 4799 at 50 (Mar. 16, 2022); *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 4800 at 51 (Mar. 16, 2022).

⁴⁴ Sierra Club Protest at 23.

for China” and, without support, contends that “LNG exports to China are not in the public interest.”⁴⁵

DOE/FECM should reject these arguments, as it has in recent orders. DOE/FECM consistently has recognized that, “[a]n efficient, transparent international market for natural gas with diverse sources of supply provides both economic and strategic benefits to the United States and our allies.”⁴⁶ As DOE/FECM has acknowledged, Russia’s invasion of Ukraine has exacerbated concerns “about energy security for Europe and Central Asia, particularly given the relative share of Russian natural gas supplies into those regions.”⁴⁷ In this context, increased access to U.S.-sourced natural gas supplies can only benefit the global LNG market by affording that market “a source of predictable natural gas supply that is relatively free from unexpected production or shipping disruption.”⁴⁸ DOE/FECM has stated that exports of U.S.-sourced natural gas to Asia may “provide a degree of increased energy security and pricing relief to LNG importers” by helping to decouple LNG prices from oil prices.⁴⁹

DOE/FECM has never articulated a policy that authorizing LNG exports to China is not in the public interest. DOE/FECM should therefore reject the Protests’ efforts to suggest that, because some MPL LNG exports could be destined for China, they should not be deemed to be in the public interest. Moreover, China is hardly the only potential Asian destination for LNG exported through the MPL Facility. While China is certainly a significant market for LNG (it

⁴⁵ Public Citizen Protest at 3.

⁴⁶ *Energía Costa Azul, S. de R.L. de C.V.*, DOE/FECM Order No. 4365-B at 60, Docket No. 18-14-LNG (Dec. 20, 2022); *Golden Pass LNG Terminal LLC*, DOE/FE Order No. 3978-E at 39, Docket No. 12-156-LNG (Apr. 27, 2022).

⁴⁷ *Id.*

⁴⁸ *Id.* at 43.

⁴⁹ *Id.*

imported 64 MT of LNG in 2022),⁵⁰ other Asian nations are also substantial LNG importers. The largest LNG importer in the world is U.S. ally Japan, which in 2022 imported 73 MT of LNG.⁵¹ U.S. ally South Korea's LNG imports in 2022, at 47 MT,⁵² were not substantially less than those of China. Other major LNG importing nations in Asia include Taiwan (2022 imports of 20 MT)⁵³, India (2022 imports of 20 MT)⁵⁴, Thailand (2022 imports of 9 MT)⁵⁵ and Singapore (2022 imports of 4 MT)⁵⁶. All of these nations are potential destinations for LNG produced by MPL. All are also markets in which U.S.-sourced LNG is poised to displace LNG sourced from Russia. Providing these markets with access to U.S.-sourced natural gas in the form of LNG is quite clearly in the U.S. national interest.

The MPL Application demonstrates that the requested export authorization will provide international trade benefits. The Protests do not overcome this showing.

C. The Natural Gas MPL Intends to Export Will Not Require Additional Pipelines From the United States to Mexico.

1. There Exists Sufficient Cross-Border Pipeline Capacity to Accommodate the Quantities of Natural Gas Contemplated in MPL's Export Authorization Request.

Sierra Club claims that existing pipeline capacity in the United States is not sufficient to transport the quantities of natural gas for which MPL seeks export authorization in the MPL Application. On the basis of this claim, Sierra Club asserts that approval of the MPL Application

⁵⁰ Source: Proprietary data furnished to MPL on a confidential basis by an international commodities market data and analytics provider (name withheld pursuant to subscription contract; name and source spreadsheet may be furnished to DOE/FECM upon request under claim of exemption from public disclosure under the Freedom of Information Act).

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

would require construction of new pipelines which DOE/FECM must consider.⁵⁷ Sierra Club is incorrect; the export authorization requested in the MPL Application will not require the construction of new pipelines.

Sierra Club's argument is at odds with publicly available information and with conclusions DOE/FECM has reached in recent orders authorizing natural gas exports to Mexico. As stated in the MPL Application, there was more than 12 Bcf/day of pipeline capacity available to export natural gas from the South Central region of the United States, which includes Texas, to Mexico as of 2021.⁵⁸ DOE/FECM recently has concluded that there is approximately 15 Bcf/day in existing cross-border capacity available to support incremental exports of natural gas to Mexico.⁵⁹ There is, therefore, adequate existing cross-border capacity available to support delivery of the quantities of gas MPL is seeking authorization to export in this application (1.17 Bcf/day and 2.87 Bcf/day when added to the previously authorized amount). MPL correctly has concluded that the pipeline capacity available in the U.S. to accommodate movements of U.S. natural gas to Mexico is more than adequate to support exports to the MPL Facility in the quantities MPL has proposed.

Furthermore, Sierra Club's argument that the existing pipelines through which natural gas may be delivered to Mexico may not be available to MPL because the capacity on these lines may be "spoken for through existing projects and contracts"⁶⁰ is also misguided. Sierra Club's

⁵⁷ Sierra Club's reference to an "EA" on page 15 appears to be a typographical error leftover from cutting and pasting from previous comments submitted in the Energía Costa Azul proceeding.

⁵⁸ *U.S. Pipeline State-to-State Capacity*, U.S. Energy Information Administration (Jan. 31, 2022), available at <https://www.eia.gov/naturalgas/data.php#pipelines>.

⁵⁹ See also *Vista Pacífico LNG S.A.P.I. de C.V.*, DOE/FECM Order No. 4929 at 44, Docket No. 20-153-LNG (Dec. 20, 2022) citing Environmental Assessment, Vista Pacífico LNG S.A.P.I. de C.V., Environmental Assessment, Office of Resource Sustainability and Office of Fossil Energy and Carbon Management, DOE/EA-2192, Docket No. 20-153-LNG, at Appendix B (Oct. 28, 2022) ("Vista Pacífico EA") (indicated nearly 15 bcf/day of existing physical cross-border pipeline capacity between the United States and Mexico).

⁶⁰ Sierra Club Protest at 16.

statement ignores opportunities shippers have to obtain pipeline capacity through capacity releases or other contractual assignments from existing capacity holders or simply to purchase natural gas on a delivered basis from existing capacity holders.

Finally, MPL is compelled to comment on the information Sierra Club cites and attributes to Commodity Insights Magazine on pages 16 and 17 of the Sierra Club Protest. Sierra Club uses this information to contend that the projects before DOE/FECM will take nearly all of the capacity of pipeline infrastructure currently in place to deliver gas supplies to Mexico. However, the values of exports and descriptions of export transactions cited in the referenced publication are completely inaccurate. MPL has been granted authorization to export 1.7 Bcf/day in the 2018 Orders.⁶¹ In the current MPL Application, MPL is seeking authorization to export an additional 1.17 Bcf/day, which, when added to the previously authorized amount, equals 2.87 Bcf/day in total. The Sierra Club Protest, on the other hand, asserts that MPL is seeking to export a total of 4 Bcf/day based on approved and pending applications;⁶² this is simply wrong. Sierra Club's carelessness with easily verified facts calls into question the accuracy of all information presented by Sierra Club on pages 16 and 17 of the Sierra Club Protest.

2. The MPL Application is Not Directly Connected to Any Cross-Border Pipeline.

Contrary to Sierra Club's assertions, the MPL Application is not directly connected to any cross-border pipeline or combination of pipelines that are currently operational or may become operational. That includes the Saguaro Connector Pipeline ("Saguaro Connector"), which Sierra Club references, as well as any other existing or proposed cross-border pipeline.

⁶¹ *Mexico Pacific Limited LLC*, DOE/FE Order No. 4248 at 12, Docket No. 18-70-LNG (Sept. 19, 2018); *Mexico Pacific Limited LLC*, DOE/FE Order No. 4312 at 47, Docket No. 18-70-LNG (Dec. 14, 2018).

⁶² See Sierra Club Protest at 16-17.

In prior DOE/FECM orders, DOE/FECM has not imposed conditions or restrictions on the export points and transportation paths that may be used to accomplish authorized natural gas exports to Mexico.⁶³ Accordingly, MPL did not propose an export point or transportation path in the MPL Application. In a supplemental letter MPL filed in this proceeding,⁶⁴ MPL acknowledged to DOE/FECM that it expects to add the Saguaro Connector to the existing pipeline routes which MPL might utilize for export of natural gas. In so doing, MPL stated unequivocally that it is proposing to export the increased quantities of gas for which it seeks export authorization in this proceeding through *any* cross-border pipeline or combination of pipelines that *are currently operational or may become operational*.⁶⁵ The Saguaro Connector, if authorized and built, will be one of the pipelines MPL expects to utilize to export natural gas, but the MPL Application does not *require* MPL to use the Saguaro Connector to move the additional natural gas for which it seeks additional export authorization from DOE/FECM. Therefore, the MPL Application is not connected to the Saguaro Connector pipeline or any other border crossing pipeline that is currently operational or that may become operational.

D. In Evaluating the Environmental Impacts of the MPL Application, DOE/FECM Can Support a Finding of No Significant Impact.

DOE/FECM has not yet issued any documents regarding its environmental review of the MPL Application. In the event that DOE/FECM determines that it is appropriate to evaluate the

⁶³ See, e.g., *Vista Pacífico LNG S.A.P.I. de C.V.*, DOE/FECM Order No. 4929 at 57-58, Docket No. 20-153-LNG (Dec. 20, 2022) (reaffirming that export authorizations to Mexico “do not impose any physical limits on the southbound border-crossing facilities to be used and are not conditioned on the need for a supplemental authorization in the future”).

⁶⁴ Supplement to Application of Mexico Pacific Limited LLC for Additional Long-Term, Multi-Contract Authorization to Export Natural Gas to Mexico and to Re-export Liquefied Natural Gas to Free Trade Agreement and Non- Free Trade Agreement Nations – Supplemental Information on Available Pipeline Transportation Alternatives, Docket No. 22-267-LNG (Jan. 24, 2023) (“Supplemental Letter”).

⁶⁵ Supplemental Letter at 2.

potential environmental impacts of MPL’s request to export additional quantities of U.S.-sourced natural gas to non-FTA nations, MPL urges DOE/FECM to undertake an environmental assessment (“EA”) under the National Environmental Policy Act (“NEPA”), as it has recently done for similar applications for authorization to export natural gas to Mexico.⁶⁶

DOE/FECM does not need to prepare an Environmental Impact Statement, as Sierra Club urges. The MPL Application involves no major new facilities or operational changes in the United States. The MPL Application merely involves a request for additional export authorization to reflect the MPL Facility’s use of more advanced technology and MPL’s more refined understanding of the peak capability of the MPL Facility.

Furthermore, MPL reiterates its request that DOE/FECM incorporate by reference the National Energy Technology Laboratory’s (“NETL”) 2014 study, and 2019 update, titled “Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States.”⁶⁷ DOE/FECM can conclude for MPL, as it did with respect to the Vista Pacífico and Costa Azul projects, that the EA need not contain a project-specific calculation of emission from construction and operation of the proposed MPL Facility because the 2014 LCA GHG Report and 2019 Update provide a sufficient basis on which DOE/FECM may consider emissions and their potential impacts.

⁶⁶ See *Vista Pacífico LNG S.A.P.I. de C.V.* (“Vista Pacífico”), Notice of Environmental Assessment, Docket No. 20-153-LNG (Jul. 12, 2022); *Energía Costa Azul, S. de R.L. de C.V.* (“Costa Azul”), Notice of Environmental Assessment, Docket No. 18-145-LNG (Jul. 12, 2022).

⁶⁷ U.S. Dep’t of Energy, *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States*, 79 Fed. Reg. 32,260 (June 4, 2014) (“2014 LCA GHG Report”); Nat’l Energy Tech. Lab., *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States: 2019 Update*, DOE/NETL-2019/2041 (Sept. 12, 2019) (“2019 Update”).

DOE/FECM has previously considered, and rejected, Sierra Club's critiques of the 2014 LCA GHG Report and 2019 Update. Responding to comments filed by the Sierra Club regarding the 2019 Update, DOE/FECM previously has held that:

to model the effect that U.S. LNG exports would have on net global GHG emissions would require projections of how each of these fuel sources would be affected in each LNG-importing nation. Such an analysis would not only have to consider market dynamics in each of these countries over the coming decades, but also the interventions of numerous foreign governments in those markets. Moreover, the uncertainty associated with estimating each of these factors would likely render such an analysis too speculative to inform the public interest determination in DOE's non-FTA proceedings . . . Based on the evidence, [DOE] see[s] no reason to conclude that U.S. LNG exports will increase global GHG emissions in a material or predictable way.⁶⁸

For the better part of a decade, Sierra Club has been involved in litigating, and losing, challenges to the 2014 LCA GHG Report and 2019 Update and the use of these studies by DOE/FECM. The D.C. Circuit has confirmed that the scope of DOE's NEPA review is limited to reasonably foreseeable direct and indirect effects of an action, and that DOE "need not foresee the unforeseeable."⁶⁹ DOE/FECM has accordingly tailored the scope of its review to what it considers to be reasonably foreseeable effects of LNG exports. In reviewing DOE's compliance with its NEPA obligations, the D.C. Circuit has held that DOE "offered a reasoned explanation as to why it believed the indirect effects pertaining to increased gas production were not reasonably foreseeable."⁷⁰ Sierra Club has offered no reason to reach a different conclusion in this case. Accordingly, MPL urges the DOE/FECM to evaluate the environmental impacts of the MPL Application in a manner consistent with D.C. Circuit and DOE precedent, and to make a finding

⁶⁸ Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update-Response to Comments, 85 Fed. Reg. 72 (Jan. 2, 2020).

⁶⁹ *Sierra Club*, 867 F.3d at 198.

⁷⁰ *Id.*

that the approval of the MPL Application would have no significant impact on the quality of the human environment.

E. DOE/FECM Should Disregard the Several Misguided Insinuations and Irrelevant Accusations Contained in the Public Citizen Protest.

Public Citizen mentions several times that the MPL is owned by private equity investors.⁷¹ Public Citizen then states that, because the limited partners supplying capital for MPL’s private equity investors are unknown, “the net economic benefits cannot be calculated, as the limited partners financially benefitting from the project could be located in China or other nations other than the United States.”⁷² Public Citizen thus insinuates that the MPL project is tainted in a way that should lead DOE/FECM to conclude that it ought not be authorized to engage in natural gas and LNG exports.

While it is true that MPL is owned by some private equity investors, it is also true that MPL has consistently been forthright with DOE regarding the makeup of its ownership, in accordance with DOE regulations and precedent. DOE regulations provide that “control” of an applicable “will arise from the ownership or the power to vote, directly or indirectly, 10% or more of the voting securities of such entity.”⁷³ DOE regulations do not require that an applicant disclose the identity of limited partners that might comprise the companies that control the applicant. Nevertheless, MPL proactively informed DOE/FECM of its ownership in the MPL Application.⁷⁴ MPL also recounted in the MPL Application that MPL last notified DOE/FECM of a Change in Control of MPL on October 27, 2021, as supplemented on November 23, 2021, in FE Docket No.

⁷¹ See, e.g., Public Citizen Protest at 1, 2.

⁷² *Id.* at 3.

⁷³ Procedures for Changes in Control Affecting Applications and Authorizations To Import or Export Natural Gas, 79 Fed. Reg. 65,541, 65,542 (Nov. 5, 2014).

⁷⁴ MPL Application at 5.

18-70-LNG.⁷⁵ DOE/FECM issued a response to the Change in Control on May 9, 2022, notifying MPL that an amendment to MPL's FTA and non-FTA authorization has been deemed granted.⁷⁶ Public Citizen has presented nothing beyond innuendo to support its suggestion that MPL's ownership by private equity investors is somehow nefarious. DOE/FECM should reject such a suggestion.

Finally, Public Citizen's bizarre reference to Senator Ted Cruz and his alleged "undue influence"⁷⁷ over DOE/FECM actions in two unrelated proceedings is irrelevant to MPL and the MPL Application. DOE/FECM must summarily reject this argument.

IV. CONCLUSION

For all the foregoing reasons, MPL requests that DOE/FECM grant its conditional Motion and permit MPL to submit its Answer less than one day out of time. MPL urges DOE/FECM, when acting on the MPL Application, to reject the arguments raised in the Protests. MPL submits that on the basis of the information provided in the MPL Application and this Answer, DOE/FECM can conclude that the export authorization requested by MPL is not inconsistent with the public interest.

Respectfully submitted,

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⁷⁵ See generally Mexico Pacific Limited LLC, Notice of Change in Control, 86 Fed. Reg. 71,887 (Dec. 20, 2021).

⁷⁶ Mexico Pacific Limited LLC, Notification Regarding Change in Control, Docket No. 18-70-LNG (May 9, 2022).

⁷⁷ Public Citizen Protest at 9.

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Dated: April 18, 2023

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

Mexico Pacific Limited LLC

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Docket No. 22-167-LNG

CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R. § 590.107, I, Tyler R. Brown, hereby certify that I caused the above documents to be served on the persons included on the official service list for this docket, as provided by DOE/FECM, on April 18, 2023.

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