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**UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY**

Port Arthur LNG Phase II, LLC

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FE DOCKET NO. 20-23-LNG

**APPLICATION TO AMEND REQUESTED EXPORT TERM IN
PENDING LONG-TERM APPLICATION
THROUGH DECEMBER 31, 2050**

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**UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
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Port Arthur LNG Phase II, LLC)
_____) **FE DOCKET NO. 20-23-LNG**

**APPLICATION TO AMEND REQUESTED EXPORT TERM IN
PENDING LONG-TERM APPLICATION
THROUGH DECEMBER 31, 2050**

Pursuant to Section 3 of the Natural Gas Act (“NGA”),¹ Part 590 of the regulations of the United States Department of Energy (“DOE”),² and the DOE Office of Fossil Energy’s (“DOE/FE”) final policy statement on Extending Natural Gas Export Authorizations to Non-Free Trade Agreement Countries Through the Year 2050,³ Port Arthur LNG Phase II, LLC (“PALNG Phase II”) submits this application to amend the requested export term in its pending application to export liquefied natural gas (“LNG”) in the above-captioned docket (“Application”).

Specifically, PALNG Phase II requests that DOE/FE amend the requested export term for the pending long-term application in the above-captioned docket through December 31, 2050, inclusive of any make-up period, with corresponding increases in the total volume of exports over the life of the authorization.

In support of this Application, PALNG Phase II states as follows:

¹ 15 U.S.C. § 717b (2018).

² 10 C.F.R. Part 590 (2020).

³ *Extending Natural Gas Export Authorizations to Non-Free Trade Agreement Countries Through the Year 2050*, Notice of Final Policy Statement and Response to Comments, 85 Fed. Reg. 52237 (Aug. 25, 2020).

I. BACKGROUND

On February 28, 2020, PALNG Phase II filed an application for authorization to export domestically produced LNG from the Port Arthur LNG terminal in Jefferson County, Texas, to countries with which the United States has a free trade agreement (“FTA”) requiring national treatment for trade in natural gas (the “FTA Authorization”) and to non-FTA countries (the “Non-FTA Authorization”).⁴ PALNG Phase II requested 20-year terms for each of the FTA and Non-FTA Authorization.⁵ On July 14, 2020, DOE/FE granted the FTA portion of the February 28, 2020 application (the “FTA Authorization”).⁶ DOE/FE has not yet granted the Non-FTA portion of the February 28, 2020 application. The pending Non-FTA portion of PALNG Phase II’s February 28, 2020 application is the subject of the instant Application.

On July 29, 2020, DOE/FE issued a final policy statement on Extending Natural Gas Export Authorizations to Non-Free Trade Agreement Countries Through the Year 2050 (“Policy Statement”).⁷ In the Policy Statement, DOE/FE adopted a term through December 31, 2050—inclusive of any make-up period—as the standard export term for long-term, non-FTA authorizations and discontinued its practice of granting standard 20-year export terms.⁸ The Policy Statement implemented a process by which applicants that have pending long-term export application before DOE/FE may apply to amend the requested export terms of their pending long-term, non-FTA applications through December 31, 2050, with corresponding increases in the total export volume over the life of the authorizations.⁹

⁴ 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, FE Docket No. 20-23-LNG (Feb. 28, 2020).

⁵ *See id.* at 4.

⁶ DOE/FE Order No. 4562, FE Docket No. 20-23-LNG, Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Free Trade Agreement Nations.

⁷ The Policy Statement was published in the Federal Register and became effective on August 25, 2020.

⁸ Policy Statement, 85 Fed. Reg. at 52247.

⁹ *Id.*

While the Policy Statement does not apply to FTA authorizations, DOE/FE recognized that holders of existing non-FTA authorizations may also wish to apply for corresponding extensions in their existing long-term FTA authorizations in order to align the terms of their FTA and non-FTA authorizations.¹⁰ PALNG Phase II is separately filing an Application to extend the export term of its existing FTA authorization granted on July 14, 2020, for a term extending through December 31, 2050.

Pursuant to DOE/FE's Policy Statement, PALNG Phase II submits this Application to amend the requested export term of its pending application to export Non-FTA volumes in the above-captioned docket. PALNG Phase II requests herein that the requested export term be extended through December 31, 2050, with attendant increases in the total export volume over the life of the authorization.

II. INFORMATION REGARDING LONG-TERM AUTHORIZATIONS AND REQUESTED AMENDMENT

A. *FE Docket Numbers*

The pending long-term Non-FTA export application subject to this Application is docketed under 20-23-LNG.

B. *Applicant*

The applicant for the pending Non-FTA application in the above-captioned proceeding is Port Arthur LNG Phase II, LLC. PALNG Phase II is a limited liability company organized under the laws of Delaware. PALNG Phase II is a wholly owned, indirect subsidiary of Sempra Energy. PALNG Phase II's principal place of business is 2925 Briarpark Drive, Suite 900, Houston, Texas 77042.

¹⁰ *Id.* at 52248.

C. *Name and Location of Export Facility*

The requested Non-FTA volumes would permit PALNG Phase II to export LNG from the Port Arthur LNG terminal, located in Jefferson County. The Port Arthur LNG terminal is comprised of a Base Project¹¹ with two liquefaction trains and an Expansion Project¹² with two additional liquefaction trains. The pending Non-FTA application would permit PALNG Phase II to export LNG from the Expansion Project.

D. *Pending Long-Term Application Subject to This Application*

The pending long-term application subject to this Application is summarized below:

Docket No.	Date Filed	Amendments	Authorized Volume	Trains	Type
20-23-LNG	Feb. 28, 2020	N/A	698 Bcf/yr	3-4	Non-FTA, long-term, multi-contract ¹³

PALNG Phase II's authorized long-term FTA volumes and pending requested non-FTA volumes are not additive. Cumulatively, if the Non-FTA portion of the February 28, 2020 application is granted, PALNG Phase II will be authorized to export on a long-term basis up to 698 Bcf/y of domestically produced LNG to FTA and non-FTA nations.

¹¹ The Base Project was approved by the Federal Energy Regulatory Commission ("FERC") in Docket No. CP17-20-000. Port Arthur LNG, LLC ("Port Arthur LNG") separately has FTA and Non-FTA authorizations to export LNG from the Base Project (Trains 1 and 2). *See* 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), *amended*, 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 Trading Agreement Nations (Nov. 20, 2018); 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). Port Arthur LNG's authorizations are not the subject of this Application.

¹² The Expansion Project has been proposed and is pending before FERC in Docket No. CP20-55-00.

¹³ In its February 28, 2020 application, PALNG Phase II requested authorization for FTA and Non-FTA exports. The FTA exports were authorized in an order dated July 14, 2020. *See supra* note 6. PALNG Phase II is separately filing an application to extend the export term, through December 31, 2020, for the FTA authorization granted in this docket.

E. Requested Amendment

PALNG Phase II hereby respectfully requests that the export terms requested for its request to export LNG to Non-FTA countries currently pending before DOE/FE in FE Docket No. 20-23-LNG be extended for a term through December 31, 2050, inclusive of any make-up period.

While PALNG Phase II does not propose to amend the annual export volumes (*i.e.*, Bcf/y) requested in its February 28, 2020 application, PALNG Phase II requests authorization for the increase in total export volumes over the life of the requested Non-FTA authorizations corresponding with the requested extension in export terms through December 31, 2050.

III. THE REQUESTED AMENDMENTS ARE IN THE PUBLIC INTEREST

PALNG Phase II's application to export LNG to Non-FTA countries is governed by section 3(a) of the NGA, which provides that:

[N]o person shall export any natural gas from the United States to a foreign country or import any natural gas from a foreign country without first having secured an order of the Commission authorizing it to do so. The Commission shall issue such order upon application, unless, after opportunity for hearing, it finds that the proposed exportation or importation will not be consistent with the public interest.¹⁴

NGA section 3(a) creates a rebuttable presumption that a proposed export of natural gas is in the public interest.¹⁵ DOE/FE has explained that it must grant an application requesting the export of natural gas unless the presumption favoring exports is overcome by an affirmative showing that the application is inconsistent with the public interest.¹⁶

Although the NGA does not define "public interest," DOE/FE has identified several factors that it considers when reviewing Non-FTA export applications, including economic impacts,

¹⁴ *Id.* § 717b(a).

¹⁵ *See, e.g., Sierra Club v. U.S. Dep't of Energy*, 867 F.3d 189, 203 (D.C. Cir. 2017).

¹⁶ *See, e.g., Golden Pass Prods. LLC*, DOE/FE Order No. 3978, FE 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 at 11 (Apr. 25, 2017).

international impacts, security of natural gas supply, and environmental impacts.¹⁷ In conducting its public interest review, DOE/FE is also guided by the 1984 Policy Guidelines¹⁸ and DOE Delegation Order No. 0204-111.¹⁹ While the Delegation Order is no longer in effect, DOE/FE continues to look to the following factors in its review of export applications: (i) the domestic need for the natural gas to be exported; (ii) whether the proposed exports pose a threat to the security of domestic natural gas supplies; (iii) whether the arrangement is consistent with DOE/FE's policy of promoting market competition; and (iv) any other factors bearing on the public interest.²⁰

A. Domestic Natural Gas Supply, Demand, and Price

Current market data and studies demonstrate that exports of domestically produced LNG from the Port Arthur LNG terminal through 2050 remain in the public interest. As the Policy Statement recognized, the DOE-commissioned 2018 LNG Export Study²¹ and the U.S. Energy Information Administration's ("EIA") Annual Energy Outlook 2020 ("AEO 2020")²² "project

¹⁷ See, e.g., *Venture Global Plaquemines LNG, LLC*, DOE/FE Order No. 4446, FE Docket No. 16-28-LNG, Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations at 19 (Oct. 16, 2019) [hereinafter *Venture Global*]; *Eagle LNG Partners Jacksonville LLC*, DOE/FE Order No. 4445, FE Docket No. 16-15-LNG, Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations at 19 (Oct. 3, 2019) [hereinafter *Eagle LNG*]; *Gulf LNG Liquefaction Co., LLC*, DOE/FE Order No. 4410, FE Docket No. 12-101-LNG, Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations at 19-20 (July 31, 2019) [hereinafter *Gulf LNG*].

¹⁸ See New Policy Guidelines and Delegations Order Relating to Regulation of Imported Natural Gas, 49 Fed. Reg. 6684 (Feb. 22, 1984). The goals of the 1984 Policy Guidelines are to "minimize federal control and involvement in energy markets and to promote a balanced and mixed energy resource system." *Venture Global* at 19. The 1984 Policy Guidelines indicated that "[t]he federal government's primary responsibility in authorizing imports [or exports] will be to evaluate the need for the gas and whether the import [or export] arrangement will provide the gas on a competitively priced basis for the duration of the contract while minimizing regulatory impediments to a freely operating market." 49 Fed. Reg. at 6685. DOE/FE has explained that while the 1984 Policy Guidelines are nominally applicable to natural gas import cases, they are applicable to export applications. See, e.g., *Venture Global* at 20.

¹⁹ U.S. Department of Energy, Delegation Order No. 0204-111 (Feb. 22, 1984). Delegation Order No. 0204-111 based the regulation of exports "on a consideration of the domestic need for the gas to be exported and such other matters [found] in the circumstances of a particular case to be appropriate." *Id.* at 1.

²⁰ See, e.g., *Venture Global* at 20; *Eagle LNG* at 20; *Gulf LNG* at 21.

²¹ NERA Economic Consulting, *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports*, at 14 (June 7, 2018), available at <https://www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf> [hereinafter 2018 LNG Export Study].

²² U.S. Energy Information Administration, *Annual Energy Outlook 2020* (Jan. 29, 2020), available at <https://www.eia.gov/outlooks/aeo/pdf/AEO2020%20Full%20Report.pdf> [hereinafter AEO 2020].

robust domestic supply conditions that are more than adequate to satisfy both domestic needs and exports of LNG . . . through December 31, 2050.”²³

The AEO 2020 predicts that the United States will remain a net natural gas exporter through 2050.²⁴ The AEO 2020 reference case estimates 0.9% growth in U.S. dry gas production over the period 2019–2050, with dry gas production reaching 45 trillion cubic feet (“Tcf”) by 2050.²⁵ In comparison, the AEO 2020 reference case estimates more modest growth in demand over the same period (0.5%), with consumption across sectors estimated at 36.50 Tcf by 2050.²⁶

The AEO 2020 reference case projects that natural gas prices will “remain lower than \$4 per million British thermal units (MMBtu) through 2050 because of an abundance of lower cost resources . . . allow[ing] higher production levels at lower prices during the projection period.”²⁷ The 2018 LNG Export Study found that increased domestic LNG exports “leads to only small increases in U.S. natural gas prices.”²⁸ Moreover, the 2018 LNG Export Study concluded that increased LNG exports consistently result in several macroeconomic benefits, including higher levels of GDP and consumer wellbeing.²⁹ According to the 2018 LNG Export Study, “[e]ven the most extreme scenarios of high LNG exports that are outside the more likely probability range . . . show higher overall economic performance in terms of GDP, household income, and consumer welfare than lower export levels associated with the same domestic supply scenarios.”³⁰

The macroeconomic benefits projected in the 2018 LNG Export Study remain accurate today. Indeed, as acknowledged in the Policy Statement, the AEO 2020 reference case projects

²³ Policy Statement, 85 Fed. Reg. at 52242.

²⁴ AEO 2020 at 11.

²⁵ AEO 2020 at tbl. 13, *available at* <https://www.eia.gov/outlooks/aeo/data/browser/#/?id=13-AEO2020&cases=ref2020&sourcekey=0>.

²⁶ *Id.*

²⁷ AEO 2020 at 48.

²⁸ 2018 LNG Export Study at 55.

²⁹ *Id.* at 18-21.

³⁰ *Id.*

market conditions through 2050 that are even more supportive of LNG exports—including higher production and demand and lower prices—than the Annual Energy Outlook 2017 projections that underlie the 2018 LNG Export Study.³¹ Consistent with the findings in the 2018 LNG Export Study, the Policy Statement concluded that “exports of U.S. LNG under the proposed term extension [*i.e.*, through December 31, 2050] will generate positive economic benefits in the United States through the year 2050.”³²

Additionally, the Policy Statement recognized that extending non-FTA export authorization terms through December 31, 2050 will provide commercial benefits to existing authorization holders and will improve regulatory certainty for authorization holders and foreign buyers of domestic LNG.³³ In proposing the Policy Statement, DOE recognized that a 30-year export term would better match the operational life of LNG export facilities, would enhance authorization holders’ ability to finance their facilities, and would facilitate authorization holders’ ability to enter into longer-term natural gas supply and export contracts.³⁴ Indeed, DOE/FE recognized that the longer export term would increase the competitiveness of U.S. gas exports vis-à-vis exports from other countries.³⁵

B. *Other Public Interest Considerations*

i. Environmental Issues

PALNG Phase II does not propose to construct additional or modify its proposed facilities to allow for the proposed export term extensions requested herein and does not seek to increase the annual authorized volumes requested in its February 28, 2020 application. Should DOE/FE

³¹ Policy Statement, 85 Fed. Reg. at 52243.

³² *Id.* at 52242. In addressing comments to the proposed Policy Statement, DOE was not persuaded by complaints that the proposed term extension would negatively impact domestic consumers, households, or U.S. manufacturers, or otherwise harm the U.S. economy. *Id.* at 52242-44.

³³ *Id.* at 52240-41.

³⁴ *Id.*

³⁵ *Id.*

grant PALNG Phase II's request to extend the export term of its pending Non-FTA application, the increase in overall exports over the life of each authorization will not be inconsistent with the public interest.

In 2019, DOE commissioned an update to its Life Cycle Analysis Greenhouse Gas Report (the "LCA GHG Update").³⁶ The LCA GHG Update demonstrated that the use of U.S. LNG exports for power production in European and Asian markets will not increase global GHG emissions from a life cycle perspective, when compared to regional coal extraction and consumption for power production.³⁷ The LCA GHG Update suggests, therefore, that U.S. LNG exports may in fact facilitate the reduction of GHG emissions by displacing less environmentally-friendly energy sources with cleaner-burning natural gas. Indeed, the Policy Statement found that "to the extent U.S. LNG exports are preferred over coal in LNG-importing nations, U.S. LNG exports are likely to reduce global GHG emissions on a per unit of energy consumed basis for power production. Further, to the extent U.S. LNG exports are preferred over other forms of imported natural gas, they are likely to have only a small impact on global GHG emissions."³⁸ Based on the LCA GHG Update and public comments thereto, DOE/FE has determined there is "no reason to conclude that U.S. LNG exports will increase global GHG emissions in material or predictable way."³⁹ Furthermore, the Policy Statement noted that U.S. LNG exporters may indirectly benefit the use of renewable energy in importing countries by providing reliable standby energy supplies during and after development of renewable energy sources.⁴⁰

³⁶ 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).

³⁷ *See id.* at 78, 85.

³⁸ Policy Statement, 85 Fed. Reg. at 52245 (citing U.S. Dep't of Energy, *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update – Response to Comments*, 85 FR 72, 85 (Jan. 2, 2020) ("DOE Response to Comments on 2019 Update")).

³⁹ *Id.* at 52240 (citing DOE Response to Comments on 2019 Update.)]

⁴⁰ *Id.* at 52246.

ii. International Trade and Geopolitical Impacts

The 2018 LNG Export Study found that increased U.S. exports of natural gas “will improve the U.S. balance of trade and result in a wealth transfer into the United States.”⁴¹ Additionally, LNG exports provide important geopolitical benefits by diversifying global energy supply. In the Policy Statement, DOE/FE 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 its allies” and that “to the extent U.S. exports can diversify global LNG supplies and increase the volumes of LNG available globally, these exports will improve energy security for many U.S. allies and trading partners.”⁴² The amendments requested herein will further these international trade and geopolitical benefits.

C. *Authority to Grant Extended Export Terms Under DOE’s Regulations*

DOE/FE has the authority to grant PALNG Phase II’s request to extend the requested export term of its pending Non-FTA application. In the Policy Statement, DOE/FE noted that neither NGA section 3(a) nor the DOE’s regulations prescribe a specific time period for non-FTA authorizations.⁴³ DOE concluded that it has discretion pursuant to section 590.404 of its regulations⁴⁴ to impose a suitable term—including a term through December 31, 2050—for long-term, non-FTA authorizations in light of the evidence in each proceeding.⁴⁵ Based on the foregoing evidence that the requested amended export term is consistent with the public interest, PALNG Phase II respectfully submits that DOE/FE has the authority to approve a revised export term ending December 31, 2050 for the Non-FTA Authorization.

IV. APPENDICES

⁴¹ 2018 LNG Export Study at 64.

⁴² Policy Statement, 85 Fed. Reg. at 52244.

⁴³ *Id.*

⁴⁴ 10 C.F.R. § 590.404 (2020).

⁴⁵ Policy Statement, 85 Fed. Reg. at 52239.

Appendix A: Verification

Appendix B: Opinion of Counsel

V. CONCLUSION

WHEREFORE, for the foregoing reasons, PALNG Phase II respectfully requests that DOE/FE (i) amend the requested export terms in PALNG Phase II's application to export LNG to Non-FTA countries currently pending in FE Docket No. 20-23-LNG for a term ending on December 31, 2050, and (ii) authorize attendant increases in the total export volumes over the life of the requested Non-FTA authorization corresponding with the requested extensions in export terms.

Respectfully submitted,

/s/ Brett A. Snyder

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Dated: September 18, 2020

Counsel to Port Arthur LNG Phase II, LLC

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, DC this 18th day of September 2020.

/s/ Lamiya Rahman

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APPENDIX A

Verification

VERIFICATION

I, Amy H. Chiu, declare that I am the Chief Project Development and Asset Management Officer 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 that the foregoing is true and correct.

Executed in San Diego, California on September 17, 2020.

DS
JH

DocuSigned by:

Amy H. Chiu

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Amy H. Chiu
Chief Project Development and Asset
Management Officer
Port Arthur LNG Phase II, LLC
488 8th Ave.
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APPENDIX B

Opinion of Counsel

OPINION OF COUNSEL



September 17, 2020

Ms. Amy Sweeney
Office of Fossil Energy
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1000 Independence Avenue, S.W
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RE: *Port Arthur LNG Phase II, LLC*
**Application to Amend Export Requested Export Term in Pending Long-Term
Application Through December 31, 2050**

Dear Ms. Sweeney:

This opinion of counsel is submitted pursuant to Section 590.202(c) of the regulations of the United States Department of Energy, 10 C.F.R. § 590.202(c) (2020). I am counsel to Port Arthur LNG Phase II, LLC (“PALNG Phase II”).

I have reviewed the organizational and internal governance documents of PALNG Phase II and it is my opinion that the proposed export of natural gas as described in the application filed by PALNG Phase II, to which this Opinion of Counsel is attached as Appendix B, is within the company powers of PALNG Phase II.

Respectfully submitted,

/s/ Jerrod L. Harrison
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On Behalf of Port Arthur LNG Phase II, LLC