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## I. INTRODUCTION AND SUMMARY

On August 28, 2024, Golden Pass LNG Terminal LLC (GPLNG or Golden Pass LNG) filed with the Department of Energy’s (DOE) Office of Fossil Energy and Carbon Management (FECM)<sup>1</sup> a “Request for Extension of Commencement Deadline”<sup>2</sup> under section 3 of the Natural Gas Act (NGA)<sup>3</sup> and, as relevant, DOE’s Policy Statement on Export Commencement Deadlines in Authorizations to Export Natural Gas to Non-Free Trade Agreement Countries (Commencement Extension Policy Statement or Policy Statement).<sup>4</sup> DOE construes the Request as an application (Extension Application)<sup>5</sup> to amend Golden Pass LNG’s existing long-term orders authorizing the export of domestically produced liquified natural gas (LNG).<sup>6</sup> As discussed below, GPLNG is requesting a second extension of the deadline set forth in its orders—from September 30, 2025, to March 31, 2027.

GPLNG is authorized to export LNG by vessel from the Golden Pass LNG Terminal (Terminal or Project),<sup>7</sup> which is currently under construction in Sabine Pass, Texas, under the following two orders:

- DOE/FE Order No. 3147, as amended (Docket No. 12-88-LNG),<sup>8</sup> authorizing exports in a volume equivalent to 937 billion cubic feet per year (Bcf/yr) of

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<sup>1</sup> The Office of Fossil Energy changed its name to the Office of Fossil Energy and Carbon Management on July 4, 2021.

<sup>2</sup> Golden Pass LNG Terminal LLC, Request for Extension of Commencement Deadline, Docket Nos. 12-88-LNG and 12-156-LNG (Aug. 28, 2024) [hereinafter Ext. App.].

<sup>3</sup> 15 U.S.C. § 717b. The authority to regulate the imports and exports of natural gas, including liquefied natural gas, under section 3 of the NGA has been delegated to the Assistant Secretary for FECM in Redelegation Order No. S4-DEL-FE1-2023, issued on April 10, 2023.

<sup>4</sup> U.S. Dep’t of Energy, Policy Statement on Export Commencement Deadlines in Authorizations to Export Natural Gas to Non-Free Trade Agreement Countries, 88 Fed. Reg. 25,272 (Apr. 26, 2023) [hereinafter Commencement Extension Policy Statement].

<sup>5</sup> See 10 C.F.R. § 590.201(a).

<sup>6</sup> Ext. App. at 1-2. For purposes of this Order, DOE uses the terms “authorization” and “order” interchangeably.

<sup>7</sup> GPLNG states that the construction activities and facilities at the Terminal are often referred to as the “Project.”

<sup>8</sup> *Golden Pass LNG Terminal LLC*, DOE/FE Order No. 3147, Docket No. 12-88-LNG, Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Golden Pass LNG Terminal to Free Trade Agreement Nations (Sept. 27, 2017), *amended by* DOE/FE Order No. 3147-A (Mar. 4, 2020) (transferring authorization from Golden Pass Products LLC to Golden Pass LNG Terminal LLC), *further amended by* DOE/FE Order No. 3147-B (Mar. 24, 2020) (extending start of FTA term to Sept. 30, 2025); DOE/FE Order No.

natural gas for a term extending through December 31, 2050, to any country with which the United States has entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas (FTA countries), pursuant to NGA section 3(c),<sup>9</sup> and

- DOE/FE Order No. 3978, as amended (Docket No. 12-156-LNG),<sup>10</sup> authorizing exports in a volume equivalent to 937 Bcf/yr of natural gas for a term extending through December 31, 2050, to any other country with which trade is not prohibited by U.S. law or policy (non-FTA countries), pursuant to NGA section 3(a).<sup>11</sup>

Under these authorizations, the FTA and non-FTA volumes are not additive.<sup>12</sup>

Both orders, as amended, authorize exports “for a term beginning on the earlier of (i) the date of first export or (ii) September 30, 2025.”<sup>13</sup> However, the FTA and non-FTA deadlines serve different purposes. The FTA requirement applies to the date by which GPLNG’s FTA export term starts (*i.e.*, not actual export operations).<sup>14</sup> The non-FTA requirement, on the other

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3147-C (May 22, 2020) (amending Order No. 3147-B); DOE/FE Order No. 3147-D (Dec. 10, 2020) (extending export term); DOE/FE Order No. 3147-E (June 17, 2021) (increasing export volume).

<sup>9</sup> 15 U.S.C. § 717b(c). The United States currently has FTAs requiring national treatment for trade in natural gas with Australia, Bahrain, Canada, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Republic of Korea, and Singapore. FTAs with Israel and Costa Rica do not require national treatment for trade in natural gas.

<sup>10</sup> *Golden Pass LNG Terminal LLC*, DOE/FE Order No. 3978, Docket No. 12-156-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Golden Pass LNG Terminal Located in Jefferson County, Texas, to Non-Free Trade Agreement Nations (Apr. 25, 2017), *reh’g denied*, DOE/FE Order No. 3978-A (Mar. 30, 2018), *amended by* DOE/FE Order No. 3978-B (Mar. 4, 2020) (transferring authorization from Golden Pass Products LLC to Golden Pass LNG Terminal LLC), *further amended by* DOE/FE Order No. 3978-C (Mar. 24, 2020) (extending export commencement deadline to Sept. 30, 2025); DOE/FE Order No. 3978-D (Dec. 10, 2020) (extending export term); DOE/FECM Order No. 3978-E (Apr. 27, 2022) (increasing export volume); *reh’g denied*, DOE/FECM Order No. 3978-F (June 24, 2022); *see also Sierra Club v. U.S. Dep’t of Energy*, 107 F.4th 1012 (D.C. Cir. 2024) (dismissing Sierra Club’s petition for review of Order Nos. 3978-E and 3978-F for lack of standing).

<sup>11</sup> 15 U.S.C. § 717b(a).

<sup>12</sup> Effective January 12, 2021, long-term export authorizations contain authority to export the same approved volume of LNG pursuant to transactions with terms of less than two years, including commissioning volumes, on a non-additive basis. *See* U.S. Dep’t of Energy, Including Short-Term Export Authority in Long-Term Authorizations for the Export of Natural Gas on a Non-Additive Basis; Policy Statement, 86 Fed. Reg. 2,243 (Jan. 12, 2021).

<sup>13</sup> *Golden Pass LNG Terminal LLC*, DOE/FE Order No. 3147-E, at 5-6 (Ordering Para. A); *Golden Pass LNG Terminal LLC*, DOE/FECM Order No. 3978-E, at 53 (Ordering Para. A).

<sup>14</sup> As discussed herein (*see infra* at 3), this FTA requirement is a holdover from an earlier time in DOE’s LNG export program when DOE issued FTA authorizations for a specific term of 20 or more years.

hand, applies to the deadline by which GPLNG must commence export operations, after which point the non-FTA authorization will expire by its own terms.<sup>15</sup>

In the Extension Application, GPLNG asks DOE to extend the September 30, 2025 date in both authorizations by 18 months—to March 31, 2027.<sup>16</sup> The end date of both authorizations—December 31, 2050—would remain the same.<sup>17</sup> Below, DOE grants the Extension Application as follows:

**FTA Authorization.** NGA section 3(c) was amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486) to require that FTA applications “shall be deemed to be consistent with the public interest” and granted “without modification or delay.”<sup>18</sup> The FTA portion of the Extension Application falls within NGA section 3(c) and, therefore, DOE approves the requested extension by removing any deadline for the start of the FTA export term. Because the term of GPLNG’s FTA authorization now extends to the fixed date of December 31, 2050, it is no longer necessary to impose a specific date by which the term of the FTA authorization must start. Therefore, rather than modify the FTA order to include a March 31, 2027 deadline for the export term to start, DOE is modifying the FTA term to begin on the date of first export, consistent with DOE precedent.<sup>19</sup> None of the discussion below applies to the FTA portion of the Extension Application, except as noted.

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<sup>15</sup> See, e.g., Commencement Extension Policy Statement, 88 Fed. Reg. at 25,274-75; *Golden Pass LNG Terminal LLC*, DOE/FE Order No. 3978, at 167 (Term and Condition B).

<sup>16</sup> Ext. App. at 2, 12.

<sup>17</sup> See *Golden Pass LNG Terminal LLC*, DOE/FE Order No. 3147-E, at 5-6 (Ordering Para. A), *Golden Pass LNG Terminal LLC*, DOE/FECM Order No. 3978-E, at 53 (Ordering Para. A).

<sup>18</sup> 15 U.S.C. § 717b(c).

<sup>19</sup> See *infra* at 19 (Ordering Para. A); see also, e.g., *Gulfstream LNG Development, LLC*, DOE/FECM Order No. 5014, Docket No. 23-34-LNG, Order Granting Long-Term Authorization to Export Natural Gas to Free Trade Agreement Nations, at 10 (June 26, 2023) (Ordering Para. A).

**Non-FTA Authorization.** DOE’s Policy Statement applies to “existing and future non-FTA authorizations for the export of LNG,”<sup>20</sup> including DOE/FE Order No. 3978, as amended. Under the Policy Statement, DOE stated that it will no longer consider applications for extensions to export commencement deadlines, unless an authorization holder submits an application prior to its commencement deadline demonstrating that:

- (i) The authorization holder (or its affiliate) has physically commenced construction on the associated export facility before the request for additional time to commence exports is made; and
- (ii) The authorization holder’s inability to comply with its export commencement deadline is the result of extenuating circumstances outside of the authorization holder’s control, including but not limited to acts of God.<sup>21</sup>

The Policy Statement requires the authorization holder to “provide evidence, including any supporting documentation, to meet both parts of [this] required demonstration.”<sup>22</sup> GPLNG asserts that it meets the first part of this demonstration because it has been constructing the Terminal for the past five years, such that the Terminal is “65% complete in terms of physical construction.”<sup>23</sup> GPLNG asserts that it meets the second part of the demonstration due to the circumstances surrounding the Chapter 11 bankruptcy filing of its lead construction contractor for the Terminal, Zachry Industrial Inc. (Zachry), on May 21, 2024, and related uncertainties regarding GPLNG’s need to transition to a new lead contractor to complete construction.<sup>24</sup>

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<sup>20</sup> Commencement Extension Policy Statement, 88 Fed. Reg. at 25,272-73.

<sup>21</sup> *Id.* at 25,277. “For purposes of this Policy Statement, an ‘act of God’ means a severe natural event outside of human control, such as a hurricane, flash flood, or other natural disaster.” *Id.* n.63.

<sup>22</sup> *Id.* at 25,277. DOE explained that, “[a]lthough the two-part demonstration described above is required for DOE to consider an application for a commencement extension, it does not guarantee that DOE will approve the request.” *Id.*; *see also infra* § II.

<sup>23</sup> Ext. App. at 4. In support of these and other factual statements, and consistent with the Policy Statement, GPLNG provides numerous exhibits as part of its Extension Application (some requiring confidential treatment). *See id.* at 13 (Exhibit List); *see also* Commencement Extension Policy Statement, 88 Fed. Reg. at 25,277 (providing examples of evidence that an authorization holder has physically commenced construction on its export facility).

<sup>24</sup> Ext. App. at 2, 8. GPLNG states that “[t]he circumstances leading to this current request occurred after and are unrelated to the circumstances underlying GPLNG’s previous request” for its first commencement extension to September 30, 2025, which DOE granted in March 2020. *Id.* at 2 n.5.

Consistent with the Policy Statement, DOE published a Notice of the non-FTA portion of the Extension Application in the *Federal Register* on September 26, 2024.<sup>25</sup> DOE invited the public to submit protests, motions to intervene, notices of intervention, and written comments in response to the Notice by October 28, 2024.<sup>26</sup> DOE received two filings: a “Motion to Intervene” filed by Public Citizen, Inc. (Public Citizen),<sup>27</sup> and comments submitted by the Center for Biological Diversity (CBD).<sup>28</sup> Neither Public Citizen nor CBD oppose the non-FTA portion of the Extension Application.<sup>29</sup> Rather, CBD requests “that [DOE] wait” to conclude its ongoing update of economic and environmental studies that will inform DOE’s review of export applications under NGA section 3(a) “before acting” on GPLNG’s Extension Application.<sup>30</sup>

On November 8, 2024, GPLNG submitted a “Reply to Center for Biological Diversity’s Comments” (Reply).<sup>31</sup> GPLNG did not oppose Public Citizen’s Motion to Intervene, and therefore the Motion is deemed granted by operation of law.<sup>32</sup>

Additionally, we take administrative notice that, on October 24, 2024, the Federal Energy Regulatory Commission (FERC) issued an order (FERC Extension Order) granting GPLNG’s request for a second extension of its deadline to complete construction of the Terminal and place

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<sup>25</sup> U.S. Dep’t of Energy, Golden Pass LNG Terminal LLC; Request for Extension of Commencement Deadline, 89 Fed. Reg. 78,852 (Sept. 26, 2024) [hereinafter Notice of Extension Application].

<sup>26</sup> *See id.* DOE finds that the requirement for public notice of applications in 10 C.F.R. Part 590 is applicable only to non-FTA applications under NGA section 3(a).

<sup>27</sup> Public Citizen, Inc., Motion to Intervene, Docket No. 12-156-LNG (Oct. 28, 2024) [hereinafter Public Citizen Mot.].

<sup>28</sup> Center for Biological Diversity, Comments, Docket No. 12-156-LNG (Oct. 24, 2024) [hereinafter CBD Comments].

<sup>29</sup> Because the only movant—Public Citizen—does not oppose GPLNG’s Extension Application, the Extension Application is uncontested. *See* 10 C.F.R. § 590.102(b).

<sup>30</sup> CBD Comments at 1; *see also infra* § IV.B & C, § V.B.2 .

<sup>31</sup> Golden Pass LNG Terminal LLC, Reply to Center for Biological Diversity’s Comments on Request for Extension of Commencement Deadline, Docket No. 12-156-LNG (Nov. 8, 2024) [hereinafter GPLNG Reply].

<sup>32</sup> 10 C.F.R. § 590.303(g).

it into service—from November 30, 2026, to November 30, 2029.<sup>33</sup>

Upon review of the record, DOE finds that GPLNG has satisfied both prongs of the demonstration required for DOE to consider the Extension Application under the Policy Statement, and that there is good cause to grant the requested extension for GPLNG’s non-FTA authorization (Order No. 3978, as amended). Accordingly, GPLNG has until March 31, 2027, to commence non-FTA exports from the Terminal.

## **II. STANDARD OF REVIEW FOR NON-FTA PORTION OF EXTENSION APPLICATION**

As relevant here, section 3(a) of the NGA authorizes the exportation of natural gas from the United States unless DOE determines that doing so “will not be consistent with the public interest.”<sup>34</sup> NGA section 3(a) also authorizes DOE, “after opportunity for hearing, and for good cause shown,” to issue a supplemental order “as it may find necessary or appropriate.”<sup>35</sup>

In the Policy Statement, DOE stated that, following a 30-day public comment period on an application for an export commencement extension, “DOE will issue an order evaluating the application, and any responses received in response to the notice of application, under the good cause standard provided by NGA section 3(a), with appropriate consideration of the public interest.”<sup>36</sup> As stated above, an authorization holder seeking an extension under the Policy Statement “should provide evidence ... to meet both parts of the required demonstration”—that “it has physically commenced construction on the associated export facility,” and that “its

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<sup>33</sup> See Fed. Energy Regulatory Comm’n, Letter Order Granting Extension of Time, Docket No. CP14-517-002 (Oct. 24, 2024) [hereinafter FERC Extension Order] (attached as exhibit to GPLNG Reply). FERC has jurisdiction over the siting, construction, and operation of the Terminal under NGA section 3(e), 15 U.S.C. § 717b(e).

<sup>34</sup> 15 U.S.C. § 717b(a).

<sup>35</sup> *Id.*

<sup>36</sup> Commencement Policy Statement, 88 Fed. Reg. at 25,277-78.



inability to comply with the existing export commencement deadline is the result of extenuating circumstances outside of its control.”<sup>37</sup>

### **III. DESCRIPTION OF NON-FTA PORTION OF EXTENSION APPLICATION**

GPLNG requests an additional 18-month period, beyond the current export commencement deadline of September 30, 2025, to commence commercial non-FTA exports under Order No. 3978, as amended.<sup>38</sup> GPLNG states that this requested extension is “entirely consistent” with DOE’s Policy Statement<sup>39</sup> and that there is good cause to grant this request.<sup>40</sup>

#### **A. Physical Commencement of Construction**

To address the “physical construction” prong of the demonstration required by the Policy Statement (*see supra* at 4), GPLNG asserts that it “physically commenced construction of the export facilities in 2019.”<sup>41</sup> According to GPLNG, it has been “continuously engaged in construction on an escalating scale for the past five years” and has already completed “a majority of the work” on the Terminal.<sup>42</sup> Specifically, as of the filing of the Extension Application on August 28, 2024, GPLNG describes the status of the Project as follows:

- The LNG facility is approximately 65% complete in terms of physical construction and 80% complete including design and engineering work;
- Construction on Train 1, including the utility and export terminal facilities necessary to produce and load LNG, is approximately 83% complete;
- Construction on Train 2 is approximately 46% complete; and
- Construction on Train 3 is approximately 31% complete.<sup>43</sup>

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<sup>37</sup> *Id.* at 25,277, 25,273.

<sup>38</sup> *See* Ext. App. at 2, 12.

<sup>39</sup> *Id.* at 3.

<sup>40</sup> *Id.* at 2.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.* at 3 (quoting subheading).

<sup>43</sup> *Id.* at 4.

In addition, GPLNG states that its affiliate, Golden Pass Pipeline LLC (GPPL), is undertaking a related pipeline expansion project to support natural gas supplies for LNG production, and that project is approximately 75% complete.<sup>44</sup>

GPLNG states that it has filed more than 250 construction implementation plans, deployed more than 9,000 workers, and utilized the goods and services of approximately 400 contractors, vendors, and suppliers.<sup>45</sup> GPLNG notes that it has expedited construction by requesting and receiving authorizations from FERC to extend construction hours (at times up to 24 hours a day, seven day a week) and to increase the workforce present at the site.<sup>46</sup> GPLNG asserts that, in total through June 2024, it “has already invested over \$8 billion in capital expenditures toward construction of the export terminal facilities,” while its affiliate, GPPL, has expended “another \$300+ million for the pipeline expansion.”<sup>47</sup> GPLNG provides the following picture showing an aerial view of the Project site as of May 2024:<sup>48</sup>



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<sup>44</sup> Ext. App. at 4.

<sup>45</sup> *Id.* at 3-4.

<sup>46</sup> *Id.* at 3.

<sup>47</sup> *Id.* at 5.

<sup>48</sup> *Id.* at 4. As Exhibit 2 to the Extension Application, GPLNG provides its Bi-Weekly Report submitted to FERC on August 6, 2024, detailing its recent construction activities. Additional pictures showing construction progress are included in that exhibit.

GPLNG states that, despite Zachry’s bankruptcy filing and exiting of the project (described below), GPLNG has managed to continue construction activities within the scope of its other two contractors, CB&I LLC (CB&I) and Chiyoda International Corporation (Chiyoda), while GPPL also continued its work on the pipeline expansion project.<sup>49</sup>

Finally, GPLNG asserts that, beyond physical construction, it has been actively building an organization for commercial operations, including taking steps needed for start-up activities.<sup>50</sup>

These efforts include:

- Employing over 300 individuals and 185 contractors focused on preparations for commercial operations;
- Entering into approximately 125 North American Energy Standards Board (NAESB) contracts and nine long-term natural gas supply contracts as preparation to buy natural gas for LNG production;
- Entering more than 1,200 supplier and service agreements; and
- Incurring operating expenses for commercial operations of more than \$100 million for GPLNG and \$26 million for GPPL.<sup>51</sup>

In sum, GPLNG maintains that it “has proceeded diligently with construction of the Project and, ultimately, long-term exportation of LNG from those facilities.”<sup>52</sup>

#### **B. Extenuating Circumstances Creating Inability to Comply With Export Commencement Deadline**

Turning to the “extenuating circumstances” prong of the demonstration (*see supra* at 4), GPLNG contends that the performance and bankruptcy of its lead construction contractor, Zachry, constitute circumstances beyond its control that necessitate the requested extension to reach commercial operations.<sup>53</sup>

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<sup>49</sup> *Id.* at 5; Exh. 2.

<sup>50</sup> Ext. App. at 5.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.* at 3; *see also id.* at 12.

<sup>53</sup> *Id.* at 5.

GPLNG provides a detailed history surrounding its engineering, procurement, and construction and commissioning (EPC) contract (EPC Contract) for construction of the Terminal facilities.<sup>54</sup> Briefly, Zachry had primary construction responsibility as lead contractor, with contractors CB&I and Chiyoda having other responsibilities under the EPC Contract.<sup>55</sup> In 2022, Zachry demanded certain cost and schedule adjustments under the EPC Contract, including for COVID-related delays and transportation cost increases. According to GPLNG, this was the first of four separate occasions—culminating in March 2024—where Zachry demanded additional money and schedule relief to continue working to complete the Project.<sup>56</sup>

GPLNG states that it “agreed three times to amend the EPC Contract to keep the Project progressing in a way to meet the [September 30, 2025] Commercial Operations deadline.”<sup>57</sup> Specifically, GPLNG “provided approximately **\$1.2 billion** in additional payments plus another \$200 million earnable payments, advanced over \$270 million by July of 2023 for work that had not yet been performed and therefore had not been earned,” while “agree[ing] to extend the schedule deadlines (but still within the time to meet the commercial operations deadline).”<sup>58</sup>

Key developments then unfolded as follows:

- By February 2024, Zachry had started to reduce its work force on site, slowing construction progress;
- On April 12, 2024, Zachry notified GPLNG that it planned to exit the Project;
- On May 21, 2024, Zachry filed for Chapter 11 Bankruptcy protection and terminated all hourly workers; and

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<sup>54</sup> See *id.* at 5-8 and related exhibits.

<sup>55</sup> *Id.* at 5, 9.

<sup>56</sup> Ext. App. at 7-8.

<sup>57</sup> *Id.* at 7. As exhibits to the Extension Application, GPLNG provides the three amendments to the EPC Contract, among other documents filed on a confidential basis. See, e.g., *id.* at 13.

<sup>58</sup> *Id.* at 7-8 (emphasis in original).

- On August 12, 2024, the Bankruptcy Court gave final approval of a bankruptcy settlement with Zachry that allowed GPLNG to move forward with the remaining two contractors, CB&I and Chiyoda.<sup>59</sup>

Thus, GPLNG asserts that Zachry’s bankruptcy filing, and the related delay in GPLNG recovering control of the Project site, constitute extenuating circumstances beyond its control.<sup>60</sup>

GPLNG further asserts that, although CB&I has indicated that it intends to take over Zachry’s scope to complete the Project, CB&I is still undertaking its own assessment of Zachry’s work, the remaining work to complete, and the time and cost it will take to complete the Project as the new lead construction contractor. GPLNG states that these and other factors have been considered in requesting an extension of 18 months—from September 30, 2025, to March 31, 2027—to achieve commercial operations.<sup>61</sup>

### **C. Public Interest Considerations**

GPLNG argues that the requested extension does not alter DOE’s prior public interest determinations in granting Order No. 3978 and related amendments under NGA section 3(a).<sup>62</sup> Indeed, GPLNG contends that “not extending the deadline and forcing cancellation of the Project” at this stage would be “affirmatively contrary to the public interest,” citing the capital investment in the Project and pipeline expansion to date, the number of employees hired, and the existing sale and purchase agreements for 100% of GPLNG’s LNG production, among other factors.<sup>63</sup> GPLNG further asserts that, based on an assessment of the economic benefits of the Project prepared in 2019 by The Perryman Group, the benefits to the economy from granting the extension and avoiding cancellation of the Project are “unmistakable,” whereas denying the

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<sup>59</sup> *Id.* at 8.

<sup>60</sup> *Id.* at 9.

<sup>61</sup> Ext. App. at 9; *see also infra* § V.B.4.

<sup>62</sup> Ext. App. at 9-10.

<sup>63</sup> *Id.* at 10-11.

extension would cause “tremendous economic havoc for thousands of individuals and businesses.”<sup>64</sup>

#### **IV. DOE PROCEEDING**

##### **A. Public Citizen’s Motion to Intervene**

Public Citizen timely filed its Motion to Intervene on October 28, 2024.<sup>65</sup> Public Citizen states that it is a national, not-for-profit, non-partisan research and advocacy organization representing the interests of household consumers.<sup>66</sup> Public Citizen does not take a position on the Extension Application. Rather, Public Citizen notes the requested extension to March 31, 2027, and states that Public Citizen and its members “have a direct interest in Golden Pass LNG’s request ... as America’s record gas exports are profoundly disrupting domestic energy markets, straining the availability of domestic gas supplies, and exposing families to increased energy price burdens.”<sup>67</sup>

##### **B. Center for Biological Diversity’s Comments**

In comments timely filed on October 24, 2024, the Center for Biological Diversity (CBD) states that it “submits this letter on behalf of its more than 1.7 million members and online activists.”<sup>68</sup> CBD states that it and its members are “requesting that the [DOE] wait until the updated public interest studies are completed before acting on the Golden Pass LNG terminal request for extension.”<sup>69</sup>

Specifically, CBD states that, in January 2024, the Biden Administration “announced a temporary pause on the review of pending requests for authorization to export LNG to non-FTA

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<sup>64</sup> *Id.* at 11 (identifying economic benefits calculated by The Perryman Group). GPLNG submitted a copy of The Perryman Group Report as Exhibit 13 to the Extension Application.

<sup>65</sup> *See* Public Citizen Mot. at 1.

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> CBD Comments at 1.

<sup>69</sup> *Id.*

countries to allow the DOE time to update its outdated economic and environmental analyses that inform its public interest review.”<sup>70</sup> CBD argues that these updated studies, once completed, “must inform public interest determinations for new applications to export, reauthorizations to export, and extensions for commencement of export”—including GPLNG’s Extension Application.<sup>71</sup> According to CBD, “these authorizations prolong global reliance on fossil fuels, delay the clean energy transition, and impact the same economic and environmental factors DOE is currently assessing.”<sup>72</sup>

In sum, CBD asserts that DOE does not have sufficient information to determine whether GPLNG’s Extension Application is in the public interest,<sup>73</sup> and thus DOE “must wait until the conclusion of its economic and environmental analyses” to commence review of the non-FTA portion of the Extension Application.<sup>74</sup>

### **C. GPLNG’s Reply to CBD’s Comments**

GPLNG filed a Reply to CBD’s comments on November 8, 2024.<sup>75</sup> GPLNG asks DOE to accept the Reply so that it may address CBD’s comments, which it characterizes as “fatally flawed.”<sup>76</sup> According to GPLNG, CBD’s comments are flawed for the following reasons, which GPLNG discusses in detail:

- (1) CBD’s reliance on DOE’s “pause” on pending applications for non-FTA export authorization is “misplaced,” as DOE stated that applications for an extension of an export commencement date “will be reviewed during the pause;”<sup>77</sup>

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<sup>70</sup> *Id.* at 1 & n.2 (citing Dep’t of Energy, *DOE to Update Public Interest Analysis to Enhance National Security, Achieve Clean Energy Goals, and Continue to Support for Global Allies* (Jan. 26, 2024), <https://www.energy.gov/articles/doe-update-public-interest-analysis-enhance-national-security-achieve-clean-energy-goals>).

<sup>71</sup> *Id.* at 1.

<sup>72</sup> *Id.*

<sup>73</sup> *Id.* at 2 (citing DOE’s Procedures for Liquefied Natural Gas Export Decisions).

<sup>74</sup> *Id.*

<sup>75</sup> GPLNG Reply at 1.

<sup>76</sup> *Id.*

<sup>77</sup> *Id.* at 1 & n.3 (quoting DOE Office of Fossil Energy and Carbon Mgmt., “The Temporary Pause on Review of Pending Applications to Export Liquefied Natural Gas,” at 1 n.1 (information current as of Feb. 2024)).

- (2) Even if DOE were to consider new evidence relevant to economic and environmental considerations—which is not necessary to grant the Extension Application—recent studies “continue to support ... the public interest being served by LNG exports;” and
- (3) CBD “ignores the legal standard controlling DOE’s determination—that it must *grant* the application unless it finds doing so *inconsistent* with the public interest,” and did not rebut GPLNG’s “detailed facts” for finding good cause to grant the extension.<sup>78</sup>

GPLNG also argues that CBD “fails to even acknowledge the incredible harm to the public interest if the extension is NOT granted.”<sup>79</sup>

Lastly, GPLNG reiterates that it is “fully committed” to completing the Project.<sup>80</sup>

GPLNG states that, as of the date of the Reply, “the LNG facility is now 81% complete and the pipeline expansion project is 85% complete.”<sup>81</sup> GPLNG also provides notice of the FERC Extension Order issued on October 24, 2024, which gives GPLNG until November 30, 2029, to complete construction of the Terminal and place it into service.<sup>82</sup> For all of these reasons, GPLNG argues that “CBD’s comments fail ... to present any justification” for DOE to deny the Extension Application.<sup>83</sup>

## V. DISCUSSION FOR NON-FTA PORTION OF EXTENSION APPLICATION

### A. Procedural Matters

GPLNG did not oppose Public Citizen’s Motion to Intervene, and therefore it is deemed granted by operation of law.<sup>84</sup>

GPLNG submitted a Reply to CBD’s comments and asks DOE to accept it.<sup>85</sup> Although DOE’s regulations do not provide a right to reply to comments, GPLNG’s Reply addresses

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<sup>78</sup> *Id.* at 2 (emphasis in original) & n.8.

<sup>79</sup> *Id.* at 3 (emphasis in original).

<sup>80</sup> *Id.* at 2.

<sup>81</sup> GPLNG Reply at 2-3.

<sup>82</sup> *Id.* at 4 & n.14.

<sup>83</sup> *Id.* at 4.

<sup>84</sup> 10 C.F.R. § 590.303(g); *see also* GPLNG Reply at 1 n.2.

<sup>85</sup> GPLNG Reply at 1.



CBD’s arguments and provides updated information about the Project. Therefore, we find that GPLNG’s Reply is relevant to DOE’s consideration of the Extension Application, and we accept the Reply as part of the record in this proceeding.

## **B. Grant of Requested Commencement Extension**

### **1. Two-Part Demonstration Required by Policy Statement**

Under the first part of the demonstration required for the requested extension, we find that GPLNG has provided extensive evidence demonstrating that it and its affiliate, GPPL, have not only “physically commenced construction” of the Terminal facilities and the related pipeline expansion project, respectively, but that the Project is currently at an advanced stage of construction.<sup>86</sup> Specifically, as of GPLNG’s Reply filed on November 8, 2024, the LNG facility and the pipeline expansion project are both more than 80% complete.<sup>87</sup>

Under the second part of the demonstration, we find that GPLNG has established that it is unable to comply with its existing export commencement deadline (September 30, 2025) due to extenuating circumstances outside of its control—both the work stoppage and bankruptcy filing of its lead contractor, Zachry, and related delays as GPLNG seeks to complete construction of the Project with a new lead contractor.<sup>88</sup> We find it particularly compelling that, despite the unanticipated demands and actions of Zachry ultimately resulting in its exit from the Project, GPLNG has continued to complete construction activities with its two other contractors within the scope of their responsibility.<sup>89</sup>

Finally, we note that DOE implemented the Policy Statement to “encourage authorization holders to develop their export facilities in a timely manner, without excessive delays.”<sup>90</sup> The

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<sup>86</sup> Commencement Extension Policy Statement, 88 Fed. Reg. at 25,277.

<sup>87</sup> GPLNG Reply at 2-3; *see also supra* § III.A.

<sup>88</sup> *See supra* § III.B.

<sup>89</sup> *See* Ext. App. at 5-6 and Exh. 2; *see also id.* at 8-9.

<sup>90</sup> Commencement Extension Policy Statement, 88 Fed. Reg. at 25,278.

substantial body of evidence presented by GPLNG—which was unrebutted—demonstrates that GPLNG is continuing to work with both speed and diligence to complete the Project and commence export operations, consistent with DOE’s objective.

## **2. CBD’s Request for DOE to Delay Action**

CBD requests that DOE wait to act on the non-FTA portion of GPLNG’s Extension Application until DOE completes the ongoing update of its economic and environmental studies involving exports of LNG, citing the “temporary pause” in DOE’s review of pending export applications announced in January 2024.<sup>91</sup> Conversely, GPLNG asks DOE to approve the requested extension “without undue delay” to “provide certainty to GPLNG, its LNG buyers, gas suppliers, and the thousands of contractors and suppliers currently working on constructing the Project, and the hundreds of contractors and suppliers that have already contracted for work once the plant starts up.”<sup>92</sup> Upon review of these arguments, DOE declines CBD’s request to delay action on the Extension Application.

As GPLNG points out, DOE explicitly stated that the “temporary pause” did *not* apply to applications for export commencement extensions under the Policy Statement, and thus it never applied to GPLNG’s Extension Application.<sup>93</sup> For this reason, there is not (and has never been) a basis for DOE to “wait” to review the non-FTA portion of the Extension Application pending completion of the study update.<sup>94</sup> Furthermore, as discussed below, DOE agrees with GPLNG that extending the deadline to commence non-FTA exports from the Terminal does not alter DOE’s public interest determination in granting Order No. 3978, as amended, under NGA

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<sup>91</sup> CBD Comments at 1.

<sup>92</sup> Ext. App. at 12.

<sup>93</sup> See DOE Office of Fossil Energy and Carbon Mgmt., “The Temporary Pause on Review of Pending Applications to Export Liquefied Natural Gas,” at 1 n.1, *cited in* GPLNG Reply at 1 n.3.

<sup>94</sup> CBD Comment at 1-2.

section 3(a).

### **3. FERC Extension Order**

FERC recently determined—based on largely the same factual circumstances presented in this proceeding—that it was appropriate to extend GPLNG’s construction and in-service deadline for the Terminal for a second time, to November 30, 2029.<sup>95</sup> We find that the FERC Extension Order supports GPLNG’s request, particularly considering that an extension to March 31, 2027, falls within FERC’s approved deadline for the Terminal.

### **4. Length of Commencement Extension**

As set forth in the Policy Statement, DOE “will consider extending an export commencement deadline only for such time as DOE deems necessary for the authorization holder to commence exports, based on the extenuating circumstances identified in the application.”<sup>96</sup> Here, GPLNG states that it is requesting an extension of 18 months to account for the following: construction delays caused by Zachry’s bankruptcy filing, remaining uncertainties regarding the transition to a new lead contractor, possible delays that may occur during the remaining construction activities (such as hurricane impacts), and the time needed for commissioning and start-up activities at the Terminal.<sup>97</sup> GPLNG further asserts that it hopes to commence commercial operations in a “much shorter period,” but that it seeks to have sufficient time to complete construction without the necessity to seek another extension in the future.<sup>98</sup>

There is no opposition presented to an 18-month extension, and DOE finds that 18 months is a necessary and reasonable period of time based on the evidence presented by GPLNG.<sup>99</sup>

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<sup>95</sup> See FERC Extension Order, *supra* note 33.

<sup>96</sup> Commencement Extension Policy Statement, 88 Fed. Reg. at 25,278.

<sup>97</sup> Ext. App. at 2; *see also id.* at 9.

<sup>98</sup> *Id.* at 9.

<sup>99</sup> *See, e.g., id.* at 4-5, 9.

## 5. Other Considerations

DOE agrees with GPLNG that extending the deadline to commence non-FTA exports from the Terminal does not alter DOE's public interest determination in granting Order No. 3978, as amended, under NGA section 3(a).<sup>100</sup> In particular, GPLNG's non-FTA authorization is not affected by the requested extension beyond the additional time period for GPLNG to commence export operations.

GPLNG argues that denying the requested extension would effectively cancel the Project, which "would be affirmatively contrary to the public interest" under NGA section 3(a).<sup>101</sup> GPLNG maintains that "the public interest is served by this [extension] to avoid the tremendous loss of jobs, economic activity, tax revenue benefiting state, regional and local governments, and billions of dollars of sunk private investment" in the Project.<sup>102</sup> Based on the evidence discussed above, we find that the requested extension supports the economic benefits previously identified by DOE in granting Order No. 3978<sup>103</sup> and, moreover, that there has been no showing that the extension is inconsistent with the public interest.

## VI. CONCLUSION

DOE has reviewed the evidence in the record and finds that GPLNG has demonstrated good cause for the requested extension to the export commencement deadline in its non-FTA order (Order No. 3978, as amended), consistent with both NGA section 3(a) and the Commencement Extension Policy Statement. Accordingly, DOE grants the uncontested

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<sup>100</sup> *See id.* at 2.

<sup>101</sup> *Id.* at 10.

<sup>102</sup> *Id.* at 12.

<sup>103</sup> *See, e.g., Golden Pass LNG Terminal LLC, DOE/FE Order No. 3978, at 137-41, 144.*

non-FTA portion of the Extension Application, and GPLNG now has until March 31, 2027, to commence commercial exports from the Terminal to non-FTA countries.<sup>104</sup>

DOE also grants the FTA portion of the Extension Application under NGA section 3(c), as set forth in the Introduction.<sup>105</sup>

### **ORDER**

Pursuant to section 3 of the Natural Gas Act, DOE hereby orders that:

A. **DOE/FE Order No. 3147 (Docket No. 12-88-LNG, FTA Authorization).**

Ordering Paragraph A of DOE/FE Order No. 3147, as amended most recently by Order No. 3147-E, is amended to state in full:

Golden Pass LNG Terminal LLC (GPLNG or Golden Pass LNG) is authorized to export domestically produced LNG by vessel from the Golden Pass Terminal in Sabine Pass, Texas. The volume authorized in this Order is equivalent to 937 Bcf/yr of natural gas for a term beginning on the date of first export from the Terminal and extending through December 31, 2050. GPLNG is authorized to export this LNG on its own behalf and as agent for other entities that hold title to the natural gas, pursuant to one or more contracts of any duration.<sup>106</sup>

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<sup>104</sup> In the Extension Application, GPLNG states its understanding that DOE's various references in GPLNG's orders to commencing "export operations" (or "commercial export operations") are "satisfied by the first exported cargo of LNG manufactured by export facilities, rather than a formal declaration of commercial operations pursuant to an export sales and purchase agreement." Ext. App. at 2 n.4. DOE confirms this is an accurate statement.

<sup>105</sup> See *supra* § I.

<sup>106</sup> See U.S. Dep't of Energy, Including Short-Term Export Authority in Long-Term Authorizations for the Export of Natural Gas on a Non-Additive Basis, 86 Fed. Reg. 2243 (Jan. 12, 2021).

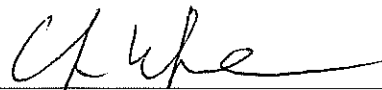
B. **DOE/FE Order No. 3978 (Docket No. 12-156-LNG, Non-FTA Authorization).**

Ordering Paragraph A of DOE/FE Order No. 3978, as amended most recently by Order No. 3978-E,<sup>107</sup> is amended to state:

Golden Pass LNG Terminal LLC (GPLNG or Golden Pass LNG) is authorized to export domestically produced LNG by vessel from the Golden Pass LNG Terminal in Sabine Pass, Texas, in a volume equivalent to 937 Bcf/yr of natural gas for a term beginning on the date of first export and extending through December 31, 2050. GPLNG is authorized to export this LNG on its own behalf and as agent for other entities that hold title to the natural gas, pursuant to one or more contracts of any duration.<sup>108</sup> GPLNG must commence export operations using the planned liquefaction facilities no later than March 31, 2027.

C. All other obligations, rights, and responsibilities established by DOE/FE Order Nos. 3147 and 3978, both as amended, remain in effect.

D. Public Citizen's Motion to Intervene is deemed granted by operation of law.<sup>109</sup> Issued in Washington, D.C., on March 5, 2025.



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Chris Wright  
U.S. Secretary of Energy

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<sup>107</sup> GPLNG's non-FTA authorization was last amended in Order No. 3978-E. DOE denied rehearing of that order in Order No. 3978-F without amendment. *See supra* at note 10.

<sup>108</sup> *See* U.S. Dep't of Energy, Including Short-Term Export Authority in Long-Term Authorizations for the Export of Natural Gas on a Non-Additive Basis, 86 Fed. Reg. 2243 (Jan. 12, 2021).

<sup>109</sup> 10 C.F.R. § 590.303(g).