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**UNITED STATES OF AMERICA
BEFORE THE
DEPARTMENT OF ENERGY/OFFICE OF FOSSIL ENERGY**

Golden Pass LNG Terminal LLC) FE Docket No. 12-156-LNG
(formerly Golden Pass Products)
LLC))

**ANSWER OF GOLDEN PASS LNG TERMINAL LLC TO
THE MOTION TO INTERVENE AND PROTEST OF THE INDUSTRIAL
ENERGY CONSUMERS OF AMERICA**

Pursuant to Section 590.304(f) of the Regulations of the Department of Energy/Office of Fossil Energy (“DOE/FE”), 10 C.F.R. § 590.304(f)(2019), Golden Pass LNG Terminal LLC (“GPLNG”) submits this Answer to the “Notice of Intervention, Protest and Comment” of the Industrial Energy Consumers of America (“IECA”) filed December 18, 2019, in the captioned proceeding (“IECA Protest”).

On October 28, 2019, GPLNG requested a seventeen-month extension of time for the commencement of the export of liquefied natural gas (“LNG”) under authorizations previously granted by DOE/FE, from April 25, 2024 until September 20, 2025. GPLNG stated that due to unanticipated delays in receiving final authorizations from the FERC and DOE/FE, GPLNG anticipated that it would need additional time to complete the construction necessary to commence operations. GPLNG is currently constructing the necessary export facilities, and anticipates commencement of export operations from the first of its three planned LNG trains in Calendar Year 2024. However, to ensure against unanticipated construction delays, GPLNG requested an extension of the commencement deadline until September 30, 2025.

GPLNG respectfully requests that the DOE/FE deny IECA’s motion to intervene

for failure to demonstrate a legal basis for intervention. IECA's Protest requests leave to intervene as a party for the first time in this proceeding, which commenced in 2012. IECA's Protest does not establish IECA's interest in GPLNG's request for an extension of time to commence export operations, the sole issue presented currently in this proceeding. IECA's Protest focuses not on the extension of the export commencement date, but instead seeks to challenge the DOE/FE's 2017 export authorization to GPLNG.

The DOE/FE should reject IECA's arguments against the export authorizations, which amount to an out-of-time request for rehearing of Order No. 3978, issued on April 25, 2017.¹ None of the IECA's arguments bear directly on GPLNG's current extension request. If and to the extent the DOE/FE considers the arguments presented in IECA's Protest, GPLNG requests that the DOE/FE reject those arguments and grant GPLNG's request for an extension of time to commence export operations, as discussed below.

Accordingly, the DOE/FE should promptly grant the extension requested by GPLNG, which has been fully supported in the extension request.

I. BACKGROUND

The DOE/FE issued Order No. 3978 on April 25, 2017, under Section 3(a) of the Natural Gas Act ("NGA"), 15 U.S.C. § 717b(a), authorizing GPLNG to export up to 808 billion cubic feet per day ("Bcf/d") of LNG to countries with which the United States has

¹ *Golden Pass Products LLC*, FE Docket No. 12-156-LNG (DOE/FE Order No. 3978) (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 Countries) (April 25, 2017), reh'g denied, DOE/FE Order No. 3978-A (March 30, 2018). On July 17, 2019, GPLNG filed with the DOE/FE a Change in Control notification indicating that Golden Pass Products, LLC ("GPP") had merged with and into GPLNG effective June 18, 2019. For ease of reference, this Answer refers to both GPP and GPLNG as "GPLNG."

not entered into a free trade agreement (“FTA”) requiring national treatment of trade in natural gas and with which trade is not prohibited by U.S. law or policy (“non-FTA countries”). The authorization is for a term of twenty years, to commence no later than seven years from the date of issuance of the order. The DOE/FE had previously issued Order No. 3147 authorizing GPLNG to export LNG to countries with which the U.S. has entered into an FTA requiring national treatment of trade in natural gas.²

As stated in its NFTA export application filed October 26, 2012, GPLNG proposed to export LNG from planned liquefaction and export facilities to be constructed contiguous to and integrated with its existing LNG import terminal facilities located near Sabine Pass, Texas. GPLNG separately applied to the Federal Energy Regulatory Commission (“FERC”) under NGA Section 3 and the FERC’s regulations to construct and operate the liquefaction and export facilities. The FERC granted the necessary authorizations on December 21, 2016.³ The authorized export facilities are currently under construction, as discussed more fully below.

GPLNG’s October 28, 2019 extension request simply sought an extension of time to commence exports of LNG under Order No. 3978. GPLNG noted that considerable time had elapsed between the filing of GPLNG’s NFTA application in October 2012, and issuance of Order No. 3978 in April 2017. This delay, combined with the long pendency of GPLNG’s export facilities application before the FERC, delayed the commencement of

² *Golden Pass Products LLC*, FE 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)(September 27, 2012)(Order No. 3147).

³ *Golden Pass Products LLC and Golden Pass Pipeline LLC*, 157 FERC ¶ 61,222 (2016).

construction of the export facilities.⁴

GPLNG commenced construction expeditiously following receipt of these authorizations, as well as the additional federal and state permits required. GPLNG's extension request simply reflects the time period necessary to construct these complex facilities. Under the circumstances, GPLNG's request for a limited extension period of a maximum of approximately 17 months is reasonable and well-supported. The FERC recently issued an order granting GPLNG's similar corresponding request for an extension of time to complete the construction of the export facilities.⁵

II. ANSWER

A. The DOE/FE Should Deny IECA's Motion to Intervene.

The IECA Protest identifies IECA as a "nonpartisan . . . organization created to promote the interests of manufacturing companies through advocacy and collaboration for which the availability, use and cost of energy, power or feedstock play a significant role in their ability to compete in domestic and world markets. IECA Protest, at p. 1. IECA requests leave to intervene pursuant to 10 C.F.R. § 590.303(b). In order to establish standing, a party must establish that it has an interest which may be directly affected by the

⁴ On October 30, 2019, GPLNG Golden Pass LNG and GPPL filed a request with the FERC to extend the deadline set forth in the December 2016 Order for placing the LNG export facilities until no later than November 30, 2026. GPLNG sought a longer extension from the FERC than from DOE/FE, because the FERC in-service deadline applies to all three LNG trains comprised within the GPLNG export project. GPLNG intends to place the three trains in-service over a staggered schedule. The DOE/FE commencement of export operations, in contrast, will be met by commencement of exports from the first LNG train, which is currently planned to occur well in advance of the commencement of commercial exports from the third train.

⁵ *Golden Pass LNG Terminal LLC and Golden Pass Pipeline LLC*, FERC Docket Nos. CP14-517-000, et al. (December 11, 2019)(unreported). The FERC order granting GPLNG's extension request is attached to this Answer.

outcome of a proceeding.⁶ To seek judicial review, a party must establish: (1) that it has suffered an injury in fact, (2) that is fairly traceable to the challenged agency action, and (3) that likely will be redressed by a favorable decision.⁷

As discussed below, the arguments set forth in IECA's Protest do not address the extension of time requested by GPLNG, which is the sole issue currently presented in this proceeding. IECA does not allege, let alone demonstrate, that the relatively brief extension of time GPLNG has requested would directly affect any interest asserted by IECA and its members. IECA had an opportunity to intervene in the proceeding on GPLNG's non-FTA export proceeding. It did not do so. The DOE/FE issued Order No. 3978 authorizing non-FTA LNG exports in April 2017, two and one-half years ago. IECA's request to intervene now for the first time, for the purpose of challenging the underlying export authorization, not the extension of time requested herein, is improper and should be rejected by DOE/FE.

B. The DOE/FE Should Reject IECA's Arguments, Which do Not Pertain to GPLNG's Request for an Extension of Time.

IECA's Protest does not address the reasonableness of the extension of time requested by GPLNG. That is the only issue presented by GPLNG's October 28, 2019 extension request. Instead, IECA challenges the export authorization granted Order No. 3978 two and a half years ago.⁸ Even this challenge does not focus on Order No. 3978; instead, IECA presents generic arguments against the DOE/FE's policies regarding LNG

⁶ 15 U.S.C. § 717n (2012); *Michigan Consol. Gas Co. v. Federal Power Com.*, 282 F.2d 854 (D.C.Cir. 1960).

⁷ *Kan. Corp. Comm'n v. FERC*, 881 F.3d 924, 929 (D.C. Cir. 2018).

⁸ Indeed, IECA's arguments suggest that it seeks to have the DOE/FE re-examine the underlying policies supporting many of its LNG export orders, considerably beyond the scope of the export commencement deadline extension GPLNG has requested.

exports. IECA and others commented in opposition to the DOE/FE export policies in many LNG export proceedings. .

The DOE/FE rejected IECA's generic arguments in Order No. 3978, which granted GPLNG's NFTA export authorization. As noted above, IECA did not intervene in that proceeding. Nor did IECA file a request for rehearing of Order No. 3978 within thirty days as required under NGA Section 19(a). IECA is therefore foreclosed under NGA Section 19, which governs rehearing and review of DOE/FE orders, from challenging Order No. 3978 now, 30 months following issuance.⁹

IECA challenges the cumulative export quantities to non-FTA countries authorized by the DOE/FE to date. IECA Protest, at p. 2. As noted above, IECA did not seek rehearing of Order No. 3978 granting GPLNG's export application, which considered the cumulative export quantities authorized. IECA should not be permitted to raise this untimely argument now, after rehearing has expired and particularly after construction of the authorized facilities has commenced. In any event, in both Order Nos. 3978 and each subsequent order authorizing LNG exports to NFTA countries, the DOE/FE has considered the cumulative impact of the LNG exports it has authorized, and has continued to find, based

⁹ IECA contends among other things that “[i]t is not in the public interest for a foreign government state-owned enterprise (SOE) to own all or part of a U.S. located LNG export terminal from which it will further its commercial interests.” IECA Answer at p. 2. IECA offers no support for this contention. The FERC, not DOE/FE, has jurisdiction over the construction and operation of export terminal facilities under NGA Section 3. DOE Delegation Order No. 00-044.00A, effective May 16, 2006. The FERC's regulations expressly contemplate the possibility that Section 3 applications will be submitted by an applicant owned wholly or in part by a foreign government entity, or an entity directly or indirectly subsidized by a foreign government entity. 18 C.F.R. § 153.7(a)(3). GPLNG fully disclosed in both its DOE/FE and FERC applications that it was owned in part by QTL U.S. Terminal LLC, an affiliate of Qatar Petroleum International Limited. IECA has made no showing that QTL's ownership of GPLNG is not consistent with the public interest.

on studies it commissioned and other evidence, that those cumulative exports are not inconsistent with the public interest.

In its recent Order No. 4446, issued October 16, 2019, the DOE/FE authorized the export of LNG to both FTA and non-FTA countries in a volume equivalent to 1,240 Bcf per year, or 3.40 Bcf per day, equivalent to 24 million metric tons per annum (“MTPA”) for a twenty-year period.¹⁰ The DOE/FE stated that with the issuance of Order No. 4446, there were 38 final non-FTA authorizations in a cumulative volume of exports totaling 38.06 Bcf/d of natural gas, or approximately 13.9 trillion cubic feet per year.

The DOE/FE has commissioned several economic studies of the potential economic impact of these exports, most recently the 2018 LNG Export Study.¹¹ In Order No. 4446, the DOE/FE found that the total export volume granted to date is within the range of scenarios analyzed in the 2018 LNG Export Study. The 2018 Study found that exports of LNG from the lower-48 states, in volumes up to and including 52.8 Bcf/d of natural gas, will not be inconsistent with the public interest. There is no indication in the public record that IECA intervened or participated in the proceedings that culminated in Order No. 4446 or otherwise sought to challenge DOE/FE’s studies, analysis or conclusion.

IECA makes a series of arguments regarding adequacy of domestic natural gas

¹⁰ *Venture Global Plaquemines LNG, LLC*, FE Docket No. 16-28-LNG, Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations (October 16, 2019)(Order No. 4446). This order appears to be the most recently issued non-FTA export authorization issued by DOE/FE.

¹¹ See NERA Economic Consulting, *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports* (June 7, 2018), available at: <https://www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf>.

supplies and potential domestic price impacts.¹² The DOE/FE previously considered these arguments at length in Order No. 3978 and other non-FTA orders. GPLNG presented studies with its application demonstrating that the proposed LNG exports would have a minimal effect on U.S. domestic gas prices. In addition, DOE/FE commissioned its own market and macroeconomic impact studies, which are discussed at length in Order No. 3978.¹³

DOE/FE provided parties with opportunities to comment on its studies, and reviews those comments, including IECA's comments, in Order No. 3978.¹⁴ Ultimately, the DOE/FE found that GPLNG's proposed export authorization was not inconsistent with the public interest. DOE/FE has subsequently reaffirmed that conclusion.¹⁵ IECA has provided only vague, unsubstantiated assertions in support of its request for the DOE/FE to re-examine its conclusions.¹⁶

¹² IECA acknowledges that DOE/FE rejected its arguments, and that it simply disagrees with the DOE/FE's policies and orders. *See, e.g.*, IECA Answer at p. 5 (criticizing DOE/FE based on its determination to permit LNG exports to NAFTA countries despite potential price impacts on energy-intensive trade-exposed industries). IECA mischaracterizes the DOE/FE's conclusions, and ignores the wider benefits of such exports to the U.S. economy as a whole.

¹³ U.S. Energy Information Administration, *Effect of Increased Levels of Liquefied Natural Gas Exports on U.S. Energy Markets* (Oct. 2014), available at: <https://www.eia.gov/analysis/requests/fe/pdf/lng.pdf>, and Center for Energy Studies at Rice University Baker Institute and Oxford Economics, *The Macroeconomic Impact of Increasing U.S. LNG Exports* (Oct. 29, 2015), available at: http://energy.gov/sites/prod/files/2015/12/f27/20151113_macro_impact_of_lng_exports_0.pdf. These studies are discussed in Order No. 3978 at pp. 54 – 71.

¹⁴ Order No. 3978 at pp. 54 – 71.

¹⁵ *Policy Statement Regarding Long-Term Authorizations to Export Natural Gas to Non-Free Trade Agreement Countries*, 83 *Fed. Reg.* 28841 (June 21, 2018)(affirming DOE/FE's commitment to all export authorizations under the NGA, including long term authorizations approving the export of LNG to non-FTA countries.)

¹⁶ IECA's arguments do not reflect any change in circumstances since the issue of Order No. 3978 and should therefore be rejected as untimely. For example, IECA contends that

IECA argues that domestic pipeline capacity will be inadequate to support LNG exports and domestic supply needs, but bases these arguments on studies that do not purport to study that question. IECA cites a June 2018 report by the Interstate Natural Gas Association of America (“INGAA”) Foundation¹⁷ which, according to the IECA, states that “26,000 miles of natural gas pipeline is needed by 2035, only fifteen years from now.” In fact, the INGAA Report *forecasts* that 26,000 miles of pipeline will be constructed. INGAA Report, pp. 5, 48 and 67. In any event, pipeline length does not correlate directly to pipeline capacity. The INGAA Foundation Report simply does not purport to forecast a transmission capacity shortage, as IECA seeks to argue.

IECA further cites a report prepared by the FERC Staff indicating that 5,762 miles of interstate pipelines have been placed in service from 2010 to 2019, an average of 640 miles per year, to infer that pipeline construction will fall short of “what INGAA states is needed.” IECA Protest at p. 3. As discussed above, the INGAA Foundation was not projecting need; it was projecting a construction level. The length of pipeline placed in service in a given time period does not equate to a long-term trend toward inadequate capacity. The DOE/FE should reject IECA’s request to distort these two reports to infer a present or future capacity shortage. In sum, IECA’s Protest does not demonstrate that pipeline capacity is or will become inadequate for domestic demand, and does not demonstrate even a theoretical causal link between this speculative, purported inadequacy

it is not in the public interest for the DOE to authorize LNG shipments to NFTA countries who subsidize energy prices to their manufacturers and power generators. Answer, at 2. IECA does not identify the countries to which it refers, and does not explain the basis for its argument.

¹⁷ The INGAA Foundation, Inc., *North America Midstream Infrastructure through 2035; Significant Development Continues* (June 2018)(“INGAA Report”). <https://www.ingaa.org/File.aspx?id=34703>.

and LNG exports.

GPLNG has shown that its request for an extension in the export commencement date is supported and consistent with the public interest. In the time since issuance of Order No. 3978, GPLNG has proceeded diligently to enter into construction arrangements for the export of LNG from the Golden Pass LNG Terminal, and to construct the export terminal facilities. In February 2019, the owners of GPLNG announced their positive final investment decision to proceed with the construction and operation of both the export terminal facilities.

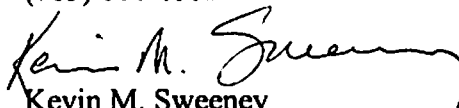
On April 12, 2019, GPLNG received authorization from the FERC Office of Energy Projects to proceed with initial site-clearing. Following receipt of this authorization, GPLNG commenced construction of the export terminal facilities, and construction continues at this time. GPLNG has received all required federal authorizations for the project. GPLNG is engaged in, among other things, site raising, test pile pad construction, test pile program, soil stabilization and wetland restoration activities. GPLNG has completed the dredging associated with the compensatory mitigation program and continues dredging associated with other shoreline construction efforts.

As noted above, the FERC recently granted GPLNG an extension of time to complete construction of the authorized facilities. In sum, GPLNG has proceeded in a diligent manner to carry out the authorizations granted by the DOE/FE. GPLNG accordingly submits that its extension request should be promptly granted.

WHEREFORE, for the foregoing reasons, GPLNG hereby (1) requests that the DOE/FE deny IECA's motion to intervene in this proceeding, and (2) reaffirms its request that the DOE/FE modify the terms of GPLNG's NFTA and FTA export authorizations to extend the deadline for commencement of commercial LNG export operations from the Golden Pass LNG terminal until September 30, 2025.

Respectfully Submitted,

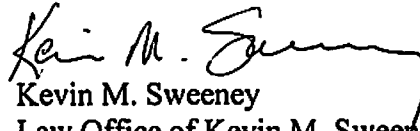
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon the parties
to these proceedings.


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