

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

**Port Arthur LNG Phase II, LLC**

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**Docket No. 20-23-LNG**

**REQUEST FOR PROCEDURAL ORDER REGARDING LATE-FILED MOTION TO  
INTERVENE AND PROTEST OF SIERRA CLUB**

Port Arthur LNG Phase II, LLC (“PALNG2”) hereby respectfully requests that the Department of Energy (“DOE”) Office of Fossil Energy and Carbon Management (“DOE/FECM”) issue a procedural order dismissing the out-of-time motion to intervene and protest of Sierra Club<sup>1</sup> filed with DOE/FECM on November 26, 2024<sup>2</sup> in this proceeding. As discussed in detail in PALNG2’s December 11, 2024 Answer,<sup>3</sup> which PALNG2 hereby incorporates by reference, and as summarized below, Sierra Club’s late-filed intervention and protest obviously fail to meet the requirements of DOE’s regulations and precedent and should be promptly dismissed. No further information or action is required for DOE/FECM to proceed with making a ruling rejecting Sierra Club’s November 26, 2024 motion and protest. Consistent with DOE/FECM action in the past,<sup>4</sup> PALNG2 requests that DOE/FECM expeditiously issue a procedural order dismissing Sierra Club’s late-filed pleadings.

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<sup>1</sup> Motion to Intervene and Protest Out of Time of Sierra Club, Docket No. 20-23-LNG (Nov. 26, 2024) [hereinafter “Sierra Club Filing”].

<sup>2</sup> Sierra Club submitted the Sierra Club Filing after DOE closed on November 25, 2024. DOE deemed and date-stamped the filing to have been made on November 26, 2024.

<sup>3</sup> Answer of Port Arthur LNG Phase II, LLC in Opposition to Motion to Intervene and Protest Out of Time of Sierra Club, Docket No. 20-23-LNG (Dec. 11, 2024) [hereinafter “PALNG2 Answer”].

<sup>4</sup> *Sabine Pass Liquefaction, LLC*, FE Docket No. 10-111-LNG, Procedural Order on Late-Filed Pleadings, at 5 (Mar. 25, 2011).

## I. BACKGROUND

On February 28, 2020, PALNG2 filed with DOE/FECM in Docket No. 20-23-LNG an application for long-term, multi-contract authorizations to export up to 13.5 million tonnes per annum (MTPA) (equivalent to 698 billion cubic feet (Bcf) per year) of LNG from two new liquefaction trains—Trains 3 and 4—to be constructed at the Port Arthur LNG terminal in Jefferson County, Texas (i.e., the Expansion Project), for export to Free Trade Agreement (“FTA”) and Non-Free Trade Agreement (“Non-FTA”) nations (the “Application”).<sup>5</sup>

On March 30, 2020, DOE/FECM issued notice of the Application in the *Federal Register*, setting a deadline of **April 29, 2020** for protests, interventions and comments.<sup>6</sup> Neither Sierra Club nor any other party filed a protest, intervention or comment by the deadline.

On July 14, 2020, DOE/FECM granted the FTA portion of the Application in Order No. 4562.<sup>7</sup> The Non-FTA portion of the Application before DOE/FECM has remained pending for approximately five years.

On November 26, 2024—approximately **four years and seven months after the close of the intervention and comment deadline** set by DOE/FECM—Sierra Club filed its out-of-time

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<sup>5</sup> Application for Long-Term, Multi-Contract Authorizations to Export Liquefied Natural Gas from the United States to Free Trade Agreement and Non-Free Trade Agreement Nations, Docket No. 20-23-LNG (Feb. 28, 2020) [hereinafter “Application”]. PALNG2’s affiliate, Port Arthur LNG, LLC, previously received authorizations from DOE to export LNG to FTA and Non-FTA nations from Trains 1 and 2 of the Port Arthur LNG terminal (i.e., the Base Project). See *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 Arthur LNG Project in Port Arthur, Texas, to Free Trade Agreement Nations (Aug. 20, 2015); *Port Arthur LNG, LLC*, DOE/FE 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); *Port Arthur LNG, LLC*, DOE/FE Order No. 4372, FE Docket No. 15-96-LNG, Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations (May 2, 2019).

<sup>6</sup> U.S. Dep’t of Energy, Port Arthur LNG Phase II, LLC, Notice of Application, 85 Fed. Reg. 17568 (Mar. 30, 2020).

<sup>7</sup> *Port Arthur LNG Phase II, LLC*, DOE/FECM Order No. 4562, Docket No. 20-23-LNG, Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Free Trade Agreement Nations (July 14, 2020).

motion to intervene and protest in the instant proceeding. PALNG2 filed an Answer opposing Sierra Club's filing on December 11, 2024.

On January 20, 2025, President Trump issued an Executive Order entitled "Unleashing American Energy," which directed the Secretary of Energy to "restart reviews of applications for approvals of [LNG] export projects as expeditiously as possible . . . ."<sup>8</sup> The following day, DOE announced that it has ended the LNG pause and DOE/FECM was directed to "return to regular order and resume consideration of all applications."<sup>9</sup>

## II. REQUEST FOR PROCEDURAL ORDER DISMISSING SIERRA CLUB'S LATE-FILED INTERVENTION AND PROTEST

Sierra Club's out-of-time intervention and protest patently fail to satisfy DOE's regulations and precedent. Accordingly, PALNG2 requests that DOE/FECM expeditiously issue a procedural order dismissing Sierra Club's grossly out-of-time intervention and protest.

### *A. Sierra Club's Intervention and Protest Fail to Satisfy DOE Regulations and Precedent and Should be Rejected*

Sierra Club's intervention and protest, which were filed more than 4 1/2 years (55 months) after the close of the intervention period in this proceeding, obviously fail to satisfy the requirements of DOE's regulations and precedent and, accordingly, should be dismissed.

DOE's rules set out a clear standard for the treatment of untimely interventions:

[m]otions to intervene may be filed . . . ***no later than the date fixed for filing such motions or notices in the applicable FE notice or order***, unless a later date is permitted by the Assistant Secretary for ***good cause shown*** and after ***considering the impact*** of granting the late motion of the proceeding.<sup>10</sup>

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<sup>8</sup> Executive Order 14154 of January 20, 2025, Unleashing American Energy, 90 Fed. Reg. 8353, 8357 (Jan. 29, 2025).

<sup>9</sup> U.S. Dep't of Energy, Press Release, *U.S. Department of Energy Reverses Biden LNG Pause, Restores Trump Energy Dominance Agenda* (Jan. 21, 2025), available at <https://www.energy.gov/articles/us-department-energy-reverses-biden-lng-pause-restores-trump-energy-dominance-agenda>.

<sup>10</sup> 10 C.F.R. § 590.303(d) (emphasis added).

As PALNG2 described in detail in its December 11, 2024 Answer, Sierra Club has disregarded each aspect of this regulation: it egregiously failed to make its filing within the date fixed in DOE/FECM’s Notice or even within any reasonable time period thereafter; it made only a token effort to demonstrate the requisite good cause to accept its extremely late filing; and it made no attempt to address the impacts of its late-filed intervention.<sup>11</sup> The failure to file a timely intervention in this proceeding is all the more egregious since Sierra Club—a sophisticated participant in numerous proceedings involving LNG facilities and exports—had both constructive and actual notice of PALNG2’s Non-FTA Application by virtue of Sierra Club’s active participation in the Port Arthur LNG Phase II proceeding before the Federal Energy Regulatory Commission.<sup>12</sup>

Furthermore, DOE’s cases addressing late intervention—many of which have rejected Sierra Club’s efforts to submit late-filed interventions and protests—make clear that the November 26, 2024 filing should be rejected. In *Energía Costa Azul*, DOE/FECM rejected Sierra Club’s late motion to intervene when it was 23 months late—less than *half* the time that has passed since the intervention date in this proceeding. In doing so, DOE/FECM admonished Sierra Club for its repeated disregard for the agency’s procedural regulations governing late interventions and protests, emphasizing for yet another time:

in unnecessarily delaying the issuance of final agency action, late filings are both unfairly prejudicial to the applicant (and any other parties) and disruptive to DOE’s interests in administrative efficiency and fairness. As DOE previously observed, “at some point, the opportunity for interested persons to intervene as parties in a proceeding must close” to “ensure that the resolution of a proceeding and the issuance of a final order are not unduly delayed by inattentiveness or intentional delay.” *Here, the 23-month delay far surpasses other late filings rejected by DOE in LNG export proceedings.* We thus conclude that accepting Sierra Club’s motion to intervene and the joint protest at this time would be prejudicial to [the applicant],

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<sup>11</sup> PALNG2 incorporates by reference herein all arguments and issues it raised in the PALNG2 Answer.

<sup>12</sup> See PALNG2 Answer at 5-6.

contrary to DOE precedent, and disruptive to this proceeding and DOE's administrative process.<sup>13</sup>

DOE reached an identical conclusion in *Golden Pass*, where Sierra Club sought to protest an application *18 months* after the comment date, noting that as far back as 2012, DOE had found that Sierra Club's unsupported, late motions to intervene would be prejudicial and disruptive.<sup>14</sup> Sierra Club's late intervention here, if approved, would likewise be prejudicial and disruptive and should be rejected.

Sierra Club similarly has utterly disregarded Section 590.304(e) of DOE's rules, which clearly bars late-filed protests unless permitted by the Assistant Secretary for good cause shown:

[p]rotests may be filed at any time following the filing of an application, but ***no later than the date fixed for filing protests in the applicable FE notice*** or order, unless a later date is permitted by the Assistant Secretary ***for good cause shown***.<sup>15</sup>

DOE/FECM precedent also militates towards rejecting Sierra Club's late-filed protest. For example, in *Magnolia LNG, LLC*, DOE/FECM rejected Sierra Club's filing made nearly 38 months after the close of the comment period, noting "Sierra Club's submissions in prior proceedings demonstrate its awareness of the requirement to file its protest opposing [an

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<sup>13</sup> *Energía Costa Azul, S. de R.L. de C.V.*, DOE/FECM Order No. 4365-B, FE Docket No. 18-145-LNG, Order Amending Long-Term Authorization to Re-Export U.S.-Sourced Natural Gas in the Form of Liquefied Natural Gas from Mexico to Non-Free Trade Agreement Nations, at 52-53 (Dec. 20, 2022) (emphasis added). *See also Vista Pacifico LNG, S.A.P.I. de C.V.*, DOE/FECM Order No. 4929, FE Docket No. 20-153-LNG, Order Granting Long-Term Authorization to Re-Export U.S.-Sourced Natural Gas in the Form of Liquefied Natural Gas from Mexico to Non-Free Trade Agreement Nations, at 52-53 (Dec. 20, 2022) (reaching the same conclusion and rejecting Sierra Club's late motion to intervene and protest filed 21 months after DOE's deadline).

<sup>14</sup> *Golden Pass LNG Terminal LLC*, DOE/FECM Order No. 3978-F, FE Docket No. 12-156-LNG, Order Denying Request for Rehearing of Order Amending Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations, at 7-8 (June 24, 2022) (citing *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 2961-A, FE Docket No. 10-111-LNG, Final Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas from Sabine Pass LNG Terminal to Non-Free Trade Agreement Nations, at 25 (Aug. 7, 2012)). In *Sabine Pass*, Sierra Club filed its protest 16 months out-of-time, and DOE dismissed the motion finding that allowing a 16-month late protest "would unnecessarily delay the issuance of final agency action herein and unfairly prejudice the parties to this proceeding." DOE/FE Order No. 2961-A, at 26.

<sup>15</sup> 10 C.F.R. § 590.304(e) (emphasis added).

application] during the comment period set forth” in the Federal Register Notice.<sup>16</sup> DOE/FECM found that granting Sierra Club’s protest “would upend DOE’s established administrative process, undermining the public interest in administrative efficiency and finality and rendering its comment period meaningless. It would also exacerbate fairness and due process concerns . . . .”<sup>17</sup> DOE/FECM made similar findings in *Golden Pass LNG Terminal LLC* (denying Sierra Club’s filing made 18 months after close of comment period), *Energía Costa Azul* (denying Sierra Club’s filing made 23 months after close of the comment period), and *Vista Pacifico LNG* (denying Sierra Club’s filing made 21 months after close of the comment period). The concerns raised by DOE/FECM in these prior proceedings apply even more forcefully in this proceeding, where Sierra Club waited almost *five years* to file its protest.

Consistent with its regulations and precedent, and for all the reasons set forth herein and in PALNG2’s December 11, 2024 Answer, DOE/FECM should issue a procedural order dismissing Sierra Club’s late-filed intervention and protest.

*B. Request for Prompt Procedural Order Rejecting Sierra Club’s Late-Filed Pleadings*

PALNG2 requests that DOE/FECM expeditiously issue a procedural order dismissing Sierra Club’s late-filed pleadings, consistent with DOE/FECM action in the past.<sup>18</sup>

In *Sabine Pass Liquefaction, LLC*, DOE/FECM issued a Procedural Order on Late-Filed Pleadings, in which it, among other things, denied an intervention filed 80 days out-of-time by the

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<sup>16</sup> *Magnolia LNG, LLC*, DOE/FECM Order No. 3909-D, FE Docket No. 13-132-LNG, Order Denying Request for Rehearing of Order Amending Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations, at 7 (June 24, 2022).

<sup>17</sup> *Id.* at 8.

<sup>18</sup> *Sabine Pass Liquefaction, LLC*, FE Docket No. 10-111-LNG, Procedural Order on Late-Filed Pleadings, at 5 (Mar. 25, 2011).

American Public Gas Association (“APGA”). DOE/FECM found good cause had not been demonstrated to grant the late intervention. DOE/FECM explained that:

at some point, the opportunity for interested persons to intervene as parties in a proceeding must close. This is necessary to ensure that the resolution of a proceeding and the issuance of a final order are not unduly delayed by inattentiveness or intentional delay.<sup>19</sup>

Similarly, an order by DOE/FECM in this proceeding dismissing Sierra Club’s late-filed intervention and protest is warranted to preserve the orderly administration of proceedings and to ensure that the resolution of this proceeding and the issuance of a final order on PALNG2’s Non-FTA Application are not unduly delayed by Sierra Club’s 4 1/2 year delay. Failure to reject Sierra Club’s intervention and protest here “would upend DOE’s established administrative process, undermining the public interest in administrative efficiency and finality and rendering its comment period meaningless. It would also exacerbate fairness and due process concerns . . . .”<sup>20</sup> Given Sierra Club’s failures here to adhere to DOE/FECM rules and its repetitive history of doing the same, prompt issuance of a procedural order is warranted.

PALNG2’s Non-FTA Application has remained pending for approximately five years. As noted in DOE’s recent press release, DOE/FECM has been directed to resume the processing of LNG export applications.<sup>21</sup> There is no need to wait for an order on the merits or other action or information in this proceeding to remedy the harm caused by Sierra Club’s disruptive behavior. Accordingly, PALNG2 requests that DOE/FECM issue a procedural order dismissing Sierra Club’s late-filed pleadings immediately or as soon as practical.

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<sup>19</sup> *Id.*

<sup>20</sup> *Magnolia LNG, LLC*, DOE/FECM Order No. 3909-D, at 8.

<sup>21</sup> U.S. Dep’t of Energy, Press Release, *U.S. Department of Energy Reverses Biden LNG Pause, Restores Trump Energy Dominance Agenda* (Jan. 21, 2025), available at <https://www.energy.gov/articles/us-department-energy-reverses-biden-lng-pause-restores-trump-energy-dominance-agenda>.

### III. CONCLUSION

For the foregoing reasons, PALNG2 respectfully requests that DOE/FECM expeditiously issue a procedural order dismissing Sierra Club's out-of-time intervention and protest in this proceeding.

Respectfully submitted,

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*Counsel for Port Arthur LNG Phase II, LLC*

Dated: February 7, 2025



## VERIFICATION

I, Sigurd Lars Carlson, declare that I am Vice President – Project Development for Port Arthur LNG Phase II, 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 February 7, 2025.

/s/ Sigurd Lars Carlson

Sigurd Lars Carlson  
Vice President – Project Development  
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February 7, 2025

**VIA EMAIL (FERGAS@HQ.DOE.GOV)**

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 Phase I, LLC, Docket Nos. 20-23-LNG***  
**Supplement to Request for Procedural Order of Port Arthur LNG Phase II, LLC**

Dear Ms. Sweeney:

On February 7, 2025, Port Arthur LNG Phase II, LLC (“PALNG2”) filed with the Department of Energy (“DOE”) Office of Fossil Energy and Carbon Management (“DOE/FECM”) in Docket No. 20-23-LNG a Request for Procedural Order Regarding Late-Filed Motion to Intervene and Protest of Sierra Club (“Request”).

PALNG2 hereby supplements its Request with a Certificate of Service. PALNG2 has served all parties to the proceeding with a copy of the Request.

Please contact the undersigned with any questions regarding this submission.

Respectfully submitted,

*/s/ Brett A. Snyder*

Brett A. Snyder  
*Counsel for Port Arthur LNG Phase II, LLC*

BAS:lnr  
Enclosures

## **ATTACHMENT**

## **CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the Request for Procedural Order Regarding Late-Filed Motion to Intervene and Protest of Sierra Club, filed by Port Arthur LNG Phase II, LLC on February 7, 2025 in Department of Energy (“DOE”) Office of Fossil Energy and Carbon Management (“DOE/FECM”) Docket No. 20-23-LNG, upon each person designated on the official service list in this proceeding.

Dated at Washington, D.C. this 7<sup>th</sup> day of February, 2025.

/s/ Lamiya Rahman  
Lamiya Rahman  
Blank Rome, LLP  
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## **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 this proceeding.

Dated at Washington, D.C. this 7th day of February, 2025.

/s/ Lamiya Rahman  
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