

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

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COMMONWEALTH LNG, LLC )  
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DOCKET NO. 19-134-LNG

ORDER CONDITIONALLY GRANTING LONG-TERM AUTHORIZATION  
TO EXPORT LIQUEFIED NATURAL GAS  
TO NON-FREE TRADE AGREEMENT NATIONS

DOE/FECM ORDER NO. 5238

FEBRUARY 14, 2025

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## **FREQUENTLY USED ACRONYMS**

AEO	Annual Energy Outlook
Bcf/d	Billion Cubic Feet per Day
Bcf/yr	Billion Cubic Feet per Year
DOE	U.S. Department of Energy
EIA	U.S. Energy Information Administration
EIS	Environmental Impact Statement
FE	Office of Fossil Energy (prior to July 4, 2021)
FECM	Office of Fossil Energy and Carbon Management
FERC	Federal Energy Regulatory Commission
FISH	Collectively, Fisherman Involved in Sustaining our Heritage (FISH), For a Better Bayou, Healthy Gulf, and The Vessel Project of Louisiana
FTA	Free Trade Agreement
IECA	Industrial Energy Consumers of America
LNG	Liquefied Natural Gas
mtpa	Million Metric Tons per Annum
NEPA	National Environmental Policy Act
NGA	Natural Gas Act
NRDC	Natural Resources Defense Council
Tcf	Trillion Cubic Feet

## I. INTRODUCTION AND BACKGROUND

### A. Application Proceeding

On October 16, 2019, Commonwealth LNG, LLC (Commonwealth) filed an application (Application)<sup>1</sup> with the Department of Energy's (DOE) Office of Fossil Energy and Carbon Management (FECM) (then the Office of Fossil Energy)<sup>2</sup> under section 3 of the Natural Gas Act (NGA).<sup>3</sup> Commonwealth supplemented its Application on April 14, 2020 (Supplement),<sup>4</sup> and amended its Application on September 11, 2020 (Application Amendment).<sup>5</sup>

Commonwealth requests long-term, multi-contract authorization to export domestically produced liquefied natural gas (LNG) in a volume up to 9.5 million metric tons per annum (mtpa), which it states is equivalent to approximately 441.4 billion cubic feet per year (Bcf/yr) of natural gas, or 1.21 Bcf per day (Bcf/d).<sup>6</sup> Commonwealth seeks to export this LNG by vessel from its proposed natural gas liquefaction and export facilities to be located in Cameron Parish, Louisiana (the Commonwealth LNG Project or Project).<sup>7</sup> Commonwealth seeks to export the

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<sup>1</sup> Commonwealth LNG, LLC, Application for Long-Term Authorization to Export Liquefied Natural Gas to Free Trade Agreement Nations and Non-Free Trade Agreement Nations, Docket No. 19-134-LNG (Oct. 16, 2019) [hereinafter Commonwealth App.].

<sup>2</sup> The Office of Fossil Energy changed its name to the Office of Fossil Energy and Carbon Management on July 4, 2021.

<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> Ltr. from Lisa M. Tonery and Mariah T. Johnston, Attorneys for Commonwealth, to Amy Sweeney, DOE, Docket No. 19-134-LNG (Apr. 14, 2020) [hereinafter Supp.]; *see infra* § III.B (Proposed Commonwealth LNG Project).

<sup>5</sup> Commonwealth LNG, LLC, Application to Amend Requested Export Term in Pending Long-Term Application Through December 31, 2050, Docket No. 19-134-LNG (Sept. 11, 2020) [hereinafter App. Amendment]; *see infra* at 3.

<sup>6</sup> Commonwealth App. at 1, 4.

<sup>7</sup> *Id.* at 1. On November 17, 2022, the Federal Energy Regulatory Commission (FERC) authorized the siting, construction, and operation of the Commonwealth LNG Project with a peak liquefaction capacity of up to 441.4 Bcf/yr of natural gas. *See Commonwealth LNG, LLC*, Order Granting Authorization Under Section 3 of the Natural Gas Act, Docket Nos. CP19-502-000, *et al.*, 181 FERC ¶ 61,143, P 4 (Nov. 17, 2022). On July 16, 2024, the U.S. Court of Appeals for the District of Columbia Circuit remanded the FERC order without vacatur for further proceedings. *See Healthy Gulf v. Fed. Energy Regul. Comm'n*, 107 F.4th 1033 (D.C. Cir. 2024). To address issues raised by the Court, FERC is currently preparing a supplemental environmental impact statement (EIS) for the Project under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. § 4321 *et seq.* *See Commonwealth LNG, LLC*; Notice of Schedule for the Preparation of a Supplemental Environmental Impact Statement for the

LNG to: (i) 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), under NGA section 3(c);<sup>8</sup> and (ii) any other country with which trade is not prohibited by U.S. law or policy (non-FTA countries), under NGA section 3(a).<sup>9</sup> On April 17, 2020, in Order No. 4521, DOE granted the FTA portion of the Application in the requested volume of 441.4 Bcf/yr of natural gas for a 25-year term.<sup>10</sup>

Commonwealth requests the non-FTA authorization for a term commencing on the earlier of the date of first commercial export from the Project or seven years from the issuance of the requested authorization.<sup>11</sup> As set forth in the Application Amendment, Commonwealth requests a non-FTA export term through December 31, 2050.<sup>12</sup> Additionally, Commonwealth requests the authorization on its own behalf and as agent for other entities that hold title to the LNG at the point of export.<sup>13</sup>

DOE published a notice of the non-FTA portion of the Application in the *Federal Register* (Notice of Application) on November 26, 2019.<sup>14</sup> The Notice of Application called on

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Commonwealth LNG Project, 89 Fed. Reg. 96,242 (Dec. 4, 2024) (stating that FERC anticipates issuing a final order for the Project no later than July 24, 2025).

<sup>8</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>9</sup> *Id.* § 717b(a); see Commonwealth App. at 1-2.

<sup>10</sup> *Commonwealth LNG, LLC*, DOE/FE Order No. 4521, Docket No. 19-134-LNG, Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Free Trade Agreement Nations (Apr. 17, 2020).

<sup>11</sup> Commonwealth App. at 2, 4.

<sup>12</sup> App. Amendment at 1, 3-4. See also U.S. Dep't of Energy, 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. 52,237 (Aug. 25, 2020). Additionally, DOE notes that, 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> Commonwealth App. at 2, 4.

<sup>14</sup> U.S. Dep't of Energy, Commonwealth LNG, LLC; Application for Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations, Notice of Application, 84 Fed. Reg. 65,144 (Nov. 26, 2019) [hereinafter Notice of App.].

interested persons to submit protests, motions to intervene, notices of intervention, and comments by December 26, 2019.<sup>15</sup> DOE received a “Notice of Intervention, Protest, and Comment” opposing the Application filed by Industrial Energy Consumers of America (IECA).<sup>16</sup> In response to the IECA Pleading, Commonwealth submitted an “Answer of Commonwealth LNG, LLC to Notice of Intervention, Protest, and Comment” on January 6, 2020.<sup>17</sup>

DOE also published a notice of the Application Amendment in the *Federal Register* (Notice of Application Amendment) on October 2, 2020.<sup>18</sup> The Notice of Application Amendment called on interested persons to submit protests, motions to intervene, notices of intervention, and comments by October 19, 2020.<sup>19</sup> No protests or motions to intervene in opposition to the Application Amendment were filed, and therefore it is uncontested.

Additionally, in late 2023 and 2024, the following late-filed comments and pleadings were submitted to DOE in opposition to the Application:

- (i) 18,579 comments, which are largely form letters signed by various individuals;<sup>20</sup>
- (ii) A “Motion to Intervene and Protest Out of Time” filed by Sierra Club on

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<sup>15</sup> 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>16</sup> Industrial Energy Consumers of America, Notice of Intervention, Protest and Comment, Docket No. 19-134-LNG (Dec. 20, 2019) [hereinafter IECA Pleading]. Under DOE’s regulations, only a state commission may file a notice of intervention. See 10 C.F.R. §§ 590.303(a), (b), 590.102(q). Therefore, DOE construes IECA’s filing as a motion to intervene under 10 C.F.R. § 590.303(b).

<sup>17</sup> Commonwealth LNG, LLC, Answer to Notice of Intervention, Protest, and Comment, Docket No. 19-134-LNG (Jan. 6, 2020) [hereinafter Commonwealth Answer to IECA Pleading].

<sup>18</sup> U.S. Dep’t of Energy, Commonwealth LNG, LLC; Application to Amend Requested Export Term in Pending Long-Term Application Through December 31, 2050; Notice of Application, 85 Fed. Reg. 62,292 (Oct. 2, 2020) [hereinafter Notice of App. Amendment].

<sup>19</sup> 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>20</sup> See Posting of Late-Filed Form Letter Comments as of Jan. 17, 2024, Docket No. 19-134-LNG, Docket Entry #21 (describing 13,357 comments expressing opposition to the Commonwealth Application); Posting of Late-Filed Form Letter Comments as of Feb. 5, 2025, Docket No. 19-134-LNG, Docket Entry #42 (describing 5,222 comments expressing opposition to the Commonwealth Application) [collectively, Late-Filed Form Comments].

November 22, 2024;<sup>21</sup>

- (iii) A “Motion for Leave to Intervene Out of Time and Protest” filed by Fisherman Involved in Sustaining Our Heritage (FISH), For a Better Bayou, Healthy Gulf, and The Vessel Project (collectively, FISH), on December 3, 2024;<sup>22</sup> and
- (iv) A “Motion for Leave to Intervene Out of Time and Protest” filed by Natural Resources Defense Council (NRDC) on December 26, 2024.<sup>23</sup>

Commonwealth submitted an Answer opposing the Late-Filed Pleadings of Sierra Club, FISH, and NRDC (collectively, Environmental Movants) on December 9, 2024,<sup>24</sup> December 18, 2024,<sup>25</sup> and January 8, 2025,<sup>26</sup> respectively.

## **B. Ongoing 2024 LNG Export Study Proceeding**

Economic and environmental analyses have long been an important component of DOE’s public interest determinations for applications to export LNG to non-FTA countries under NGA section 3(a).<sup>27</sup> On December 20, 2024, DOE published in the *Federal Register* a notice of availability (Notice of Availability)<sup>28</sup> of its most recent study evaluating exports of domestically

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<sup>21</sup> Sierra Club, Motion to Intervene and Protest Out of Time, Docket No. 19-134-LNG (Nov. 22, 2024) [hereinafter Sierra Club Late-Filed Pleading].

<sup>22</sup> Fisherman Involved in Sustaining Our Heritage (FISH), *et al.*, Motion for Leave to Intervene Out of Time and Protest, Docket No. 19-134-LNG (Dec. 3, 2024) [hereinafter FISH Late-Filed Pleading].

<sup>23</sup> Natural Resources Defense Council, Motion for Leave to Intervene Out of Time and Protest, Docket No. 19-134-LNG (Dec. 26, 2024) [hereinafter NRDC Late-Filed Pleading].

<sup>24</sup> Commonwealth LNG, LLC, Answer in Opposition to Motion to Intervene Out-of-Time and Protest of Sierra Club, Docket No. 19-134-LNG (Dec. 9, 2024) [hereinafter Commonwealth Answer to Sierra Club’s Late-Filed Pleading].

<sup>25</sup> Commonwealth LNG, LLC, Answer in Opposition to Motion to Intervene Out-of-Time and Protest of FISH, *et al.*, Docket No. 19-134-LNG (Dec. 18, 2024) [hereinafter Commonwealth Answer to FISH’s Late-Filed Pleading].

<sup>26</sup> Commonwealth LNG, LLC, Answer in Opposition to Motion to Intervene Out-of-Time and Protest of Natural Resources Defense Council, Docket No. 19-134-LNG (Jan. 8, 2025) [hereinafter Commonwealth Answer to NRDC’s Late-Filed Pleading].

<sup>27</sup> *See, e.g., Sierra Club v. U.S. Dep’t of Energy*, 867 F.3d 189, 203 (D.C. Cir. 2017) [*Sierra Club I*] (denying petition for review of DOE’s LNG export authorization issued based in part on economic and environmental studies); *Commonwealth LNG, LLC*, Notice Dismissing Request for Rehearing, Docket No. 19-134-LNG, at 4-7 (Mar. 27, 2024) (discussing DOE’s economic and environmental studies); *Sierra Club, et al.*, Order Denying Petition for Rulemaking on Exports of Liquefied Natural Gas, at 12-15 (July 18, 2023) [hereinafter Order Denying Petition].

<sup>28</sup> *See* U.S. Dep’t of Energy, 2024 LNG Export Study: Energy, Economic, and Environmental Assessment of U.S. LNG Exports; Notice of Availability and Request for Comments, 89 Fed. Reg. 104,132 (Dec. 20, 2024), <https://www.govinfo.gov/content/pkg/FR-2024-12-20/pdf/2024-30370.pdf> [hereinafter 2024 LNG Export Study Notice of Availability].

produced LNG from the lower-48 states, entitled *2024 LNG Export Study: Energy, Economic, and Environmental Assessment of U.S. LNG Exports* (2024 LNG Export Study or 2024 Study).<sup>29</sup>

The 2024 Study, comprised of a summary report and four appendices, updates “DOE’s understanding of the potential effects of [LNG] exports on the domestic economy; U.S. households and consumers; communities that live near locations where natural gas is produced or exported; domestic and international energy security, including effects of U.S. trading partners; and the environment and climate.”<sup>30</sup>

DOE originally invited public comment on the 2024 Study for a period of 60 days, ending no later than 4:30 p.m., Eastern time, on February 18, 2025.<sup>31</sup> However, on January 21, 2025, DOE announced on the 2024 Study webpage that DOE had extended the public comment period by an additional 30 days—to March 20, 2025, at 4:30 pm Eastern time.<sup>32</sup> On February 5, 2025, DOE also provided notice of this extension of the public comment period in the *Federal Register*.<sup>33</sup>

In the Notice of Availability, DOE stated that it intends to use the 2024 Study to “inform its public interest review of, and ultimately decisions in, certain [non-FTA] export applications,” including this Commonwealth proceeding and 13 other listed non-FTA proceedings, as well as in future non-FTA proceedings.<sup>34</sup> Additionally, DOE stated that “[p]ersons with an interest in the outcome of one or more of the affected dockets have been given an opportunity to intervene in or protest those matters by complying with the procedures established in the notice of application

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<sup>29</sup> The 2024 LNG Export Study and related documents are available on the 2024 Study webpage, <https://fossil.energy.gov/app/docketindex/docket/index/30>.

<sup>30</sup> 2024 LNG Export Study Notice of Availability, 89 Fed. Reg. at 104,132.

<sup>31</sup> *See id.*

<sup>32</sup> *See* 2024 Study Webpage, <https://fossil.energy.gov/app/docketindex/docket/index/30>.

<sup>33</sup> U.S. Dept’ of Energy, 2024 LNG Export Study: Energy, Economic, and Environmental Assessment of U.S. LNG Exports; Extension of Comment Period, 90 Fed. Reg. 9018 (Feb. 5, 2025), <https://www.govinfo.gov/app/details/FR-2025-02-05/2025-02238>.

<sup>34</sup> 2024 LNG Export Study Notice of Availability, 89 Fed. Reg. at 104,132.

issued in each respective docket and published in the *Federal Register*.”<sup>35</sup>

Thus, DOE’s final decision on Commonwealth’s Application will be informed by the 2024 Study and the public comments received in response, consistent with DOE’s long-standing practice.<sup>36</sup> This Order, however, does not rely on the 2024 Study in light of the ongoing public comment period, as discussed in Section D below.

### **C. Executive Order Issued on January 20, 2025**

On January 20, 2025, the President issued an Executive Order entitled *Unleashing American Energy* (Executive Order).<sup>37</sup> The Executive Order states that, to protect America’s national security, “the Secretary of Energy is directed to restart reviews of applications for approvals of [LNG] export projects as expeditiously as possible, consistent with applicable law.”<sup>38</sup> The Executive Order further states that, “[i]n assessing the ‘Public Interest’ to be advanced by any particular application, the Secretary of Energy shall consider the economic and employment impacts to the United States and the impact to the security of allies and partners that would result from granting the application.”<sup>39</sup>

### **D. Conditional Authorization**

DOE has reviewed the non-FTA portion of the Application, the most recent projections of the U.S. Energy Information Administration (EIA), the IECA Pleading and Commonwealth’s Answer thereto, the Late-Filed Form comments submitted by various individuals, the Late-Filed Pleadings submitted by Environmental Movants, and other evidence discussed below.

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<sup>35</sup> *Id.* at 104,136.

<sup>36</sup> *See, e.g.*, U.S. Dep’t of Energy, Study on Macroeconomic Outcomes of LNG Exports; Response to Comments Received on Study, 83 Fed. Reg. 67,251, 67,272-73 (Dec. 28, 2018).

<sup>37</sup> Exec. Order, *Unleashing American Energy*, 86 Fed. Reg. 7037 (Jan. 20, 2025), <https://www.whitehouse.gov/presidential-actions/2025/01/unleashing-american-energy/> [hereinafter Exec. Order].

<sup>38</sup> *Id.* § 8(a). Because DOE has jurisdiction to regulate exports of LNG under NGA section 3(a) (not approvals of export projects, which are under FERC’s jurisdiction), DOE interprets the Executive Order as directing DOE to review non-FTA export applications “as expeditiously as possible.”

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

First, for the reasons discussed in Section VI.A, DOE dismisses the Late-Filed Form Comments and denies each of the Environmental Movants' Motion to Intervene Out of Time.<sup>40</sup>

Next, based on a review of the record available at this time, DOE concludes that IECA—the only opponent of the Application to have filed a timely motion to intervene and protest—has not demonstrated that the requested authorization would be inconsistent with the public interest under NGA section 3(a). DOE finds that Commonwealth's non-FTA exports are likely to yield economic benefits to the United States, diversify global LNG supplies, and improve energy security for U.S. allies and trading partners over the course of the export term. DOE further finds that granting the requested authorization is unlikely to adversely affect the availability of natural gas supplies to domestic consumers or result in natural gas price increases and increased price volatility to the extent that they would negate the economic benefits to the United States.

While satisfying the directive in the Executive Order to review non-FTA export applications “as expeditiously as possible,”<sup>41</sup> we acknowledge the importance of completing the ongoing 2024 LNG Export Study proceeding so that DOE's decision-making may benefit from the 2024 Study and the public comments received on the Study. In addition, prior to issuing a final order DOE must comply with NEPA.<sup>42</sup> Accordingly, we have determined that it is appropriate to conditionally grant the non-FTA portion of the Commonwealth Application, pursuant to NGA section 3(a) and 10 C.F.R. § 590.402.<sup>43</sup>

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<sup>40</sup> Because we are denying Environmental Movants' individual Motions to Intervene and Protest Out of Time, there is no basis to review the merits of their late-filed Protests.

<sup>41</sup> See *supra* note 38.

<sup>42</sup> 42 U.S.C. § 4321 *et seq.*

<sup>43</sup> DOE's regulation on “Conditional orders” states that DOE “may issue a conditional order at any time during a proceeding prior to issuance of a final opinion and order.” 10 C.F.R. § 590.402. Further, “the conditional order shall include the basis for not issuing a final opinion and order at that time and a statement of findings and conclusions.” *Id.* Insofar as DOE's existing Procedures for Liquefied Natural Gas Decisions “suspend [DOE's] practice of issuing conditional decisions on applications to export LNG to non-FTA countries from the lower-48 states” (79 Fed. Reg. 48,132, 48,135 (Aug. 15, 2014)), we find that the Executive Order's direction to act on these

In sum, this Order makes preliminary findings and indicates DOE’s conditional determination at this time on the Application, based on the present record in this proceeding. This Order thus brings DOE’s cumulative total of approved non-FTA exports of LNG from the lower-48 states to 46.88 Bcf/d of natural gas (across 39 final orders and this conditional Order).<sup>44</sup> All parties are advised, however, that the issues addressed herein regarding the export of natural gas will be reexamined in a final order as informed by the 2024 LNG Export Study proceeding, as well as any additional issues or considerations examined in compliance with DOE’s obligations under NGA section 3(a) and NEPA. Accordingly, Commonwealth may not commence export operations to non-FTA countries under this Order alone, unless and until it receives a final order from DOE under NGA section 3(a).<sup>45</sup>

## II. PUBLIC INTEREST STANDARD

Section 3(a) of the NGA sets forth the standard of review for the non-FTA portion of the Application:

[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 [Secretary of Energy<sup>46</sup>] authorizing it to do so. The [Secretary] shall issue such order upon application, unless

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applications as expeditiously as possible warrants granting this Order on a conditional basis, as authorized by 10 C.F.R. § 590.402.

<sup>44</sup> Final non-FTA orders that were vacated or that expired are not included in this total volume. *See infra* § VI.D (identifying long-term orders vacated and expired to date). Additionally, DOE has issued one final long-term order authorizing exports of LNG produced from sources from a proposed facility to be constructed in Alaska to non-FTA countries. *See Alaska LNG Project LLC*, DOE/FE Order No. 3643-A, Docket No. 14-96-LNG, Final Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations (Aug. 20, 2020) (as subsequently amended in DOE/FECM Order No. 3643-C). The Alaska volume is not included in the volumes discussed herein, which involve the export of LNG produced from the lower-48 states. Because there is no natural gas pipeline interconnection between Alaska and the lower-48 states, DOE generally views those LNG export markets as distinct.

<sup>45</sup> 15 U.S.C. § 717b(a); *see also* 10 C.F.R. § 590.404 (“Final opinions and orders”); *infra* § VIII.B (Term and Condition B). We note that Commonwealth LNG has not yet made a final investment decision on the proposed Project, and the Project is not currently under construction. *See, e.g.*, Commonwealth LNG LLC, Project & Schedule, <https://commonwealthlng.com/project/> (follow link to Schedule) (last visited Feb. 6, 2025).

<sup>46</sup> The Secretary’s authority was established by section 301(b) of the Department of Energy Organization Act, 42 U.S.C. § 7151(b), which transferred jurisdiction over import and export authorizations from the Federal Power Commission to the Secretary of Energy; *see also id.* § 7172(f) (section 402(f)).

after opportunity for hearing, [he] finds that the proposed exportation or importation will not be consistent with the public interest. The [Secretary] may by [the Secretary's] order grant such application, in whole or in part, with such modification and upon such terms and conditions as the [Secretary] may find necessary or appropriate.<sup>47</sup>

DOE, as affirmed by the U.S. Court of Appeals for the District of Columbia Circuit, has consistently interpreted NGA section 3(a) as creating a rebuttable presumption that a proposed export of natural gas is in the public interest.<sup>48</sup> Accordingly, DOE will conduct an informal adjudication and grant a non-FTA application unless DOE finds that the proposed exportation will not be consistent with the public interest.<sup>49</sup>

NGA section 3(a) does not define “public interest” or identify criteria that must be considered in evaluating the public interest. In evaluating an export application under this standard, DOE applies the principles described in DOE’s 1984 Policy Guidelines<sup>50</sup> and other matters found to be appropriate to make a determination of the public interest, such as the domestic need for the natural gas to be exported. While the Policy Guidelines explicitly discuss only natural gas imports, in 1999 DOE held in Order No. 1473 that the same Policy Guidelines should be applied to natural gas export applications.<sup>51</sup>

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<sup>47</sup> 15 U.S.C. § 717b(a).

<sup>48</sup> See *Sierra Club I*, 867 F.3d at 203 (“We have construed [NGA section 3(a)] as containing a ‘general presumption favoring [export] authorization.’”) (quoting *W. Va. Pub. Serv. Comm’n v. U.S. Dep’t of Energy*, 681 F.2d 847, 856 (D.C. Cir. 1982)).

<sup>49</sup> See *id.* (“there must be ‘an affirmative showing of inconsistency with the public interest’ to deny the application” under NGA section 3(a)) (quoting *Panhandle Producers & Royalty Owners Ass’n v. Econ. Regul. Admin.*, 822 F.2d 1105, 1111 (D.C. Cir. 1987)). As of August 24, 2018, qualifying small-scale exports of natural gas to non-FTA countries are deemed to be consistent with the public interest under NGA section 3(a). See 10 C.F.R. §§ 590.102(p), 590.208(a).

<sup>50</sup> U.S. Dep’t of Energy, New Policy Guidelines and Delegations Order Relating to Regulation of Imported Natural Gas, 49 Fed. Reg. 6684 (Feb. 22, 1984) [hereinafter 1984 Policy Guidelines].

<sup>51</sup> *Phillips Alaska Natural Gas Corp., et al.*, DOE/FE Order No. 1473, Docket No. 96-99-LNG, Order Extending Authorization to Export Liquefied Natural Gas from Alaska (Apr. 2, 1999), at 14 (citing *Yukon Pac. Corp.*, DOE/FE Order No. 350, Order Granting Authorization to Export Liquefied Natural Gas From Alaska, 1 FE ¶ 70,259, at p. 71,128 (1989)).

Specifically, DOE’s review focuses on: (i) the domestic need for the LNG proposed 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’s policy of promoting market competition, and (iv) any other factors bearing on the public interest as determined by DOE—which, to date, have included a variety of economic, international, and environmental considerations.<sup>52</sup> To conduct this review, DOE looks to record evidence developed in the application proceeding.<sup>53</sup> Before reaching a final decision, DOE must also comply with NEPA.<sup>54</sup>

### **III. DESCRIPTION OF REQUEST**

As relevant here, Commonwealth is requesting long-term, multi-contract authorization to export LNG in a volume equivalent to 441.4 Bcf/yr of natural gas from the Commonwealth LNG Project to non-FTA countries.<sup>55</sup> Additional information is set forth below.

#### **A. Description of Applicant**

Commonwealth is a Texas limited liability company with its principal place of business in Houston, Texas, and authorized to do business in Louisiana.<sup>56</sup> At the time the Application was filed, Commonwealth was a wholly owned subsidiary of Commonwealth Projects, LLC, which in turn was wholly owned by a private individual, Paul Varello.<sup>57</sup> Pursuant to an agreement executed on June 25, 2024, a wholly owned subsidiary of Kimmeridge Texas Gas,

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<sup>52</sup> See, e.g., Order Denying Petition at 12.

<sup>53</sup> See *id.*

<sup>54</sup> See *supra* § I.

<sup>55</sup> Commonwealth App. at 1-2, 4; see also *supra* § I.

<sup>56</sup> Commonwealth App. at 2.

<sup>57</sup> *Id.*

LLC, an affiliate of Kimmeridge Energy Management Company, LLC, purchased 100% of the equity in Commonwealth.<sup>58</sup>

### **B. Proposed Commonwealth LNG Project**

The Commonwealth LNG Project is proposed to be located on a 393-acre site in Cameron Parish, Louisiana, on the west side of the Calcasieu Ship Channel near its entrance to the Gulf of Mexico.<sup>59</sup> In the Supplement to its Application, Commonwealth states that it has entered into lease agreements for this site.<sup>60</sup>

The Project will include one LNG plant (including six liquefaction trains and appurtenant facilities), six LNG storage tanks, one marine loading berth, and a 3.04-mile-long, 42-inch diameter pipeline.<sup>61</sup> Commonwealth states that each train will have a liquefaction design capacity of approximately 65.1 Bcf/yr of natural gas for a total design capacity of 8.4 mtpa of LNG.<sup>62</sup> However, under optimal operating conditions, the Project will have a peak capacity of up to 441.4 Bcf/yr (equivalent to approximately 9.5 mtpa of LNG).<sup>63</sup>

### **C. Project Pipeline**

Commonwealth states that natural gas will be delivered through the proposed 3.04-mile long, 42-inch diameter pipeline that will connect the Project with existing intrastate and interstate pipelines for the purpose of supplying feed gas to the Project.<sup>64</sup> Specifically, the feed gas pipeline will include interconnections with an existing interstate pipeline owned by Kinetica

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<sup>58</sup> Commonwealth provided notice of this change in control to DOE, in compliance with DOE's Change in Control Procedures. *See* U.S. Dep't of Energy, Procedures for Changes in Control Affecting Applications and Authorizations to Import or Export Natural Gas, 79 Fed. Reg. 65,541,65,542 (Nov. 5, 2014); *see also, e.g.*, U.S. Dep't of Energy, Response to Notice of Change in Control and Amendment to Pending Application, Docket No. 19-134-LNG (Oct. 17, 2024).

<sup>59</sup> Commonwealth App. at 3; *see also* Supp. at 1.

<sup>60</sup> Supp. at 1 (providing lease agreements to DOE under seal).

<sup>61</sup> Commonwealth App. at 3; Supp. at 1.

<sup>62</sup> Commonwealth App. at 3.

<sup>63</sup> *Id.* FERC approved the proposed Project with this design. *See supra* note 7.

<sup>64</sup> *See supra* note 7 (FERC proceeding).

Partners, LLC, and two existing intrastate pipelines owned by EnLink Bridgeline Holdings LP.<sup>65</sup>

#### **D. Source of Supply**

According to Commonwealth, the Project will have access to natural gas produced in the United States through the feed gas pipeline and its interconnections.<sup>66</sup>

#### **E. Business Model**

Commonwealth requests this authorization on its own behalf and as agent for other entities that will hold title to the LNG at the time of export. Commonwealth states that it will comply with all DOE requirements for exporters and agents, including registration requirements.<sup>67</sup>

At the time the Application was filed, Commonwealth stated that it had not yet entered into long-term natural gas supply or export contracts for the requested exports.<sup>68</sup>

Commonwealth further stated that it will file, or cause to be filed, all long-term, binding contracts associated with the export of LNG from the Commonwealth LNG Project, once executed.<sup>69</sup> DOE notes that, on October 3, 2022, Commonwealth submitted to DOE two executed contracts associated with the long-term export of LNG from the Project—both LNG sales and purchase agreements entered into with Woodside Energy Trading Singapore Pte Limited on September 2, 2022.<sup>70</sup> Most recently, on September 19, 2024, Commonwealth announced that it has entered into a Heads of Terms agreement with Glencore LTD for the

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<sup>65</sup> *Id.*

<sup>66</sup> Supp. at 1.

<sup>67</sup> Commonwealth App. at 4.

<sup>68</sup> *Id.* at 5.

<sup>69</sup> *Id.* at 4-5.

<sup>70</sup> See Commonwealth LNG, LLC, Submission of Long-Term Contracts and Summaries, Docket No. 19-134-LNG (Oct. 3, 2022), <https://www.energy.gov/fecm/articles/commonwealth-lng-terminal>.

purchase of LNG from Commonwealth.<sup>71</sup>

#### IV. APPLICANT’S PUBLIC INTEREST ANALYSIS

##### A. Overview

Commonwealth states that NGA section 3(a) creates a presumption in favor of approval of LNG exports.<sup>72</sup> Commonwealth further contends that its “proposed exports are not inconsistent with, and are in fact in service of, the public interest,” as set forth below.<sup>73</sup>

##### B. Domestic Natural Gas Supply and Demand

Commonwealth asserts that domestic natural gas production has increased significantly and is forecast to continue supporting both increasing domestic consumption of natural gas and higher natural gas exports.<sup>74</sup> Specifically, Commonwealth states that “[n]atural gas production in the U.S. is at the highest levels ever recorded, increasing over 50% in the last 10 years.”<sup>75</sup> Commonwealth also highlights EIA data showing that domestic natural gas production had set all-time daily and monthly production records during the period in which it filed the Application.<sup>76</sup>

According to Commonwealth, “[c]onsistently, long-term projections indicate[] that ‘[a]fter 2020, production grows at a higher rate than consumption in most cases, leading to a corresponding growth in U.S. exports of natural gas to global markets.’”<sup>77</sup> Commonwealth further asserts that, “[o]ver the proposed life of the Project, U.S. production is anticipated to

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<sup>71</sup> See Commonwealth LNG, LLC, Semi Annual Progress Report (Period Ending Sept. 30, 2024), Docket No. 19-134-LNG, at 2 (Oct. 1, 2024), <https://www.energy.gov/sites/default/files/2024-10/Commonwealth%20LNG%20--%20DOE%20Semi-Annual%20Report%20%28Sep%202024%29.pdf>.

<sup>72</sup> See Commonwealth App. at 5-6.

<sup>73</sup> *Id.* at 6.

<sup>74</sup> See *id.* at 6-7.

<sup>75</sup> *Id.* at 6 (citing EIA data from Sept. 30, 2019).

<sup>76</sup> See *id.* (citing, e.g., Energy Info. Admin., *Today in Energy* (Sept. 12, 2019), <https://www.eia.gov/todayinenergy/detail.php?id=41273>).

<sup>77</sup> *Id.* (citing U.S. Energy Info. Admin., *Annual Energy Outlook 2019* (with projections to 2050), at 72 (Jan. 24, 2019), <https://www.eia.gov/outlooks/archive/aeo19/> [hereinafter AEO 2019]).

outpace domestic consumption,” and thus supports higher levels of natural gas exports.<sup>78</sup> In sum, Commonwealth asserts that its requested exports are supported by current and future projections for domestic natural gas supply and demand.<sup>79</sup>

### **C. Public Benefits**

Commonwealth asserts that the proposed Project, and its associated exports of LNG, will generate significant local, regional, and national benefits, as supported by DOE’s 2018 LNG Export Study (the most recent economic study at that time).<sup>80</sup> Specifically, Commonwealth maintains that the Project will result in the following economic and employment benefits:

- The creation of new jobs—including as many as 2,000 jobs during the construction period and 65 permanent jobs once the Project is operational—and additional tax revenues on a local, regional and national level;
- The hiring of local, regional, and national businesses to provide services, materials, and other supplies during construction and operation of the Project; and
- Increased jobs supporting the Project, which will produce an “increase in disposable income for both individuals and local businesses, and thus “an increase in economic activity in the Project vicinity.”<sup>81</sup>

Turning to international benefits, Commonwealth states that its proposed exports will both improve the U.S. trade deficit and provide a “politically and economically stable source of natural gas supplies to the global market.”<sup>82</sup>

Commonwealth contends that all of these benefits are consistent with the public interest, and thus Commonwealth’s Application should be granted.<sup>83</sup>

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<sup>78</sup> Commonwealth App. at 7-8 (citing AEO 2019).

<sup>79</sup> *Id.* at 6.

<sup>80</sup> *Id.* at 7 (citing NERA Econ. Consulting, *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports* (June 7, 2018)).

<sup>81</sup> Commonwealth App. at 8.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.* at 6, 8. Commonwealth also argues that its requested exports will have environmental benefits (*see id.* at 7-8), which we do not address here due to the scope of this Order.

## V. CURRENT PROCEEDING BEFORE DOE

In response to the Notice of Application published in the *Federal Register* on November 26, 2019, DOE received one timely filed “Notice of Intervention, Protest and Comment” from IECA, which DOE is construing as a motion to intervene and protest in opposition to the Application (IECA Pleading).<sup>84</sup> Commonwealth submitted an Answer to the IECA Pleading, and both are summarized below.

Additionally, we summarize the Late-Filed Form Comments submitted to DOE beginning in November 2023, and the three Late-Filed Pleadings submitted in 2024 by Sierra Club, FISH, and NRDC, respectively—all of which oppose Commonwealth’s requested non-FTA authorization.<sup>85</sup> Commonwealth submitted an Answer to each Late-Filed Pleading, as summarized below.

### A. IECA’s Pleading

IECA states that it is a nonpartisan association of leading manufacturing companies with \$1.0 trillion in annual sales and more than 1.7 million employees worldwide. IECA’s stated purpose is to promote the interests of manufacturing companies. IECA states that its membership represents a diverse set of industries including chemicals, plastics, aluminum, fertilizer, automotive, and many more.<sup>86</sup> IECA seeks to intervene and be made a party to this proceeding, pursuant to 10 C.F.R. § 590.303(b), and challenges Commonwealth’s proposed exports and DOE’s approval of LNG exports generally as contrary to the public interest.<sup>87</sup>

**DOE’s evaluation of the public interest under NGA section 3(a).** IECA contends that

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<sup>84</sup> See IECA Pleading, *supra* § I.A. As discussed, protests, motions to intervene, and written comments on the non-FTA portion of Commonwealth’s Application were due no later than December 26, 2019. See Notice of App., 84 Fed. Reg. at 65,144. Additionally, Commonwealth’s Application Amendment filed on September 11, 2020, requesting a non-FTA export term through December 31, 2050, was uncontested. See *supra* § I.A.

<sup>85</sup> See *supra* § I.A.

<sup>86</sup> See IECA Pleading at 1.

<sup>87</sup> *Id.* at 1, 11.

DOE should not rely upon the 1984 Policy Guidelines (discussed *supra* § II) in reviewing LNG export applications.<sup>88</sup> IECA argues that the 1984 Policy Guidelines were drafted to address natural gas imports, which—at that time—were in the public interest because they reduced risks for domestic consumers and manufacturers. IECA argues that “[t]he reverse is true for LNG exports” because, as IECA contends, exports increase consumer prices of natural gas and reliability risks.<sup>89</sup> Therefore, IECA claims that DOE’s reliance on the 1984 Policy Guidelines to inform its decision-making on LNG exports is inconsistent with Congress’s intent under the NGA.<sup>90</sup>

According to IECA, the NGA is intended to protect the public interest by encouraging the orderly development of plentiful supplies of natural gas at reasonable prices, and by protecting consumers against exploitation by natural gas companies.<sup>91</sup> IECA maintains that these statutory purposes are frustrated by LNG exports because the exports will tend to reduce domestic supplies and increase domestic prices.<sup>92</sup>

In addressing the phrase “public interest,” IECA cites then-U.S. Attorney General William Barr’s summary of the “The Special Counsel’s Report,” submitted to Congress on March 24, 2019.<sup>93</sup> IECA states that Attorney General Barr’s use of the phrase “public interest” demonstrates that (in IECA’s words), “[t]he public interest is about people,” and “not about *net economic benefits nor markets*.”<sup>94</sup> In IECA’s view, “LNG exports exploit U.S. consumers when low domestic prices rise due to high global LNG demand.”<sup>95</sup>

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<sup>88</sup> *See id.* at 8-9.

<sup>89</sup> *Id.* at 9.

<sup>90</sup> *See id.* at 8-9 (citing U.S. Government Accountability Office, “Federal Approval Process for Liquefied Natural Gas Exports” (Sept. 2014)).

<sup>91</sup> *See id.* at 9 (citing *NAACP v. Fed. Power Comm’n*, 425 U.S. 662, 669-70 (1976)).

<sup>92</sup> *See* IECA Pleading at 9-10.

<sup>93</sup> *Id.* at 9 (citing Att’y Gen. Barr, The Special Counsel’s Report (Mar. 24, 2019)).

<sup>94</sup> *Id.* (emphasis in original).

<sup>95</sup> *Id.*

**Pipeline capacity.** IECA contends that DOE should not approve more LNG export volumes in light of “a serious growing problem of inadequate natural gas pipeline capacity today and going forward, as significant LNG export capacity comes online.”<sup>96</sup> IECA asserts that “LNG export volumes decrease available pipeline capacity for the domestic market because the exported natural gas is going offshore to supply other countries, not U.S. consumers.”<sup>97</sup> IECA further contends that firm access pipeline arrangements “lock in” pipeline capacity for LNG exporters and reduce available pipeline capacity for domestic consumers, particularly during peak seasonal winter demand.<sup>98</sup> According to IECA, DOE has not undertaken a study to determine whether pipeline and storage capacity will be adequate to support both peak domestic demand and exports of LNG.<sup>99</sup> Citing a 2019 study by the Interstate Natural Gas Association of America, IECA also argues that FERC has not approved enough miles of new pipeline to meet this demand.<sup>100</sup>

**U.S. manufacturing sector.** IECA claims that DOE has “committed itself to approv[ing] every LNG export application[,]” which “threatens the U.S. manufacturing sector long-term.”<sup>101</sup> According to IECA, the global competitiveness of the manufacturing sector is dependent upon low-cost natural gas, feedstock, and natural gas-fired power generation. IECA states that the U.S. manufacturing sector contributes \$2,321.2 billion to the U.S. economy, 11.3 percent of U.S. GDP, and 13 million jobs.<sup>102</sup> IECA compares the manufacturing sector to the oil and gas industry, which (according to IECA) contributes “only \$236.8 billion to the economy,

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<sup>96</sup> *Id.* at 2.

<sup>97</sup> *Id.* (emphasis removed).

<sup>98</sup> IECA Pleading at 6; *see also id.* at 2 (stating that, by the end of 2019, LNG exports will reduce pipeline capacity by nearly 10 Bcf/d).

<sup>99</sup> *See id.* at 4, 5.

<sup>100</sup> *Id.* at 3 (citation omitted).

<sup>101</sup> *Id.* at 2.

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

just 1.2 percent of U.S. GDP and employs only 415[,000] jobs, less than 4 percent of that of manufacturing.”<sup>103</sup> IECA thus asserts that the economic importance of the oil and gas sector “pales in comparison to the economic importance of the manufacturing sector,” and that—in approving LNG exports—DOE is putting trillions of dollars of manufacturing assets at risk.<sup>104</sup>

More broadly, IECA argues that only natural gas producers and exporters benefit from LNG exports. According to IECA, “everyone else in the U.S. economy are losers”—and will face significantly higher natural gas prices, wage decrease, capital investment decreases (especially in manufacturing), and reduced indirect economic income.<sup>105</sup>

**Domestic price impacts.** Addressing natural gas prices, IECA asserts that DOE’s 2018 LNG Export Study, as well as DOE’s prior macroeconomic studies, have shown that “the public does not benefit from LNG exports and[,] in fact, are damaged by them” due to rising natural gas prices.<sup>106</sup> IECA further argues that DOE’s approval of LNG export volumes will connect low U.S. natural gas prices to high global LNG prices, which will drive up prices for U.S. consumers.<sup>107</sup> IECA points to increased U.S. crude oil prices, which it states are connected to the global market price.<sup>108</sup> IECA also argues that U.S. natural gas prices will be driven up because importing nations (via state-owned enterprises or government-controlled utilities) will compete with U.S. consumers for U.S.-sourced natural gas without regard to price.<sup>109</sup>

## **B. Answer of Commonwealth to IECA’s Pleading**

In its Answer to IECA’s pleading filed on January 6, 2020, Commonwealth asks DOE to

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<sup>103</sup> *Id.*

<sup>104</sup> IECA Pleading at 2.

<sup>105</sup> *Id.* at 7-8.

<sup>106</sup> *Id.* at 7, 10-11.

<sup>107</sup> *Id.* at 4-5.

<sup>108</sup> *Id.* at 4, 10.

<sup>109</sup> *See id.* at 4-5.

deny IECA's intervention request and to dismiss IECA's protest.<sup>110</sup>

First, Commonwealth contends that IECA's motion to intervene "does not meet the baseline standards necessary [for IECA] to become a party to the instant proceeding."<sup>111</sup> Specifically, Commonwealth argues that IECA's interest is overly generalized, such that "each of [its] objections ... broadly apply to any LNG export application under consideration by [DOE]" and "never ties the objections specifically to the pending Application."<sup>112</sup> According to Commonwealth, IECA's criticisms are also misplaced, as IECA is requesting "sweeping review and policy changes" that are inappropriate for an individual application proceeding.<sup>113</sup>

Next, Commonwealth maintains that IECA's argument that the requested non-FTA authorization is inconsistent with the public interest is a "baseless assertion."<sup>114</sup> Commonwealth specifically challenges IECA's claims that the adequacy of "domestic supply at reasonable prices and available pipeline capacity" could be at risk, and that authorizing non-FTA exports could hamper competitive advantages of U.S. manufacturing.<sup>115</sup>

Addressing domestic supply, Commonwealth stresses that IECA should raise concerns about potential pipeline capacity with FERC, "as [DOE] does not have any jurisdictional nexus over the siting, construction, and operation of interstate pipelines."<sup>116</sup> Commonwealth adds that "current short and long term projections demonstrate sufficient supply to support both domestic consumption and expanding LNG exports," emphasizing record-high natural gas production and growing storage capacity.<sup>117</sup>

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<sup>110</sup> See Commonwealth Answer at 2-3, 7.

<sup>111</sup> *Id.* at 2.

<sup>112</sup> *Id.* at 3 (citing 10 C.F.R. 590.102(h)).

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> See *id.*

<sup>116</sup> Commonwealth Answer at 4.

<sup>117</sup> *Id.* (citing EIA data).

Turning to competitive advantage, Commonwealth contends that IECA’s arguments about retaining a “competitive advantage in favor of the U.S. manufacturing industry” are inapposite to DOE’s “general policy approach of allowing the market to drive competition.”<sup>118</sup> Specifically, Commonwealth disputes IECA’s contention that a grant of the Application “could or would negatively impact U.S. manufacturing, as both natural gas production and pipeline construction [are] market-driven, and will rise to meet growing demand.”<sup>119</sup>

Finally, Commonwealth counters IECA’s argument that DOE should not rely on its 1984 Policy Guidelines because they “originally contemplated LNG imports, rather than LNG exports.” Among other arguments, Commonwealth claims that DOE has “used the Guidelines as a criterion when evaluating export applications for decades,” and that IECA “has presented no compelling rationale for a shift away from this long-standing practice.”<sup>120</sup> In particular, Commonwealth notes that DOE previously found in Order No. 1473 that the Policy Guidelines should apply to natural gas import and export applications alike—a position that DOE has continued to express in more recent export orders.<sup>121</sup> Commonwealth also contends that the 1984 Policy Guidelines “are not the sum total of DOE/FE’s analysis of the public interest,” and that DOE “has conducted numerous studies which demonstrate that LNG exports are not inconsistent with the public interest.”<sup>122</sup>

### **C. Late-Filed Form Comments**

Between November 17, 2023, and February 5, 2025, FECM received 18,579 late-filed electronic comments from individuals expressing their opposition to the Commonwealth

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<sup>118</sup> *Id.* at 5.

<sup>119</sup> *Id.*

<sup>120</sup> *Id.* at 6.

<sup>121</sup> *Id.* (citing *Venture Global Calcasieu Pass, LLC*, DOE/FE Order No. 4346, Docket Nos. 13-69-LNG *et al.* Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations, at 20 (Mar. 5, 2019)).

<sup>122</sup> Commonwealth Answer at 6.

Application (and another pending non-FTA application).<sup>123</sup> Upon review, DOE determined that these late-filed comments are largely form letters, with their language being similar, if not identical. The individuals in these comments generally assert that DOE’s approval of exports from the Commonwealth LNG Project will have “significant repercussions” on the economy, national security, climate, and local communities along the Louisiana Coast.<sup>124</sup>

The Late-Filed Form Comments have a footer stating that, “[t]his message was sent by KnowWho, as a service provider, on behalf of an individual associated with Sierra Club,” and providing a Sierra Club email address.<sup>125</sup> Given the duplicative format and significant number of these Late-Filed Form Comments, DOE posted a sample for representative purposes in two separate entries in the Commonwealth docket, together with a cover page providing additional information.<sup>126</sup>

#### **D. Sierra Club’s Motion to Leave and Protest Out of Time**

On November 22, 2024, Sierra Club submitted a “Motion to Intervene and Protest Out of Time” opposing the Application.<sup>127</sup> Sierra Club states that it has over 3,500 members in Louisiana, “including many in the Barnett Shale region and other areas that will likely be impacted by increased gas production.”<sup>128</sup>

Sierra Club acknowledges that it did not move to intervene “back in November 2019” when DOE provided notice of the Commonwealth Application in the *Federal Register* and solicited interventions in the docket, but argues that the “facts regarding U.S. LNG exports have

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<sup>123</sup> See Late-Filed Form Comments, *supra* note 20.

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

<sup>126</sup> See Commonwealth LNG, LLC, Docket No. 19-134-LNG, Docket Entries #21 and #42.

<sup>127</sup> See Sierra Club Late-Filed Pleading, *supra* note 21. Under DOE’s regulations, a late motion to intervene may be accepted for good cause and after consideration of the impact of granting the motion on the proceeding. See 10 C.F.R. § 590.303(d). A late protest may be accepted for good cause. *Id.* § 590.304(e).

<sup>128</sup> Sierra Club Late-Filed Pleading at 10.

changed drastically” since the Notice of Application was published.<sup>129</sup> According to Sierra Club, DOE has acknowledged that the “global LNG markets have changed, Europe has rapidly transitioned away from fossil fuels, [] DOE’s prior analyses no longer apply, and increasing lower-48 LNG exports imposes real costs on American consumers and industry.”<sup>130</sup> Sierra Club also points to the D.C. Circuit’s remand of FERC’s order authorizing the proposed Commonwealth LNG Project in 2024 as evidence to suggest that this proceeding—and Sierra Club’s late intervention—is still “at an early stage.”<sup>131</sup>

Turning to DOE’s regulation governing intervention,<sup>132</sup> Sierra Club argues that good cause exists for its late intervention and protest, and that its intervention at this stage will not adversely impact the proceeding. Sierra Club asserts that DOE recently granted other groups leave to intervene out of time in the *Alaska LNG* proceeding, and broadly claims that DOE “has not been especially strict” so long as applicants “make good faith efforts to demonstrate compliance” with the good cause requirement for filing out of time.<sup>133</sup>

Next, Sierra Club argues that, because DOE’s regulations do not specify what constitutes “good cause,” DOE “should interpret the term with reference to FERC’s interpretation of the rules it applies in administering the Natural Gas Act, and with reference to how federal courts interpret their rules on good cause to file out of time.”<sup>134</sup> According to Sierra Club, “courts and FERC have focused their ‘good cause’ inquiries on the amount of prejudice arising from the delay,” and DOE should adopt the same approach.<sup>135</sup> Sierra Club further asserts that FERC, in

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<sup>129</sup> *Id.* at 1.

<sup>130</sup> *Id.* at 1.

<sup>131</sup> *Id.*; see also *supra* note 7 (discussing FERC proceeding and citing D.C. Circuit decision).

<sup>132</sup> *Id.* at 4 (citing 10 C.F.R. §§ 590.303(d), 590.304(e)).

<sup>133</sup> *Id.* at 5 (citing *Alaska LNG Project LLC*, DOE/FECM Order No. 3643-C, Docket No. 14-96-LNG, at 21 (Apr. 13, 2023)).

<sup>134</sup> Sierra Club Late-Filed Pleading at 5-6.

<sup>135</sup> *Id.* at 5-7 (also asserting that, “where there is no prejudice resulting from delay, that fact in itself can demonstrate ‘good cause’ for purposes of deciding whether to allow late intervention”).

administering its own NGA proceedings, “almost uniformly concludes that there would be no prejudice resulting from late intervention” and grants late motions to intervene if “filed before FERC issues its order on the merits.”<sup>136</sup>

On this basis of equating a lack of prejudice with a showing of good cause, Sierra Club argues that Commonwealth is not prejudiced by Sierra Club’s intervention and protest at this stage of the proceeding (*i.e.*, before DOE’s issuance of an order on the merits).<sup>137</sup> Sierra Club further claims that “[t]here have not been any proceedings in [this] docket that would have gone differently had Sierra Club moved to intervene by the original [2019] deadline.”<sup>138</sup> In addition, Sierra Club notes that the Application is already contested (with IECA having timely filed a motion to intervene and protest), but states that DOE must make an independent assessment of the public interest regardless of whether anyone has protested the Application.<sup>139</sup> Consequently, Sierra Club reasons, “the lack of prejudice is itself sufficient to permit intervention here.”<sup>140</sup>

Nonetheless, Sierra Club contends that, “insofar as any further showing of good cause is required,” it “has good cause for not having filed a motion to intervene and protest in response to DOE’s initial solicitation” because “the basis for Sierra Club’s protest consists of facts arising after the December 26, 2019 deadline set forth in the Notice of Application.”<sup>141</sup> Citing and characterizing statements allegedly made by DOE between January and August 2024,<sup>142</sup> Sierra Club argues that it “did not foresee the changes in global energy markets and DOE’s potential

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<sup>136</sup> *Id.* at 6.

<sup>137</sup> *See id.* at 4-7.

<sup>138</sup> *Id.* at 7.

<sup>139</sup> *Id.*

<sup>140</sup> Sierra Club Late-Filed Pleading at 8.

<sup>141</sup> *Id.*

<sup>142</sup> According to Sierra Club, DOE allegedly stated in January 2024 that DOE’s prior analyses no longer provide a sufficient foundation for analyzing export applications; argued in May 2024 that reducing lower-48 exports will reduce domestic gas prices and thereby benefit the public; and concluded in August 2024 that it is no longer clear whether long term exports are in the United States’ interest. *See id.*

treatment thereof.”<sup>143</sup> According to Sierra Club, DOE’s statements “coupled with [its] acknowledgment of the obligation to address good cause and the lack of prejudice resulting from delay, justifies leave to intervene and protest out of time here.”<sup>144</sup>

#### **E. FISH’s Motion for Leave to Intervene and Protest Out of Time**

On December 3, 2024, Fisherman Involved in Sustaining our Heritage (FISH), For a Better Bayou, Healthy Gulf, and The Vessel Project of Louisiana (collectively, FISH) submitted a “Motion for Leave to Intervene Out of Time and Protest” opposing the Application.<sup>145</sup> These entities state that they are “local Louisiana and Gulf Coast organizations with members who live, recreate, and work—including individuals who make their living fishing, oystering, and shrimping—in the area that will be immediately impacted by Commonwealth LNG’s export activities.”<sup>146</sup>

Relying largely on the same arguments as Sierra Club, FISH asserts that, since the “prior intervention window” in 2019, “substantial new information has become available that must inform DOE’s evaluation of Commonwealth’s application.”<sup>147</sup> FISH points to developments in 2024 also cited by Sierra Club, including DOE’s decision to conduct the 2024 LNG Export Study proceeding, the D.C. Circuit’s remand of FERC’s order authorizing the proposed Commonwealth LNG Project, and DOE’s arguments in litigation in the Alaska LNG Project LLC proceeding.<sup>148</sup> Citing the Alaska LNG proceeding, FISH argues that DOE “has recognized that late intervention should be granted following the addition of new information,” and thus good cause exists for its Motion to Intervene Out of Time.<sup>149</sup>

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<sup>143</sup> *Id.*

<sup>144</sup> *Id.* at 8-9.

<sup>145</sup> See FISH Late-Filed Pleading, *supra* note 22.

<sup>146</sup> *Id.* at 2-4 (describing each organization).

<sup>147</sup> *Id.* at 6.

<sup>148</sup> *Id.* at 1, 6-7 (citations omitted).

<sup>149</sup> *Id.* at 7.

Finally, according to FISH, “granting [late] intervention would not cause any prejudice to the existing parties” as “DOE has yet to make a determination on the merits and nothing would have changed in the proceedings to date had [FISH] filed their motion to intervene within the earlier window.”<sup>150</sup>

#### **F. NRDC’s Motion for Leave to Intervene and Protest Out of Time**

On December 26, 2024, the Natural Resources Defense Council (NRDC) also submitted a “Motion for Leave to Intervene Out of Time and Protest” opposing the Application.<sup>151</sup> NRDC states that it is committed to the preservation and protection of the environment, public health, and natural resources, and that it has approximately 900 members in Louisiana and “hundreds more in areas that will be impacted by increased gas production.”<sup>152</sup>

NRDC relies on some of the same arguments as Sierra Club and FISH. Uniquely, NRDC asserts that DOE’s issuance of the 2024 LNG Export Study “demonstrates the substantial changes ... that have occurred since the 2019 intervention window in this docket and supports permitting intervention out of time.”<sup>153</sup> NRDC also argues that its late intervention will not delay this proceeding, as DOE has not yet made a determination on the merits of Commonwealth’s Application, and that it will endeavor to coordinate joint filings with other parties to “further reduce any impact on the proceeding.”<sup>154</sup>

#### **G. Commonwealth’s Answers to Motions to Leave and Protest Out of Time**

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<sup>150</sup> *Id.* at 5.

<sup>151</sup> *See* NRDC Late-Filed Pleading, *supra* note 23.

<sup>152</sup> *Id.* at 6-7.

<sup>153</sup> *Id.* at 3 (referencing DOE’s 2024 LNG Export Study).

<sup>154</sup> *Id.* at 4-5.

Commonwealth timely submitted an Answer to each of the Environmental Movants' Late-Filed Pleadings.<sup>155</sup> Commonwealth asks DOE to deny each of the Environmental Movants' Motions to Intervene Out of Time and to reject their protests opposing the Application.

Commonwealth argues that the Environmental Movants have failed to show good cause for their late interventions and protests, and that entertaining their requests, which are nearly five years late, would “make a mockery of DOE’s Rules,” and “unnecessarily burden the proceeding and severely prejudice Commonwealth.”<sup>156</sup>

Regarding Sierra Club’s Late-Filed Pleading, Commonwealth argues that DOE rules are clear on when interventions are to be filed, and that Sierra Club—an experienced practitioner in DOE proceedings—failed to file a timely motion, does not demonstrate good cause for that failure, and ignores the substantial prejudice and harm Commonwealth would face by allowing an intervention so far out of time.<sup>157</sup> Commonwealth asserts that Sierra Club, by its own admission, had interests in this proceeding when DOE provided notice of the Application, and has failed to explain why it missed the original deadline to intervene.<sup>158</sup>

Next, Commonwealth states that “DOE has explicitly rejected in other proceedings the arguments Sierra Club raises here,” and that “Sierra Club makes no effort to distinguish the facts here from this unfavorable DOE precedent.”<sup>159</sup> Commonwealth further contends that—contrary to Sierra Club’s arguments—DOE’s historical treatment of late interventions is consistent with FERC’s policy for late interventions.<sup>160</sup> Commonwealth states that “FERC’s formal policy is to

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<sup>155</sup> See *supra* § I.A, notes 24-26.

<sup>156</sup> Commonwealth Answer to Sierra Club’s Late-Filed Pleading at 1.

<sup>157</sup> See *id.* at 4-6.

<sup>158</sup> *Id.* at 7-8 (quoting Sierra Club Late-Filed Pleading at 8, “Although Sierra Club has other interests in this proceeding as well, which were evident at the time DOE provided notice ....”).

<sup>159</sup> *Id.* at 5.

<sup>160</sup> *Id.* at 8-9.

be less lenient in the grant of late interventions”<sup>161</sup> and that the first factor FERC considers in reviewing a late intervention is whether “[t]he movant had good cause for failing to file the motion within the time prescribed.”<sup>162</sup> Citing DOE precedent in *Energía Costa Azul, S. de R.L. de C.V.* and *Vista Pacifico LNG, S.A.P.I. de C.V.*, Commonwealth argues that DOE has historically applied the same standard.<sup>163</sup>

Concerning Sierra Club’s argument that DOE should follow the practice of federal courts under the Federal Rules of Civil Procedure (FRCP) when evaluating “good cause,” Commonwealth adds that the FRCP (and any precedent interpreting them) have no bearing on this proceeding because DOE has its own rule governing intervention which Sierra Club has clearly violated.<sup>164</sup>

Commonwealth asserts that, even considering Sierra Club’s reliance on DOE statements between January and August 2024 that it “could not have foreseen,” Sierra Club’s Late-Filed Pleading was still late.<sup>165</sup> Commonwealth argues that, as Sierra Club did not file its pleading until November 22, 2024, several weeks after the last DOE statement it purports to have relied upon, “Sierra Club’s fastest attempt to intervene in this proceeding *still* would have failed to comply with the 30-day intervention deadline set forth in [the] November 26, 2019 Notice.”<sup>166</sup>

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<sup>161</sup> *Id.* at 8 (citing *Tenn. Gas Pipeline Co., LLC*, 162 FERC ¶ 61,167 at P 50 (2018)).

<sup>162</sup> Commonwealth Answer to Sierra Club’s Late-Filed Pleading at 8 (citing FERC grant of late intervention regulations at 18 C.F.R. § 385.214(d)(1)(i)).

<sup>163</sup> *Id.* at 9 (citing *Energía Costa Azul, S. de R.L. de C.V.*, DOE/FECM Order No. 4365-B, 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 Countries, at 50-53 (Dec. 20, 2022) and *Vista Pacifico LNG, S.A.P.I. de C.V.*, DOE/FECM Order No. 4929, 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 50-53 (Dec. 20, 2022), wherein DOE rejected Sierra Club’s Late-Filed Motion to Intervene and Protest in both cases).

<sup>164</sup> Commonwealth Answer to Sierra Club’s Late-Filed Pleading at 1, 14-15 (citing DOE’s regulations at 10 C.F.R. Subpart 590).

<sup>165</sup> *Id.* at 10.

<sup>166</sup> *Id.*

Addressing Sierra Club’s reliance on DOE’s actions in the Alaska LNG proceeding, Commonwealth argues that the facts leading DOE to find good cause for the late intervention in that proceeding were “unique,” relied heavily on the fact that DOE had prepared a supplemental environmental impact statement (EIS), and involved DOE’s decision to apply the spirit of a FERC regulation that permits intervention during the comment period for a draft EIS.<sup>167</sup> Commonwealth asserts that DOE’s rationale for finding good cause in *Alaska LNG*—the preparation of a draft EIS by DOE—is absent in this proceeding.<sup>168</sup> Thus, Commonwealth contends that Sierra Club did not and cannot explain why DOE’s rationale in *Alaska LNG* should be applied in the instant matter.<sup>169</sup> Consequently, Commonwealth argues, *Alaska LNG* provides no support for Sierra Club’s intervention.<sup>170</sup>

Finally, Commonwealth asserts that granting late intervention would substantially prejudice Commonwealth.<sup>171</sup> Commonwealth argues that the central purpose of Sierra Club’s intervention is to prejudice and delay the proceeding.<sup>172</sup> Commonwealth contends that it would be further prejudiced by the intervention because it would make Sierra Club a formal party to the proceeding under the NGA, conferring the attendant rights under the NGA, permitting Sierra Club to seek a rehearing of any order issued by DOE in this proceeding, and permitting it to seek appeal of such order in federal appellate court.<sup>173</sup>

Commonwealth concludes by stating that granting the intervention would also be disruptive to the proceeding and ultimately would interfere with DOE’s ability to develop a

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<sup>167</sup> *Id.* at 10-11.

<sup>168</sup> *Id.* at 11.

<sup>169</sup> *Id.*

<sup>170</sup> Commonwealth Answer to Sierra Club’s Late-Filed Pleading at 11.

<sup>171</sup> *See id.* at 12-14.

<sup>172</sup> *Id.* at 13.

<sup>173</sup> *Id.* at 14.

record upon which it can render a final decision.<sup>174</sup>

Since FISH's arguments restate Sierra Club's arguments, Commonwealth's Answer to FISH's Late-Filed Pleading incorporates by reference its arguments opposing Sierra Club's Late-Filed Pleading.<sup>175</sup>

Regarding NRDC's Late-Filed Pleading, Commonwealth also refers to arguments made in its Answer to Sierra Club's Late-Filed Pleading.<sup>176</sup> In addition, Commonwealth asserts that NRDC never attempts to address why it could not or did not seek to intervene in this proceeding on a timely basis in the first place.<sup>177</sup> Commonwealth argues that DOE need not consider any other facts presented by NRDC asserting good cause for late intervention because NRDC has failed to meet this prerequisite.<sup>178</sup> Even so, addressing NRDC's claim that the 2024 LNG Export Study is new information that demonstrates good cause for its late intervention, Commonwealth argues that DOE has regularly published updates to its LNG export studies, and these study updates "have never been recognized as a basis of good cause for late intervention."<sup>179</sup>

Additionally, Commonwealth emphasizes that, in DOE's notice of the 2024 LNG Export Study in the *Federal Register*, "DOE explicitly does not call for interventions in response to the study."<sup>180</sup> Rather, DOE's notice for the 2024 Study stated that "the submission of comments in response to this Notice will not make commenters parties to any of the affected dockets," and that "persons with an interest in the outcome of one or more of the affected dockets have been given an opportunity to intervene in or protest those matters by complying with the procedures established in the notice of application issued in each respective docket and published in the

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<sup>174</sup> *Id.* at 15-16.

<sup>175</sup> *See* Commonwealth Answer to FISH's Late-Filed Pleading at 1.

<sup>176</sup> Commonwealth Answer to NRDC's Late-Filed Pleading at 2 n.5.

<sup>177</sup> *Id.* at 2-3.

<sup>178</sup> *See id.*

<sup>179</sup> *Id.* at 4.

<sup>180</sup> *Id.* (emphasis in original).

*Federal Register.*”<sup>181</sup> Therefore, according to Commonwealth, DOE “clearly contemplated and has rejected the notion that the 2024 LNG Export Study could be the basis for intervening in a proceeding (whether late or otherwise).”<sup>182</sup> For these reasons, Commonwealth contends that DOE should deny NRDC’s Late-Filed Pleading for failure to provide good cause.<sup>183</sup>

## **VI. DISCUSSION AND CONCLUSIONS**

In reviewing the non-FTA portion of Commonwealth’s Application for purposes of this Order, DOE has considered its obligations under NGA section 3(a), as set forth below.

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<sup>181</sup> *Id.* at 4-5 (quoting 2024 LNG Export Study Notice of Availability, 89 Fed. Reg. at 104,136).

<sup>182</sup> Commonwealth Answer to NRDC’s Late-Filed Pleading at 5.

<sup>183</sup> *Id.* at 6.

## **A. Procedural Matters**

### **1. IECA's Motion to Intervene**

Commonwealth opposes the motion to intervene filed by IECA. Commonwealth contends that IECA has articulated only generalized arguments that do not relate specifically to Commonwealth's Application and, thus, are not sufficient to warrant intervention.<sup>184</sup>

On review, we find that the evidence presented in this proceeding could affect the interests of IECA and its members. In addition, IECA raises issues that are relevant to the public interest. Commonwealth was afforded an opportunity to respond to IECA's motion pursuant to 10 C.F.R. § 590.304(f), and it did so. Accordingly, we grant IECA's motion to intervene.<sup>185</sup>

### **2. Late-Filed Form Comments**

The comment period for the non-FTA portion of Commonwealth's Application and the Application Amendment closed on December 26, 2019, and October 19, 2020, respectively.<sup>186</sup> No comments, beyond those associated with IECA's Pleading filed in 2019, were submitted to DOE in connection with either comment period.

Several years later, over a 14-month period between November 2023 and February 2025, DOE received more than 18,000 late-filed electronic comments opposing the Application.<sup>187</sup> These comments, as noted above, appear to be similar form letters from individuals who are explicitly associated with Sierra Club.<sup>188</sup>

Upon review, we find that the individuals who submitted the Late-Filed Form Comments do not assert any basis for DOE to accept the comments as part of the record in this proceeding at this time, nor do they address the harm to Commonwealth and lack of compliance with DOE's

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<sup>184</sup> See Commonwealth Answer at 3.

<sup>185</sup> See *infra* § IX (Ordering Para. N).

<sup>186</sup> See *supra* § I.A.

<sup>187</sup> See Late-Filed Form Comments, *supra* note 20.

<sup>188</sup> *Id.*

regulations that would result from DOE accepting these comments years after the most recent comment period in this proceeding closed.<sup>189</sup> Further, as these individuals are associated with Sierra Club, accepting these untimely comments now, when Sierra Club has not filed a procedurally proper motion to intervene or comments on its own behalf (as discussed below), would allow Sierra Club to circumvent DOE’s regulations and process governing this proceeding. For these reasons, we dismiss the Late-Filed Form Comments.

### **3. Environmental Movants’ Motions for Leave to Intervene and Protest Out of Time**

Under DOE’s regulations, “[m]otions to intervene may be filed at any time following the filing of an application, but no later than the date fixed for filing such motions or notices in the applicable [FECM] notice or order.”<sup>190</sup> The deadline for motions to intervene and protests were set forth in the *Federal Register* notices for Commonwealth’s Application and Application Amendment as December 26, 2019, and October 19, 2020, respectively.<sup>191</sup> As Commonwealth points out, Sierra Club (an experienced participant in LNG export proceedings) admits that it had “interests in this proceeding ... which were evident at the time DOE provided notice [of the Application],” yet neither Sierra Club nor any other Environmental Movant attempts to explain why they did not file a motion to intervene and protest by these established deadlines and instead seek to intervene five years later.<sup>192</sup>

Nonetheless, DOE may allow the filing of a motion to intervene at a “later date ... for good cause shown and after considering the impact of granting the late motion [on]

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<sup>189</sup> See, e.g., 10 C.F.R. § 590.205; *supra* § I.A.; see also *Freeport LNG Expansion, L.P., et al.*, Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations, DOE/FECM Order No. 4961, Docket No. 21-98-LNG, at 33 n.150 (Mar. 3, 2023) (rejecting both supporting and opposing comments submitted to DOE after the close of the comment period).

<sup>190</sup> 10 C.F.R. § 590.303(d) (emphasis added).

<sup>191</sup> See *supra* § I.A.

<sup>192</sup> Sierra Club Late-Filed Pleading at 8.

the proceeding.”<sup>193</sup> Environmental Movants’ argue that DOE should follow the alleged rules, regulations, and/or practice of FERC and federal courts in interpreting the meaning of “good cause” in 10 C.F.R. § 590.303(d). However, as discussed in further detail below, this is neither a FERC proceeding nor a judicial proceeding, and DOE has its own intervention regulation, with its own standard for late intervention. Accordingly, when considering the Motions to Intervene Out of Time filed by Environmental Movants, we evaluate whether they have shown good cause for the late intervention and the impact of granting their late motions on this proceeding.

#### **a. Lack of Good Cause for Late Intervention**

Environmental Movants acknowledge that their motions to intervene are out of time, but they assert that various types of “new information” first available in 2024 provide good cause for them to intervene at this stage, including: (i) “substantial new information from the 2024 LNG Export Study, which must inform DOE’s evaluation of Commonwealth’s application”;<sup>194</sup> (ii) the D.C. Circuit’s remand of FERC’s order authorizing the Commonwealth LNG Project,<sup>195</sup> and related “substantial new information [that] will become available next year with the publication of FERC’s supplemental EIS (or SEIS) for the Commonwealth terminal”;<sup>196</sup> and (iii) alleged statements and conclusions by DOE that pertain to DOE’s “potential treatment” of global energy markets and LNG exports.<sup>197</sup> These arguments are based on an inaccurate characterization of DOE’s precedent concerning late intervention, among other flaws set forth below.

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<sup>193</sup> 10 C.F.R. § 590.303(d).

<sup>194</sup> NRDC Late-Filed Pleading at 3.

<sup>195</sup> *See, e.g.*, Sierra Club Late-Filed Pleading at 1.

<sup>196</sup> *Id.*; NRDC Late-Filed Pleading at 4. *See also supra* note 7 (referencing FERC’s ongoing supplemental EIS for the Commonwealth LNG Project). We note Commonwealth’s statement that the D.C. Circuit “remanded without vacatur the FERC Authorization on two narrow, discrete issues” that led to FERC preparing a supplemental EIS: “(1) FERC’s explanation of its finding that it was unable to determine the significance of the facility’s greenhouse gas emissions, and (2) FERC’s explanation of its finding that the facility would not have significant impacts on cumulative 1-hour nitrogen dioxide (NO<sub>2</sub>) emissions.” Commonwealth Answer to Sierra Club’s Late-Filed Pleading at 3.

<sup>197</sup> *See, e.g.*, Sierra Club Late-Filed Pleading at 8.

First, we begin by noting that the Notice of Availability for the 2024 LNG Export Study explicitly stated that “persons with an interest in the outcome of one or more of the affected dockets have been given an opportunity to intervene in or protest those matters by complying with the procedures established in the notice of application in each respective docket.”<sup>198</sup> We also emphasize that—as explained in the Notice of Availability (and reiterated in this Order)—any comments that Environmental Movants choose to submit to DOE on the 2024 LNG Export Study will be used to inform DOE’s final decision on Commonwealth’s Application. In fact, several of the Environmental Movants—Sierra Club, NRDC, and FISH (in its individual capacity)—have already submitted lengthy comments to DOE on the 2024 LNG Export Study,<sup>199</sup> even though the comment period remains open through March 20, 2025.<sup>200</sup> For these reasons, we agree with FISH that the 2024 LNG Export Study proceeding, once completed, “must inform DOE’s evaluation of Commonwealth’s application”<sup>201</sup>—but that does *not* mean that the existence of the 2024 Study “supports permitting intervention out of time” in this particular proceeding simply because DOE issued a new study.<sup>202</sup>

Moreover, contrary to Environmental Movants’ arguments, DOE’s actions in the Alaska LNG proceeding—specifically, in DOE/FECM Order No. 3643-C<sup>203</sup>—do not support their position because that proceeding involved very different factual circumstances. DOE allowed

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<sup>198</sup> 2024 LNG Export Study Notice of Availability, 89 Fed. Reg. at 104,136 (emphasis added).

<sup>199</sup> See Comments of Natural Resources Defense Council, Sierra Club, *et al.* on the Department of Energy’s December 2024 Assessment of LNG Exports (Jan. 17, 2025), <https://fossil.energy.gov/app/DocketIndex/docket/DownloadFile/740>; “Reject dangerous liquefied natural gas,” Comments submitted by Natural Resources Defense Council (with 30,111 signatures from NRDC members) (Jan. 17, 2025), <https://fossil.energy.gov/app/DocketIndex/docket/DownloadFile/731>; “Quotes from Cameron Fishermen on Venture Global’s LNG Export Facilities and pending CP2 FERC approval decision,” Fishermen Involved in Sustaining our Heritage (FISH) (Jan. 31, 2025), <https://fossil.energy.gov/app/DocketIndex/docket/DownloadFile/765>.

<sup>200</sup> See *supra* § I.B.

<sup>201</sup> FISH Late-Filed Pleading at 6.

<sup>202</sup> *Id.* at 4.

<sup>203</sup> *Alaska LNG Project LLC*, DOE/FECM Order No. 3643-C, Docket No. 14-96-LNG, Order Affirming and Amending DOE/FE Order No. 3643-A Following Partial Grant of Rehearing (Apr. 13, 2023).

two environmental organizations (collectively, Alaska LNG movants) to intervene out of time during the rehearing stage of that proceeding involving a new supplemental EIS—but *DOE* prepared that supplemental EIS in its own proceeding, not FERC.<sup>204</sup>

Further, the late intervention permitted by DOE in Alaska LNG was not simply due to the availability of “new information” such as the 2024 LNG Export Study (which will be used to inform DOE’s decision-making on all long-term non-FTA applications to export LNG from the lower-48 states),<sup>205</sup> but rather due to unique developments that involved DOE granting rehearing to conduct the supplemental EIS involving Alaska LNG’s authorized exports.<sup>206</sup> Indeed, in Order No. 3643-C, DOE stated that the late-filed motion to intervene presented “a question of first impression” where “Movants filed this motion during an ongoing rehearing proceeding granted to conduct additional environmental analysis, where Movants seek to address this new environmental analysis prepared in a Draft SEIS issued under NEPA, and where Movants filed the motion on the last day of the public comment period established by DOE for the Draft SEIS.”<sup>207</sup> None of those narrow circumstances are present in this proceeding, and Environmental Movants cannot gloss over these distinctions to assert good cause.

Likewise, the Alaska LNG movants had argued that, when motions to intervene were due in response to Alaska LNG’s application in 2014, DOE ““had not prepared or foreshadowed a life cycle [greenhouse gas] analysis for the Alaska LNG Project [which became part of the supplemental EIS].””<sup>208</sup> Here, by contrast, DOE’s *Federal Register* notices for both the Application and Application Amendment in 2019 and 2020, respectively, explicitly stated that

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<sup>204</sup> See, e.g., NRDC Late-Filed Pleading at 5; see also Commonwealth Answer to Sierra Club’s Late Filed Pleading at 11.

<sup>205</sup> See 2024 LNG Export Study Notice of Availability, 89 Fed. Reg. at 104,132.

<sup>206</sup> See *Alaska LNG Project LLC*, DOE/FECM Order No. 3643-C, at 4-5 (describing the two studies comprising the Alaska LNG supplemental EIS).

<sup>207</sup> *Id.* at 16.

<sup>208</sup> *Id.* at 8-9 (citation omitted).

DOE’s review of each Application would include consideration of DOE’s economic and environmental studies involving exports from the lower-48 states and identified each study.<sup>209</sup>

Moreover, when motions to intervene and protests were due in this proceeding in 2019 and 2020, DOE already had updated its LNG studies several times between 2014 and 2019—in study proceedings in which Sierra Club had actively participated. The current 2024 LNG Export Study is only the most recent update. Therefore, Environmental Movants were on notice in 2019 and 2020 that DOE not only would rely on these economic and environmental studies in considering Commonwealth’s Application, but that DOE could update those studies for LNG exports in the future,<sup>210</sup> yet they chose not to file a motion to intervene during either comment period. Notably, two of the Environmental Movants also intervened in FERC’s Commonwealth proceeding in 2021, years before filing their Motion to Intervene Out of Time here, citing similar interests.<sup>211</sup>

For these reasons, we are not persuaded by their argument that, years after the intervention deadline, the 2024 LNG Export Study should give rise to a basis for their late intervention.<sup>212</sup> If DOE were to adopt this position, any interested person or organization could assert good cause for late intervention in any pending export proceeding whenever DOE issued a

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<sup>209</sup> See Notice of App., 84 Fed. Reg. at 65,144-45 (listing the economic and environmental studies to be considered “[a]s part of this analysis” for the Commonwealth Application); Notice of App. Amendment, 85 Fed. Reg. at 62,293 (same).

<sup>210</sup> As one example, DOE provided notice of a new LNG study (the Life Cycle Greenhouse Gas Update) on September 19, 2019, less than one month before Commonwealth filed its Application—yet Environmental Movants still did not file a motion to intervene in this proceeding.

<sup>211</sup> Sierra Club and Healthy Gulf were among a group of movants that filed a motion to intervene in FERC’s Commonwealth proceeding on August 3, 2021 (among other later pleadings), as invited by FERC’s notice of application published on July 13, 2021. They asserted as their interest in the FERC proceeding that, “[c]onstruction and operation of the [Commonwealth] LNG project will harm the local environment ... [and] will fail to provide pertinent public benefits countervailing these harms”—yet these Environmental Movants did not seek to intervene in this ongoing DOE proceeding until three years later. See Commonwealth LNG, LLC, Motion to Intervene of National Audubon Society, *et al.*, Docket No. CP19-502-001, at 1-2 (Aug. 3, 2021).

<sup>212</sup> See NRDC Late-Filed Pleading at 3.

new LNG study, in contravention of DOE’s regulations and process. We agree with Commonwealth that there is no precedent to support this argument.

Next, we reject Environmental Movants’ arguments that DOE should follow the alleged rules, regulations, and/or practice of FERC and federal courts in interpreting the meaning of “good cause” in 10 C.F.R. § 590.303(d). Environmental Movants assert, in particular, that DOE should “focus” its good cause analysis for late intervention “on the amount of prejudice arising from the delay,” citing “courts and FERC.”<sup>213</sup> Along this argument, they contend that DOE should accept their late intervention here because DOE had not yet issued its order on the merits, citing FERC practice.<sup>214</sup> This is neither a FERC proceeding nor a judicial proceeding, however, and DOE has its own intervention regulation, with its own standard for late intervention. Environmental Movants do not cite any DOE precedent to support their arguments—most notably that intervention prior to a DOE order on the merits is not prejudicial and thus should be allowed.

It is surprising that Sierra Club states that DOE “has not been especially strict” in this regard, when DOE has denied various late intervention efforts by Sierra Club over the years prior to a decision on the merits.<sup>215</sup> For example, in 2022, DOE denied Sierra Club’s motion to intervene out of time “in two different LNG export proceedings—nearly two years after the deadline established in the *Federal Register* for such filings and before DOE had issued a final order on each pending export application.”<sup>216</sup> Sierra Club does not acknowledge this adverse DOE precedent, and Environmental Movants do not provide a basis for a different result here.

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<sup>213</sup> Sierra Club Late-Filed Pleading at 5.

<sup>214</sup> *Id.* at 6.

<sup>215</sup> As explained above, the late intervention allowed by DOE in the Alaska LNG rehearing proceeding, relied upon by Environmental Movants, is in a unique category by itself.

<sup>216</sup> See *Alaska LNG Project LLC*, DOE/FECM Order No. 3643-C, at 17 & n.90 (citing the *Energía Costa Azul*, *S. de R.L. de C.V.* and *Vista Pacifico LNG, S.A.P.I. de C.V.* proceedings, in which DOE concluded that Sierra Club “provided no grounds for DOE to consider the late filing,” including any demonstration of good cause).

Additionally, we disagree with the notion that the prospect of new information in an ongoing FERC proceeding should allow movants to bypass DOE’s designated period for intervention.<sup>217</sup> A remand in a FERC proceeding—including new information forthcoming in a NEPA process (as with Commonwealth)—has no bearing on DOE’s standard for intervention in this proceeding. If a FERC remand or the availability of “substantial new information” in an ongoing FERC proceeding constituted good cause for late intervention in a DOE export proceeding involving the same applicant, DOE’s regulation regarding the time to file a motion to intervene (quoted above) would be effectively meaningless, as LNG proceedings at FERC and DOE commonly proceed on dual tracks for a particular project.

Finally, Environmental Movants point to various statements and alleged conclusions by DOE in 2024 (which they characterize as “facts”) to support their intervention arguments and protests.<sup>218</sup> Pointing to these statements, Sierra Club argues that it did not seek to intervene until now because it “did not foresee these changes in global energy markets and DOE’s potential treatment thereof.”<sup>219</sup> We do not find this argument to be credible. Environmental Movants had two opportunities to move to intervene in 2019 and 2020 to protect their interests as a party to this proceeding (as IECA did), during a time when global energy markets and DOE’s LNG export program had undergone significant shifts and were continuing to do so—as shown, for example, by DOE’s release of its Life Cycle Greenhouse Gas Update in September 2019 (*supra* note 210) and DOE’s policy for extending LNG export terms through the year 2050, proposed in July 2020. In sum, we agree with Commonwealth that Environmental Movants bear the responsibility of not taking those established opportunities and instead attempting to become a

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<sup>217</sup> See 10 C.F.R. § 590.303(d).

<sup>218</sup> See, e.g., Sierra Club Late-Filed Pleading at 8.

<sup>219</sup> *Id.*

party to this proceeding after Commonwealth’s Application had already been pending for five years. For all of these reasons, we find that Environmental Movants have not satisfied the good cause requirement of 10 C.F.R. § 590.303(d).

**b. Impact of Late Intervention on This Proceeding**

Because we conclude that Environmental Movants have not demonstrated good cause, we do not need to address the second consideration—“the impact of granting the late motion [on] the proceeding.”<sup>220</sup> Nonetheless, we agree with Commonwealth that allowing numerous Environmental Movants to intervene in and protest the Application five years after it was filed—opening the door to additional rehearing requests and possible court challenges beyond IECA’s rights as an intervenor—would be harmful to Commonwealth and its business interests.<sup>221</sup> We note, for example, that Commonwealth has stated that the “receipt of its authorization to export LNG to non-FTA nations” is “[c]entral to the ability of Commonwealth to reach FID for its project and commence construction and commercial operations.”<sup>222</sup> On this basis, we agree that allowing these late interventions would “unnecessarily burden the proceeding and severely prejudice Commonwealth.”<sup>223</sup> We also find that such intervention would be contrary to DOE precedent and disruptive to this proceeding and DOE’s administrative process, as discussed above.

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

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<sup>220</sup> 10 C.F.R. § 590.303(d).

<sup>221</sup> See Commonwealth Answer to Sierra Club’s Late-Filed Pleading at 13-14.

<sup>222</sup> Commonwealth LNG, LLC, Project Update, Docket No. 19-134-LNG, at 3 (Aug. 31, 2023).

<sup>223</sup> Commonwealth Answer to Sierra Club’s Late-Filed Pleading at 1; see also *id.* at 12-16.

delay.”<sup>224</sup> For the reasons set forth above, we dismiss each of Environmental Motions’ Late-Filed Pleadings in their entirety.<sup>225</sup> Because this dismissal is on procedural grounds, we do not address the merits of their arguments.

## **B. Evaluation of Public Interest Factors for Conditional Authorization**

### **1. Public Interest Standard**

NGA section 3(a) requires DOE to consider whether a proposed export of natural gas “will not be consistent with the public interest.”<sup>226</sup> IECA asserts, among other arguments, that DOE may not rely on the 1984 Policy Guidelines in evaluating the public interest in this proceeding, as those Guidelines were promulgated for natural gas imports rather than exports.<sup>227</sup> IECA also argues that DOE misunderstands the meaning of “public interest” in NGA section 3(a), as that statutory term (according to IECA) refers to people, not to net economic benefits or markets.<sup>228</sup>

DOE previously reviewed and rejected these arguments made by IECA, including in two non-FTA orders issued several months before IECA filed its protest in this proceeding.<sup>229</sup> Additionally, in 2023, DOE issued an “Order Denying Petition for Rulemaking on Exports of Liquefied Natural Gas” (Order Denying Petition) to Sierra Club and other environmental

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<sup>224</sup> *Golden Pass LNG Terminal LLC*, DOE/FECM Order No. 3978-F, 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 (June 24, 2022) (internal quotation and citation omitted).

<sup>225</sup> See *infra* § IX (Ordering Para. O). For the same reasons that Environmental Movants fail to establish good cause for late intervention, we conclude that they have failed to establish good cause for their late-filed protests. See 10 C.F.R. § 590.304(e).

<sup>226</sup> 15 U.S.C. § 717b(a); *supra* § II.

<sup>227</sup> See IECA Pleading at 8-9.

<sup>228</sup> *Id.* at 9 (citing report by then-U.S. Attorney General William Barr).

<sup>229</sup> See *Port Arthur LNG, LLC*, DOE/FE Order No. 4372, Docket No. 15-96-LNG, Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations, at 43-47 (May 2, 2019); *Driftwood LNG LLC*, DOE/FE Order No. 4373, Docket No. 16-144-LNG, Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations, at 39-42 (May 2, 2019).

petitioners (collectively, Sierra Club), in which DOE denied Sierra Club’s rulemaking petition based on these and similar arguments.<sup>230</sup>

In the Order Denying Petition, DOE reiterated its longstanding position that the goals of the 1984 Policy Guidelines—to minimize federal control and involvement in energy markets and to promote a balanced and mixed energy resource system—“are applicable to exports as well [as to imports].”<sup>231</sup> DOE pointed out that the D.C. Circuit has recognized DOE’s approach to evaluating the public interest,<sup>232</sup> including its consideration of numerous factors, and upheld DOE’s decision-making under this statutory and regulatory framework.<sup>233</sup> Finally, DOE stated that its evaluation of whether a proposed export is in the public interest “is not governed solely or even predominantly by the 1984 Policy Guidelines,”<sup>234</sup> as DOE “has taken many significant actions since 2013 to develop and refine its decision-making framework under NGA section 3(a).”<sup>235</sup>

For these reasons and those stated in DOE’s Order Denying Petition, DOE rejects IECA’s arguments and will apply its “multi-factor public interest analysis” in reviewing Commonwealth’s Application.<sup>236</sup>

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<sup>230</sup> See Order Denying Petition, *supra* note 27, <https://www.energy.gov/sites/default/files/2023-07/DOE%20Response%20to%20Sierra%20Club%27s%20Petition%20for%20Rulemaking%207.18.2023%20%28002%29.pdf>.

<sup>231</sup> *Id.* at 11 (quoting *Phillips Alaska Natural Gas Corp., et al.*, DOE/FE Order No. 1473, Docket No. 96-99-LNG, Order Extending Authorization to Export Liquefied Natural Gas from Alaska, at 14 (Apr. 2, 1999)).

<sup>232</sup> *Sierra Club I*, 867 F.3d at 203 (“For its ‘public interest’ review, the Department considered various factors such as domestic economic effects (*e.g.*, job creation and tax revenue ...) and foreign policy goals (*e.g.*, global fuel diversification and energy security for our foreign trading partners ...), in addition to the environmental impacts it examined through the NEPA process.”).

<sup>233</sup> See, *e.g.*, *id.* at 193-94, 202-03.

<sup>234</sup> Order Denying Petition at 12.

<sup>235</sup> *Id.* at 25; see also generally *id.* at 16-28.

<sup>236</sup> *Id.* at 24.

## 2. Commonwealth's Application

Upon review of the Application and IECA's arguments in opposition, DOE finds that several factors identified in the Application, as amended, support a conditional grant of Commonwealth's authorization on the record presently before us.

First, IECA has not explained how its broader concerns about LNG exports pertain to Commonwealth's requested exports and will detract from available pipeline capacity. Specifically, IECA asserts that increased exports of U.S. LNG will take pipeline capacity away from U.S. manufacturers and consumers.<sup>237</sup> The Project, however, would connect—via its own proposed pipeline—to the existing interstate and intrastate pipeline systems of Kinetica Partners, LLC and EnLink Bridgeline Holdings LP.<sup>238</sup> The Project thus will have access to multiple interstate and intrastate pipelines with multiple interconnection points.

Likewise, IECA has not demonstrated that there are regular or longstanding pipeline constraints within the Gulf Coast, or "South Central," region that could be impacted by the requested authorization. DOE takes administrative notice that, of the new interstate natural gas pipeline capacity added in 2024 totaling 11.22 Bcf/d across all U.S. regions, approximately half (5.57 Bcf/d in pipeline capacity) was added to transport natural gas into and within the South Central region.<sup>239</sup> Most of this additional capacity is expected to serve growing LNG export demand, primarily by better connecting other interstate pipelines with LNG export terminals.<sup>240</sup> Further, seven interstate pipeline projects are on track to add almost 8.5 Bcf/d of additional

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<sup>237</sup> See IECA Pleading at 2-7.

<sup>238</sup> See *supra* § III.C.

<sup>239</sup> See U.S. Energy Info. Admin., Natural Gas Pipelines Tracker (last visited Feb. 2, 2025), <https://www.eia.gov/naturalgas/pipelines/EIA-NaturalGasPipelineProjects.xlsx>.

<sup>240</sup> See U.S. Energy Info. Admin., *Today in Energy* (Dec. 12, 2023), <https://www.eia.gov/todayinenergy/detail.php?id=61062>; see also U.S. Energy Info. Admin., *Today in Energy* (Dec. 30, 2024), <https://www.eia.gov/todayinenergy/detail.php?id=64128>.

takeaway capacity to the South Central Region by the end of 2025.<sup>241</sup> Accordingly, we find that the existing and projected natural gas pipeline systems have more than enough capacity to support Commonwealth's requested export volume of 441.4 Bcf/yr, or 1.21 Bcf/d, of natural gas.

Additionally, under NGA section 7, FERC has exclusive authority over the construction and operation of interstate natural gas pipelines and related facilities.<sup>242</sup> We agree with Commonwealth that IECA's generalized arguments concerning the permitting and regulation of interstate pipelines are beyond the scope of this proceeding and are properly raised with FERC, not DOE.<sup>243</sup> To the extent these arguments are relevant to this proceeding, they do not overcome the statutory presumption favoring export authorization.<sup>244</sup>

Second, Commonwealth points to EIA data and projections in asserting that the United States has significant natural gas resources available to meet both projected future domestic needs and demand for the proposed exports.<sup>245</sup> We agree. To evaluate current and future natural gas supply, demand, and prices, we take administrative notice of EIA's most recent authoritative projections, set forth in the *Annual Energy Outlook 2023* (AEO 2023), issued on March 16, 2023.<sup>246</sup> We find that AEO 2023 projects robust domestic supply conditions that are more than adequate to satisfy both domestic needs and exports of LNG, including those proposed in the

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<sup>241</sup> See U.S. Energy Info. Admin., Natural Gas Pipelines Tracker (last visited Feb. 2, 2025), <https://www.eia.gov/naturalgas/pipelines/EIA-NaturalGasPipelineProjects.xlsx>.

<sup>242</sup> 15 U.S.C. § 717f.

<sup>243</sup> See Commonwealth Answer at 4; see also IECA Pleading at 3 & n.3 (acknowledging FERC's role in approving and regulating interstate natural gas pipelines).

<sup>244</sup> See *supra* § II.

<sup>245</sup> See Commonwealth App. at 6-7; see also Commonwealth Answer at 4-5.

<sup>246</sup> U.S. Energy Info. Admin., *Annual Energy Outlook 2023* (with projections to 2050) (Mar. 16, 2023), [https://www.eia.gov/outlooks/aeo/pdf/AEO2023\\_Narrative.pdf](https://www.eia.gov/outlooks/aeo/pdf/AEO2023_Narrative.pdf) [hereinafter AEO 2023]. DOE is continuing to rely on AEO 2023 following EIA's announcement that it is not publishing an AEO in 2024 to focus on improvements to its National Energy Modeling System. See U.S. Energy Info. Admin., "Statement on the *Annual Energy Outlook* and EIA's plan to enhance long-term modeling capabilities," <https://www.eia.gov/pressroom/releases/press537.php> (July 26, 2023).

Application.<sup>247</sup> DOE therefore rejects IECA’s claim that forecasted demand for natural gas, including the demand related to the proposed export of LNG, will outstrip new resources. As discussed herein, however, DOE will reexamine these long-term supply and demand issues in connection with the 2024 LNG Export Study proceeding in a final order.<sup>248</sup>

Third, in response to IECA’s concerns about the costs of LNG exports falling on American citizens and manufacturers such that U.S. consumers will be “damage[d]” by such exports,<sup>249</sup> we note that the D.C. Circuit previously rejected an argument by Sierra Club that DOE “erred by failing to consider distributional impacts” when evaluating the public interest under NGA section 3(a).<sup>250</sup> Moreover, IECA has not provided an analysis of the distributional consequences of authorizing LNG exports at the household level to support its concerns. Additionally, Commonwealth described in its Application the various public benefits that will be produced by the construction and operation of the proposed Project to Louisiana and the United States more broadly, including increased employment to support the Project,<sup>251</sup> and IECA did not contest those benefits. Accordingly, we find that the record before us does not support IECA’s arguments, but DOE will make a final determination on these and other issues raised by IECA—including its concerns involving U.S. manufacturing interests—in connection with the 2024 LNG Export Study proceeding in a final order.<sup>252</sup>

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<sup>247</sup> U.S. Energy Info. Admin., *Today in Energy* (Apr. 27, 2023), <https://www.eia.gov/todayinenergy/detail.php?id=56320>; see also U.S. Energy Info. Admin., AEO 2023 data, Table 13 (last visited Feb. 5, 2025), <https://www.eia.gov/outlooks/aeo/data/browser/#/?id=13-AEO2023&cases=ref2023&sourcekey=0>.

<sup>248</sup> See *supra* § I.D.

<sup>249</sup> IECA Pleading at 7.

<sup>250</sup> See *Sierra Club v. U.S. Dep’t of Energy*, 703 F. App’x 1, \*3 (D.C. Cir. 2017) (consolidated case denying three petitions for review of LNG export authorizations).

<sup>251</sup> Commonwealth App. at 8.

<sup>252</sup> See, e.g., § V.A; IECA Pleading at 2, 5.

Fourth, over the term of the authorization, the proposed exports will improve the United States' ties with its allies and trade partners and make a positive contribution to the United States' economy, including the trade balance. For instance, even beyond the multi-billion dollar economic investment and jobs created from constructing the proposed Commonwealth LNG Project, a similar size project exporting at its peak capacity for one year (1.21 Bcf/d or 441.4 Bcf/yr) could reduce the trade deficit by up to approximately \$2.8 billion annually based on observed average U.S. LNG export prices for January through November 2024.<sup>253</sup> This annual amount would spur other domestic economic activity and benefits as well, including the potential for supporting upstream production and related employment. Other benefits of this international trade are discussed below. For these reasons, we find that Commonwealth's requested non-FTA authorization is consistent with U.S. policy.

In sum, based on the most recent data in AEO 2023 and other evidence discussed above, DOE conditionally finds that the market will be capable of sustaining the level of non-FTA exports requested in Commonwealth's Application over the authorization term without negative economic impacts, including domestic price impacts (discussed below).

### **3. Price Impacts**

IECA alleges that higher volumes of LNG exports, including Commonwealth's proposed exports, will lead to large increases in domestic prices of natural gas.<sup>254</sup> DOE, however, has analyzed price projections in the AEO 2023 Reference case, which project market conditions in the lower-48 states that include higher natural gas production and increased LNG exports

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<sup>253</sup> Specifically, \$6.28/Mcf \* 441.4 Bcf. See Natural Gas Monthly, Table 5, LNG Export Prices (p. 19) at [https://www.eia.gov/naturalgas/monthly/pdf/table\\_05.pdf](https://www.eia.gov/naturalgas/monthly/pdf/table_05.pdf) (Jan. 31, 2025). We note that this value could fluctuate based on U.S. LNG export prices, but the values would have been higher based on export prices in 2023 and 2022 (\$7.57/Mcf) and (\$12.24/Mcf), respectively.

<sup>254</sup> See IECA Pleading at 2, 4, 6, 11.

coupled with lower prices.<sup>255</sup> Additionally, in its May 2023 report, *Issues in Focus: Effects of Liquefied Natural Gas Exports on the U.S. Natural Gas Market*, EIA found that “[t]he resulting variation in natural gas prices in [its analysis] ... was narrower than recent in history and [in the] AEO 2023, despite a wide variety of U.S. LNG export volumes.”<sup>256</sup> Thus, based on the evidence available at this time, we find that IECA’s arguments concerning domestic price increases are not supported.

#### 4. Energy Security and Benefits of International Trade

We have also considered the international consequences of our decision. As discussed above, we review applications to export LNG to non-FTA countries under section 3(a) of the NGA. The foreign policy and trade impacts to the United States of such exports are factors bearing on that review.

Additionally, an efficient, transparent international market for natural gas with diverse sources of supply provides both economic and strategic benefits to the United States and our allies. For example, in light of the 2022 Russian invasion of Ukraine, there continue to be concerns about energy security for Europe and Central Asia, particularly given the relative share of Russian natural gas supplies into those regions until recently,<sup>257</sup> with continued risk due to the now expired volumes of Russian natural gas that supply Europe.<sup>258</sup> By authorizing exports of

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<sup>255</sup> See AEO 2023 Reference Case, Table 13: Natural Gas Supply, Disposition, and Prices (last visited Feb. 5, 2025), <https://www.eia.gov/outlooks/aeo/data/browser/#/?id=13-AEO2023&cases=ref2023&sourcekey=0>.

<sup>256</sup> Energy Info. Admin., AEO 2023 *Issues in Focus: Effects of Liquefied Natural Gas Exports on the U.S. Natural Gas Market* (May 23, 2023), [https://www.eia.gov/outlooks/aeo/IIF\\_LNG/](https://www.eia.gov/outlooks/aeo/IIF_LNG/) (Exec. Summary).

<sup>257</sup> According to EIA data, until immediately before Russia attacked Ukraine, natural gas imports delivered by pipeline into Europe provided most imported volumes into Europe, with imports sourced from Russia pre-2022 comprising the largest share. See U.S. Energy Info. Admin., *Today in Energy* (Feb. 11, 2022), <https://www.eia.gov/todayinenergy/detail.php?id=51258>.

<sup>258</sup> Reuters reports that the five-year agreement between Moscow and Kyiv for the transit of Russian natural gas to Europe via Ukraine expired on January 1, 2025, as Kyiv refused to renew a transit agreement extending or developing a new deal. See Reuters, *Russian gas era in Europe ends as Ukraine stops transit* (Jan. 1, 2025), <https://www.reuters.com/business/energy/russia-halts-gas-exports-europe-via-ukraine-2025-01-01/>.

U.S.-sourced LNG to non-FTA countries, including to U.S. allies in Europe and elsewhere, this Order will enable Commonwealth—once the Project is constructed and operating<sup>259</sup>—to help mitigate any acute and immediate energy security concerns with its re-exports.<sup>260</sup> More generally, to the extent U.S. exports diversify global LNG supplies and increase the volumes of destination-flexible LNG available globally, these exports will improve energy security for many U.S. allies and trading partners.<sup>261</sup> We further note that, like all authorizations for the export of natural gas, no export will be permitted to a country for which exports are otherwise restricted by U.S. law or policy. For these reasons, we reiterate our finding that authorizing Commonwealth’s exports of U.S.-sourced LNG to non-FTA countries will advance the public interest.

DOE also notes that, in the AEO 2023, EIA projected continued high global demand for natural gas through 2050 making it economical to build additional LNG export facilities in the United States, such as the Commonwealth LNG Project.<sup>262</sup> For example, EIA projected, in its Reference case, that U.S. natural gas production will increase 15%, up to 42.1 trillion cubic feet (Tcf) of natural gas, and LNG exports will increase 152%, to almost 10 Tcf, between 2022 and

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<sup>259</sup> As noted *supra* Section III.E, Commonwealth currently has two executed contracts for the long-term export of LNG from the Project, and is working to secure additional contracts.

<sup>260</sup> We note that Europe has been the primary destination of U.S. LNG throughout 2023 and 2024. In November 2024, for example, more than 60% of all U.S. LNG exports went to Europe. See U.S. Dep’t of Energy, *Natural Gas Imports and Exports Monthly*, at 1 (Nov. 2024), <https://www.energy.gov/sites/default/files/2025-01/Natural%20Gas%20Imports%20and%20Exports%20Monthly%20November%202024.pdf>; see also U.S. Energy Info. Admin., *Today in Energy* (Apr. 15, 2024) (noting that the United States supplied nearly half of Europe’s LNG imports in 2023), <https://www.eia.gov/todayinenergy/detail.php?id=55920>.

<sup>261</sup> As of November 2024, 19% of U.S. LNG exports have gone to FTA countries, and 81% have gone to non-FTA countries. See U.S. Dep’t of Energy, *Natural Gas Imports and Exports Monthly*, at 45 (Nov. 2024), <https://www.energy.gov/sites/default/files/2025-01/Natural%20Gas%20Imports%20and%20Exports%20Monthly%20November%202024.pdf>.

<sup>262</sup> See U.S. Energy Info. Admin., *Today in Energy* (Apr. 27, 2023) <https://www.eia.gov/todayinenergy/detail.php?id=56320>; See also U.S. Energy Info. Admin., *Annual Energy Outlook 2023* (with projections to 2050) (Mar. 16, 2023), [https://www.eia.gov/outlooks/aeo/pdf/AEO2023\\_Narrative.pdf](https://www.eia.gov/outlooks/aeo/pdf/AEO2023_Narrative.pdf).

2050.<sup>263</sup> This level of LNG demand growth through to 2050 will require substantial investments in new natural gas and LNG projects.

Further, the United States has an increasingly important role in the European Union’s (EU) gas supply. With the end of the Russian natural gas transit agreement via Ukraine at the end of 2024, “[i]ncreasing LNG imports from trustworthy global partners is key to fully eliminating the EU’s reliance on Russian fossil fuels.”<sup>264</sup> According to the EU, “[e]ach step to phase out Russian fossil fuels brings the EU closer to a more secure and sustainable energy supply.”<sup>265</sup> In EIA’s *International Energy Outlook 2023* (IEO 2023), EIA projected that “slow but increasing natural gas demand growth, coupled with the region’s decreasing natural gas production, increases Western Europe’s net natural gas imports by between 2.3 Tcf and 6.2 Tcf by 2050 across all cases.”<sup>266</sup> This analysis further supports a key objective of the “EU’s energy union strategy,” as “[LNG] can contribute to diversifying gas supplies ... while more sustainable solutions towards full decarbonization by 2050 are established.”<sup>267</sup>

Additionally, we take administrative notice of a report published in October 2024 by the Institute of Energy Economics, Japan (IEEJ) which found that “[g]lobal LNG demand in 2050 is projected to increase by 74% from the present level.”<sup>268</sup> According to the IEEJ, “[o]ne of the focal points of increasing demand is Southeast Asia’s emerging markets, notably the power

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<sup>263</sup> U.S. Energy Info. Admin., *Today in Energy* (Apr. 27, 2023), <https://www.eia.gov/todayinenergy/detail.php?id=56320>; see also U.S. Energy Info. Admin., AEO 2023 data, Table 13 (last visited Feb. 3, 2025), <https://www.eia.gov/outlooks/aeo/data/browser/#/?id=13-AEO2023&cases=ref2023&sourcekey=0>.

<sup>264</sup> Official website of the European Union (Energy, LNG) (last visited Feb. 4, 2025), [https://energy.ec.europa.eu/topics/carbon-management-and-fossil-fuels/liquefied-natural-gas\\_en](https://energy.ec.europa.eu/topics/carbon-management-and-fossil-fuels/liquefied-natural-gas_en).

<sup>265</sup> *Id.*

<sup>266</sup> U.S. Energy Info. Admin., *International Energy Outlook 2023* (with projections to 2050), at 45 (Oct. 11, 2023), [https://www.eia.gov/outlooks/ieo/pdf/IEO2023\\_Narrative.pdf](https://www.eia.gov/outlooks/ieo/pdf/IEO2023_Narrative.pdf).

<sup>267</sup> Official website of the European Union (Energy, LNG) (last visited Feb. 4, 2025), [https://energy.ec.europa.eu/topics/carbon-management-and-fossil-fuels/liquefied-natural-gas\\_en](https://energy.ec.europa.eu/topics/carbon-management-and-fossil-fuels/liquefied-natural-gas_en).

<sup>268</sup> The Institute of Energy Economics, Japan, IEEJ 2025 Outlook (Oct. 18, 2024), <https://eneken.ieej.or.jp/data/12114.pdf>.

generation sector,” and “[i]f the energy efficiency improvements assumed in these scenarios are not realised, LNG demand would increase further.”<sup>269</sup> Similarly, other forecasts project varying levels of global demand for LNG, with many analysts predicting moderate to significant growth in LNG demand globally, particularly driven by Asia.

For these reasons and those set forth above, we conditionally find that Commonwealth’s requested exports may advance the public interest for reasons that are distinct from and additional to the benefits discussed above.

### **C. Other Considerations**

DOE notes the continuing uncertainty that all or even most of the proposed LNG export projects will ever be realized because of the time, difficulty, and expense of commercializing, financing, and constructing LNG export terminals, as well as the uncertainties and competition inherent in the global market for LNG.<sup>270</sup>

More generally, DOE continues to subscribe to the principle set forth in our 1984 Policy Guidelines<sup>271</sup> that, under most circumstances, the market is the most efficient means of allocating natural gas supplies. However, agency intervention may be necessary to protect the public in the event there is insufficient domestic natural gas for domestic use, or as a result of other facts or circumstances beyond those presented here.<sup>272</sup>

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<sup>269</sup> *Id.*

<sup>270</sup> *See infra* § VI.D (identifying long-term orders vacated to date).

<sup>271</sup> 1984 Policy Guidelines, 49 Fed. Reg. 6684.

<sup>272</sup> In previous orders, some commenters asked DOE to clarify the circumstances under which the agency would exercise its authority to revoke (in whole or in part) final LNG export authorizations. DOE stated that it could not precisely identify all the circumstances under which such action might be considered. Subsequently, in 2018, DOE issued a policy statement addressing this issue. *See* U.S. Dep’t of Energy, Policy Statement Regarding Long-Term Authorizations to Export Natural Gas to Non-Free Trade Agreement Countries, 83 Fed. Reg. 28,841 (June 21, 2018).

## D. Conclusion

DOE has reviewed the evidence in the record and relevant precedent in earlier non-FTA export decisions and has not found an adequate basis to conclude that Commonwealth's proposed exports of U.S. LNG to non-FTA countries will be inconsistent with the public interest.

With today's issuance of this conditional Order and the vacatur or expiration of previous long-term non-FTA export authorizations,<sup>273</sup> there are currently 40 non-FTA authorizations from the lower-48 states (39 final orders and this conditional Order) in a cumulative volume of exports totaling 46.88 Bcf/d of natural gas, or approximately 17.1 Tcf per year, as follows:<sup>274</sup> Sabine Pass Liquefaction, LLC (2.2 Bcf/d),<sup>275</sup> Cameron LNG, LLC (1.7 Bcf/d),<sup>276</sup> FLEX I (1.4

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<sup>273</sup> To date, DOE has vacated nine long-term non-FTA authorizations (none over the objection of the authorization holder) in the following proceedings: *Eagle LNG Partners Jacksonville II LLC*, Docket No. 17-79-LNG (Mar. 12, 2023), *Bear Head Energy Inc. (formerly Bear Head LNG Corp.) and Bear Head LNG (USA), LLC*, Docket No. 15-33-LNG (Jan. 20, 2023); *Jordan Cove Energy Project L.P.*, Docket No. 12-32-LNG (Apr. 22, 2022); *Air Flow N. Am. Corp.*, Docket No. 14-206-LNG (Dec. 30, 2021); *Emera CNG, LLC*, Docket No. 13-157-CNG (Oct. 20, 2021); *Annova LNG Common Infrastructure, LLC*, Docket No. 19-34-LNG (Apr. 23, 2021); *Floridian Natural Gas Storage Co., LLC*, Docket No. 15-38-LNG (Oct. 22, 2020); *Carib Energy (USA) LLC*, Docket No. 11-141-LNG (Nov. 17, 2020); *Flint Hills Res., LP*, Docket No. 15-168-LNG (Feb. 5, 2019). Additionally, two long-term non-FTA authorizations in the following proceedings have expired: *Pieridae Energy (USA) Ltd.*, Docket No. 14-179-LNG (Jan. 17, 2025); *Magnolia LNG, LLC*, Docket No. 13-132-LNG (Dec. 8, 2023).

<sup>274</sup> Any number discrepancies are due to rounding. Additionally, this cumulative volume of non-FTA exports from the lower-48 states does not include export volumes granted pursuant to DOE's regulations for small-scale exports of natural gas. See 10 C.F.R. §§ 590.102(p), 208(a); U.S. Dep't of Energy, Office of Fossil Energy and Carbon Management, Long Term Applications Received by DOE to Export Domestically Produced LNG, CNG, CGL from the Lower-48 States, at 14 (as of Jan. 22, 2025), <https://www.energy.gov/fecm/articles/summary-lng-export-applications-lower-48-states> (identifying small-scale applications and status).

<sup>275</sup> *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 2961-A, 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 (Aug. 7, 2012).

<sup>276</sup> *Cameron LNG, LLC*, DOE/FE Order No. 3391-A, Docket No. 11-162-LNG, Final Opinion and Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Cameron LNG Terminal in Cameron Parish, Louisiana, to Non-Free Trade Agreement Nations (Sept. 10, 2014).

Bcf/d),<sup>277</sup> FLEX II (0.4 Bcf/d),<sup>278</sup> Cove Point LNG, LP (0.77 Bcf/d),<sup>279</sup> Cheniere Marketing, LLC and Corpus Christi Liquefaction, LLC (2.1 Bcf/d),<sup>280</sup> Sabine Pass Liquefaction, LLC Expansion Project (1.38 Bcf/d),<sup>281</sup> American LNG Marketing LLC (0.008 Bcf/d),<sup>282</sup> Sabine Pass Liquefaction, LLC Design Increase (0.56 Bcf/d),<sup>283</sup> Cameron LNG, LLC Design Increase (0.42 Bcf/d),<sup>284</sup> Cameron LNG, LLC Expansion Project (1.41 Bcf/d),<sup>285</sup> Lake Charles Exports, LLC

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<sup>277</sup> *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 3282-C, Docket No. 10-161-LNG, Final Opinion and Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Freeport LNG Terminal on Quintana Island, Texas, to Non-Free Trade Agreement Nations (Nov. 14, 2014) (FLEX I Final Order).

<sup>278</sup> *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 3357-B, Docket No. 11-161-LNG, Final Opinion and Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Freeport LNG Terminal on Quintana Island, Texas, to Non-Free Trade Agreement Nations (Nov. 14, 2014) (FLEX II Final Order).

<sup>279</sup> *Cove Point LNG, LP*, DOE/FE Order No. 3331-A, Docket No. 11-128-LNG, Final Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Cove Point LNG Terminal in Calvert County, Maryland, to Non-Free Trade Agreement Nations (May 7, 2015), *reh'g denied*, DOE/FE Order No. 3331-B (Apr. 18, 2016), *amended by* DOE/FE Order No. 3331-C (Aug. 4, 2017), *further amended by* DOE/FE Order No. 3331-D (Dec. 2, 2020).

<sup>280</sup> *Cheniere Mktg., LLC and Corpus Christi Liquefaction, LLC*, DOE/FE Order No. 3638, Docket No. 12-97-LNG, Final Order and Opinion Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Proposed Corpus Christi Liquefaction Project to Be Located in Corpus Christi, Texas, to Non-Free Trade Agreement Nations (May 12, 2015).

<sup>281</sup> *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 3669, Docket Nos. 13-30-LNG, 13-42-LNG, & 13-121-LNG, Final Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Sabine Pass LNG Terminal Located in Cameron Parish, Louisiana, to Non-Free Trade Agreement Nations (June 26, 2015).

<sup>282</sup> *Am. LNG Mktg. LLC*, DOE/FE Order No. 3690, Docket No. 14-209-LNG, Final Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas in ISO Containers Loaded at the Proposed Hialeah Facility Near Medley, Florida, and Exported by Vessel to Non-Free Trade Agreement Nations (Aug. 7, 2015).

<sup>283</sup> *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 3792, Docket No. 15-63-LNG, Final Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Sabine Pass LNG Terminal Located in Cameron Parish, Louisiana, to Non-Free Trade Agreement Nations (Mar. 11, 2016).

<sup>284</sup> *Cameron LNG, LLC*, DOE/FE Order No. 3797, Docket No. 15-67-LNG, Final Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Cameron Terminal Located in Cameron and Calcasieu Parishes, Louisiana, to Non-Free Trade Agreement Nations (Mar. 18, 2016).

<sup>285</sup> *Cameron LNG, LLC*, DOE/FE Order No. 3846, Docket No. 15-90-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from Trains 4 and 5 of the Cameron LNG Terminal Located in Cameron and Calcasieu Parishes, Louisiana, to Non-Free Trade Agreement Nations (July 15, 2016).

(2.0 Bcf/d),<sup>286</sup> Lake Charles LNG Export Company, LLC,<sup>287</sup> Carib Energy (USA), LLC (0.004),<sup>288</sup> Southern LNG Company, L.L.C. (0.36 Bcf/d),<sup>289</sup> the FLEX Design Increase (0.34 Bcf/d),<sup>290</sup> Golden Pass LNG Terminal LLC (2.57 Bcf/d),<sup>291</sup> Delfin LNG LLC (1.8 Bcf/d),<sup>292</sup> the Lake Charles LNG Export Company, LLC Design Increase (0.33 Bcf/d),<sup>293</sup> the Lake Charles Exports, LLC Design Increase,<sup>294</sup> Mexico Pacific Limited LLC (1.7 Bcf/d),<sup>295</sup> Venture Global

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<sup>286</sup> *Lake Charles Exports, LLC*, DOE/FE Order No. 3324-A, Docket No. 11-59-LNG, Final Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Lake Charles Terminal in Calcasieu Parish, Louisiana, to Non-Free Trade Agreement Nations (July 29, 2016).

<sup>287</sup> *Lake Charles LNG Export Co., LLC*, DOE/FE Order No. 3868, Docket No. 13-04-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Lake Charles Terminal in Calcasieu Parish, Louisiana to Non-Free Trade Agreement Nations (July 29, 2016).

<sup>288</sup> *Carib Energy (USA) LLC*, DOE/FE Order No. 3937, Docket No. 16-98-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas in ISO Containers Loaded at Designated Pivotal LNG, Inc. Facilities and Exported by Vessel to Non-Free Trade Agreement Nations in Central America, South America, or the Caribbean (Nov. 28, 2016).

<sup>289</sup> *S. LNG Co., L.L.C.*, DOE/FE Order No. 3956, Docket No. 12-100-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Elba Island Terminal in Chatham County, Georgia, to Non-Free Trade Agreement Nations (Dec. 16, 2016).

<sup>290</sup> *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 3957, Docket No. 16-108-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Freeport LNG Terminal on Quintana Island, Texas, to Non-Free Trade Agreement Nations (Dec. 19, 2016).

<sup>291</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), *amended by* DOE/FE Order No. 3978-B, Order Granting Request to Transfer Authorizations and Responding to Statement of Change in Control (Mar. 4, 2020) (transferring authorization from Golden Pass Products LLC to Golden Pass LNG Terminal LLC), *further amended by* DOE/FECM Order No. 3978-E (Apr. 27, 2022) (increasing export volume).

<sup>292</sup> *Delfin LNG LLC*, DOE/FE Order No. 4028, Docket No. 13-147-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from a Proposed Floating Liquefaction Project and Deepwater Port 30 Miles Offshore of Louisiana to Non-Free Trade Agreement Nations (June 1, 2017). Although this non-FTA authorization would have expired on June 1, 2024, the expiration is currently tolled pending action by DOE on Delfin's request for an extension of time to commence exports. *See Delfin LNG LLC*, Notice Tolling Expiration of Non-FTA Authorization Pending DOE Action (May 31, 2024).

<sup>293</sup> *Lake Charles LNG Export Co., LLC*, DOE/FE Order No. 4010, Docket No. 16-109-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Lake Charles Terminal in Lake Charles, Louisiana, to Free Trade Agreement and Non-Free Trade Agreement Nations (June 29, 2017).

<sup>294</sup> *Lake Charles Exports, LLC*, DOE/FE Order No. 4011, Docket No. 16-110-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Lake Charles Terminal in Lake Charles, Louisiana, to Free Trade Agreement and Non-Free Trade Agreement Nations (June 29, 2017).

<sup>295</sup> *Mexico Pac. Ltd. LLC*, DOE/FE Order No. 4312, Docket No. 18-70-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export U.S.-Sourced Natural Gas by Pipeline to Mexico for Liquefaction and Re-Export in the Form of Liquefied Natural Gas to Non-Free Trade Agreement Countries (Dec. 14, 2018).

Calcasieu Pass, LLC (1.7 Bcf/d),<sup>296</sup> ECA Liquefaction, S. de R.L. de C.V. (Mid-Scale Project) (0.44 Bcf/d),<sup>297</sup> Energía Costa Azul, S. de R.L. de C.V. (Large-Scale Project) (1.74 Bcf/d),<sup>298</sup> Port Arthur LNG, LLC (1.91 Bcf/d),<sup>299</sup> Driftwood LNG LLC (3.88 Bcf/d),<sup>300</sup> FLEX4 (0.72 Bcf/d),<sup>301</sup> Gulf LNG Liquefaction Company, LLC (1.53 Bcf/d),<sup>302</sup> Eagle LNG Partners Jacksonville LLC (0.14 Bcf/d),<sup>303</sup> Venture Global Plaquemines LNG, LLC (3.40 Bcf/d),<sup>304</sup> Texas LNG Brownsville LLC (0.56 Bcf/d),<sup>305</sup> Corpus Christi Liquefaction Stage III, LLC (1.59

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<sup>296</sup> *Venture Global Calcasieu Pass, LLC*, DOE/FE Order No. 4346, Docket Nos. 13-69-LNG, 14-88-LNG, 15-25-LNG, Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations (Mar. 5, 2019).

<sup>297</sup> *ECA Liquefaction, S. de R.L. de C.V.*, DOE/FE Order No. 4364, Docket No. 18-144-LNG, Opinion and 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 Countries (ECA Mid-Scale Project) (Mar. 29, 2019), *amended by* DOE/FE Order No. 4364-A (Oct. 7, 2019) (transferring authorization from Energía Costa Azul, S. de R.L. de C.V. to ECA Liquefaction, S. de R.L. de C.V.).

<sup>298</sup> *Energía Costa Azul, S. de R.L. de C.V.*, DOE/FE Order No. 4365, Docket No. 18-145-LNG, Opinion and 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 Countries (ECA Large-Scale Project) (Mar. 29, 2019), *amended by* DOE/FE 4365-A (Dec. 10, 2020), *further amended by* DOE/FECM Order No. 4365-B (Dec. 20, 2022) (increasing export volume).

<sup>299</sup> *Port Arthur LNG, LLC*, DOE/FE Order No. 4372, 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>300</sup> *Driftwood LNG LLC*, DOE/FE Order No. 4373, Docket No. 16-144-LNG, Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations (May 2, 2019).

<sup>301</sup> *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 4374, Docket No. 18-26-LNG, Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations (May 28, 2019).

<sup>302</sup> *Gulf LNG Liquefaction Co., LLC*, DOE/FE Order No. 4410, Docket No. 12-101-LNG, Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations (July 31, 2019).

<sup>303</sup> *Eagle LNG Partners Jacksonville LLC*, DOE/FE Order No. 4445, Docket No. 16-15-LNG, Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations (Oct. 3, 2019).

<sup>304</sup> *Venture Global Plaquemines LNG, LLC*, DOE/FE Order No. 4446, Docket No. 16-28-LNG, Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations (Oct. 16, 2019).

<sup>305</sup> *Texas LNG Brownsville LLC*, DOE/FE Order No. 4489, Docket No. 15-62-LNG, Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations (Feb. 10, 2020).

Bcf/d),<sup>306</sup> Rio Grande LNG, LLC (3.61 Bcf/d),<sup>307</sup> Epsilon LNG LLC (1.083 Bcf/d),<sup>308</sup> Cheniere Marketing, LLC and Corpus Christi Liquefaction, LLC (0.3 Bcf/d),<sup>309</sup> Sabine Pass Liquefaction, LLC (0.42 Bcf/d),<sup>310</sup> Vista Pacifico LNG, S.A.P.I. de C.V. (Mid-Scale Project) (0.55 Bcf/d),<sup>311</sup> FLEX Design Increase (0.24 Bcf/d),<sup>312</sup> NFE Altamira FLNG, S. de R.L. de C.V. (0.40 Bcf/d),<sup>313</sup> and this conditional Order.

We note that the volumes authorized for export in the *Lake Charles Exports* and *Lake Charles LNG Export* orders are both 2.0 Bcf/d and 0.33 Bcf/d, respectively, yet are not additive to one another because the source of LNG approved under all of those orders is the Lake Charles Terminal.<sup>314</sup>

DOE further notes that, to date, the cumulative total of U.S. and Mexico LNG export capacity, using U.S.-sourced natural gas, that is operating or under construction across 13 mid- or large-scale export projects with a non-FTA export authorization from DOE is 26.69 Bcf/d of

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<sup>306</sup> *Corpus Christi Liquefaction Stage III, LLC*, DOE/FE Order No. 4490, Docket No. 18-78-LNG, Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations (Feb. 10, 2020).

<sup>307</sup> *Rio Grande LNG, LLC*, DOE/FE Order No. 4492, Docket No. 15-190-LNG, Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations (Feb. 10, 2020).

<sup>308</sup> *Epsilon LNG LLC*, DOE/FE Order No. 4629, Docket No. 20-31-LNG, Opinion and Order Granting Long-Term Authorization to Export Natural Gas to Mexico for Liquefaction, and to Re-Export U.S. Sourced Natural Gas in the Form of Liquefied Natural Gas from Mexico to Free Trade Agreement and Non-Free Trade Agreement Nations (Dec. 8, 2020).

<sup>309</sup> *Cheniere Mktg., LLC and Corpus Christi Liquefaction, LLC*, DOE/FECM Order No. 4799, Docket No. 19-124-LNG, Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations (Mar. 16, 2022).

<sup>310</sup> *Sabine Pass Liquefaction, LLC*, DOE/FECM Order No. 4800, Docket No. 19-125-LNG, Order Granting Long Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations (Mar. 16, 2022).

<sup>311</sup> *Vista Pacifico LNG, S.A.P.I. de C.V.*, DOE/FECM Order No. 4929, Docket No. 20-153-LNG, Opinion and 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 (Dec. 20, 2022).

<sup>312</sup> *Freeport LNG Expansion, L.P., et al.*, DOE/FECM Order No. 4961, Docket No. 21-98-LNG, Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations (Mar. 3, 2023).

<sup>313</sup> *NFE Altamira FLNG, S. de R.L. de C.V.*, DOE/FECM Order No. 5156, Docket No. 22-110-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 (Aug. 31, 2024).

<sup>314</sup> *Lake Charles LNG Export Co., LLC*, DOE/FE Order No. 4010, at 55; *see also Lake Charles Exports, LLC*, DOE/FE Order No. 4011, at 54.

natural gas.<sup>315</sup>

DOE will continue taking a measured approach in reviewing the other pending applications to export natural gas. Specifically, DOE will continue to assess the cumulative impacts of each succeeding request for export authorization on the public interest with due regard to the effect on domestic natural gas supply and demand fundamentals.

The reasons in support of proceeding in this manner are that: (1) EIA's projections in AEO 2023 are inherently limited in their predictive accuracy, including for the time period that corresponds with the term of this authorization, and (2) the market for natural gas has experienced changes due to economic, geopolitical, technological, and regulatory developments. The market of the future very likely will not resemble the market of today. In recognition of these factors, DOE intends to monitor developments that could potentially undermine the public interest in grants of successive applications for exports of domestically produced LNG and to attach terms and conditions to LNG export authorizations to protect the public interest.

## **VII. FINDINGS**

On the basis of the findings and conclusions set forth above, DOE conditionally grants the non-FTA portion of Commonwealth's Application, as amended, subject to the Terms and Conditions and Ordering Paragraphs set forth below.

## **VIII. TERMS AND CONDITIONS**

### **A. Term of the Authorization**

Consistent with DOE's current practice and Commonwealth's request, DOE conditionally grants Commonwealth's authorization for a term to commence on the date of first

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<sup>315</sup> U.S. Dep't of Energy, Liquefied Natural Gas (LNG) Exports Snapshot (Dec. 2024), [https://www.energy.gov/sites/default/files/2025-01/LNG%20Snapshot%20Dec%2031%202024\\_Final2.pdf](https://www.energy.gov/sites/default/files/2025-01/LNG%20Snapshot%20Dec%2031%202024_Final2.pdf).

export from the proposed Commonwealth LNG Project and to extend through December 31, 2050.

### **B. Commencement of Operations Within Seven Years**

Commonwealth requests its non-FTA authorization to commence on the earlier of the date of first export or seven years from the date of the issuance of the authorization.<sup>316</sup>

Consistent with DOE's final and conditional non-FTA authorizations to date, DOE adds as a condition of this authorization that Commonwealth must commence export operations of the Project no later than seven years from the date of issuance of this Order.<sup>317</sup> The purpose of this condition is to ensure that other entities that may seek similar authorizations are not frustrated in their efforts to obtain those authorizations by authorization holders that are not engaged in actual export operations.

### **C. Transfer, Assignment, or Change in Control**

DOE's natural gas regulations prohibit authorization holders from transferring or assigning authorizations to import or export natural gas without specific authorization by the Assistant Secretary for Fossil Energy and Carbon Management.<sup>318</sup> DOE has found that this requirement applies to any change of control of the authorization holder. This condition was deemed necessary to ensure that DOE will be given an adequate opportunity to assess the public interest impacts of such a transfer or change.

DOE construes a change in control to mean a change, directly or indirectly, of the power to direct the management or policies of an entity whether such power is exercised through one or

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<sup>316</sup> Commonwealth App. at 2.

<sup>317</sup> We emphasize that Commonwealth may not commence export operations to non-FTA countries under this conditional authorization alone, unless and until it receives a final order from DOE under NGA section 3(a), 15 U.S.C. § 717b(a). *See also* 10 C.F.R. § 590.404 ("Final opinions and orders"). Accordingly, this seven-year export commencement period will be reset in any future final order approving Commonwealth's requested non-FTA authorization.

<sup>318</sup> 10 C.F.R. § 590.405.

more intermediary companies or pursuant to an agreement, written or oral, and whether such power is established through ownership or voting of securities, or common directors, officers, or stockholders, or voting trusts, holding trusts, or debt holdings, or contract, or any other direct or indirect means.<sup>319</sup> A rebuttable presumption that control exists will arise from the ownership or the power to vote, directly or indirectly, 10% or more of the voting securities of such entity.<sup>320</sup>

#### **D. Agency Rights**

Commonwealth requests authorization to export LNG on its own behalf and as agent for other entities that hold title to the LNG at the time of export, pursuant to long-term contracts. DOE previously has determined that, in LNG export orders in which Agency Rights have been granted, DOE shall require registration materials filed for, or by, a LNG title-holder (Registrant) to include the same company identification information and long-term contract information of the Registrant as if the Registrant had filed an application to export LNG on its own behalf.<sup>321</sup>

To ensure that the public interest is served, this authorization will require that, where Commonwealth proposes to export LNG as agent for other entities that hold title to the LNG (Registrants), Commonwealth must register those entities with DOE in accordance with the procedures and requirements described herein.

#### **E. Contract Provisions for the Sale or Transfer of LNG**

DOE will require that Commonwealth file or cause to be filed with DOE any relevant long-term commercial agreements pursuant to which Commonwealth exports LNG on its own

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<sup>319</sup> See U.S. Dep't of Energy, Procedures for Changes in Control Affecting Applications and Authorizations to Import or Export Natural Gas, 79 Fed. Reg. 65,541, 65,542 (Nov. 5, 2014).

<sup>320</sup> See *id.*

<sup>321</sup> See, e.g., *Cameron LNG, LLC*, DOE/FE Order No. 3846, Docket No. 15-90-LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from Trains 4 and 5 of the Cameron LNG Terminal to Non-Free Trade Agreement Nations, at 128-29 (July 15, 2016); *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 2913, Docket No. 10-160-LNG, Order Granting Long-Term Authorization to Export Liquefied Natural Gas from the Freeport LNG Terminal to Free Trade Agreement Nations, at 7-8 (Feb. 10, 2011).

behalf or as agent for a Registrant. DOE finds that the submission of all such agreements or contracts within 30 days of their execution using the procedures described below will be consistent with the “to the extent practicable” requirement of section 590.202(b).<sup>322</sup>

In addition, DOE finds that section 590.202(c) of DOE’s regulations<sup>323</sup> requires that Commonwealth file, or cause to be filed, all long-term contracts associated with the long-term supply of natural gas to the Project, whether signed by Commonwealth or the Registrant, within 30 days of their execution.

DOE recognizes that some information in Commonwealth’s or a Registrant’s long-term commercial agreements associated with the export of LNG, and/or long-term contracts associated with the long-term supply of natural gas to the Project, may be commercially sensitive. DOE therefore will provide Commonwealth the option to file or cause to be filed either unredacted contracts, or in the alternative: (A) Commonwealth may file, or cause to be filed, long-term contracts under seal, but it also will file either: (i) a copy of each long-term contract with commercially sensitive information redacted, or (ii) a summary of all major provisions of the contract(s) including, but not limited to, the parties to each contract, contract term, quantity, any take or pay or equivalent provisions/conditions, destination, re-sale provisions, and other relevant provisions; and (B) the filing must demonstrate why the redacted or non-disclosed information should be exempted from public disclosure.

To ensure that DOE destination and reporting requirements included in this Order are conveyed to subsequent title holders, DOE will include as a condition of this authorization that future contracts for the sale or transfer of LNG exported pursuant to this Order shall include an acknowledgement of these requirements.

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<sup>322</sup> 10 C.F.R. § 590.202(b).

<sup>323</sup> *Id.* § 590.202(c).

## **F. Export Quantity**

This Order conditionally grants Commonwealth's Application to export LNG to non-FTA countries in the full volume requested, equivalent to 441.4 Bcf/yr of natural gas.

## **G. Combined FTA and Non-FTA Export Authorization Volumes**

Commonwealth is currently authorized in DOE/FE Order No. 4521 to export domestically produced LNG to FTA countries in a total volume of 441.4 Bcf/yr of natural gas. Because the source of LNG for that FTA Order and this Order reflect the planned liquefaction capacity of the Commonwealth LNG Project, Commonwealth may not treat the FTA and non-FTA export volumes as additive to one another.

## **IX. ORDER**

Pursuant to section 3 of the Natural Gas Act and 10 C.F.R. § 402, it is ordered that:

A. Commonwealth LNG, LLC (Commonwealth) is conditionally authorized to export domestically produced LNG by vessel from the proposed Commonwealth LNG Project, to be located in Cameron Parish, Louisiana. The volume authorized in this Order is equivalent to 441.4 Bcf/yr of natural gas for a term to commence on the date of first export and to extend through December 31, 2050. Commonwealth 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>324</sup>

B. This LNG may be exported to any country with which the United States does not have a FTA requiring national treatment for trade in natural gas, which currently has or in the future develops the capacity to import LNG, and with which trade is not prohibited by U.S. law or policy.

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<sup>324</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).

C. Commonwealth must commence export operations using the planned Commonwealth LNG Project no later than seven years from the date of issuance of this Order.<sup>325</sup>

D. Commonwealth shall ensure that all transactions authorized by this Order are permitted and lawful under U.S. laws and policies, including the rules, regulations, orders, policies, and other determinations of the Office of Foreign Assets Control of the U.S. Department of the Treasury. Failure to comply with these requirements could result in rescission of this authorization and/or other civil or criminal penalties.

E. This Order is conditioned on Commonwealth's on-going compliance with any other preventative and mitigative measures at the Project imposed by federal or state agencies.

F. (i) Commonwealth shall file, or cause others to file, with the U.S. Department of Energy, Office of Fossil Energy and Carbon Management, Office of Resource Sustainability, Office of Regulation, Analysis, and Engagement (FE-34) a non-redacted copy of all executed long-term contracts associated with the long-term export of LNG from the Project on its own behalf or as agent for other entities. The non-redacted copies must be filed within 30 days of their execution and may be filed under seal, as described above.

(ii) Commonwealth shall file, or cause others to file, with the Office of Regulation, Analysis, and Engagement a non-redacted copy of all executed long-term contracts associated with the long-term supply of natural gas to the Project. The non-redacted copies must be filed within 30 days of their execution and may be filed under seal, as described above.

G. Commonwealth is permitted to use its authorization to export LNG as agent for other LNG title-holders (Registrants), after registering those entities with DOE. Registration materials shall include an agreement by the Registrant to supply Commonwealth with all information

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<sup>325</sup> See *supra* § VIII.B & note 317.

necessary to permit Commonwealth to register that person or entity with DOE, including: (1) the Registrant's agreement to comply with this Order and all applicable requirements of DOE's regulations at 10 C.F.R. Part 590, including but not limited to destination restrictions; (2) the exact legal name of the Registrant, state/location of incorporation/registration, primary place of doing business, and the Registrant's ownership structure, including the ultimate parent entity if the Registrant is a subsidiary or affiliate of another entity; (3) the name, title, mailing address, e-mail address, and telephone number of a corporate officer or employee of the Registrant to whom inquiries may be directed; and (4) within 30 days of execution, a copy of any long-term contracts not previously filed with DOE, described in Ordering Paragraph F of this Order.

Any change in the registration materials—including changes in company name, contact information, length of the long-term contract, termination of the long-term contract, or other relevant modification—shall be filed with DOE within 30 days of such change(s).

H. Commonwealth, or others for whom Commonwealth acts as agent, shall include the following provision in any agreement or other contract for the sale or transfer of LNG exported pursuant to this Order:

Customer or purchaser acknowledges and agrees that it will resell or transfer LNG purchased hereunder for delivery only to countries identified in Ordering Paragraph B of DOE/FECM Order No. 5238, issued February 14, 2025, in Docket No. 19-134-LNG, and/or to purchasers that have agreed in writing to limit their direct or indirect resale or transfer of such LNG to such countries. Customer or purchaser further commits to cause a report to be provided to Commonwealth LNG, LLC that identifies the country (or countries) into which the LNG was actually delivered, and to include in any resale contract for such LNG the necessary conditions to ensure that Commonwealth LNG, LLC is made aware of all such actual destination countries.

I. Within two weeks after the first export authorized in Ordering Paragraph A occurs, Commonwealth shall provide written notification of the date of first export to DOE.

J. Commonwealth shall file with the Office of Regulation, Analysis, and Engagement, on a semi-annual basis, written reports describing the status of the proposed Project. The reports shall be filed on or by April 1 and October 1 of each year, and shall include information on the status of the Project, the date the Project is expected to commence first exports of LNG, and the status of any associated long-term supply and export contracts.

K. With respect to any change in control of the authorization holder, Commonwealth must comply with DOE's Procedures for Change in Control Affecting Applications and Authorizations to Import or Export Natural Gas.<sup>326</sup>

L. Monthly Reports: With respect to the exports authorized by this Order, Commonwealth shall file with the Office of Regulation, Analysis, and Engagement, within 30 days following the last day of each calendar month, a report on Form FE-746R indicating whether exports have been made. The first monthly report required by this Order is due not later than the 30<sup>th</sup> day of the month following the month of first export. In subsequent months, if exports have not occurred, a report of "no activity" for that month must be filed. If exports have occurred, the report must provide the information specified for each applicable activity and mode of transportation, as set forth in the Guidelines for Filing Monthly Reports. These Guidelines are available at <https://www.energy.gov/fecm/guidelines-filing-monthly-reports>.

(Approved by the Office of Management and Budget under OMB Control No. 1901-0294)

M. All monthly report filings on Form FE-746R shall be made to the Office of Regulation, Analysis, and Engagement according to the methods of submission listed on the Form FE-746R reporting instructions available at <https://www.energy.gov/fecm/regulation>.

N. The Motion to Intervene submitted by IECA is granted.

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<sup>326</sup> See 79 Fed. Reg. at 65,541-42.

O. The Motion to Intervene and Protest Out of Time submitted by Sierra Club, the Motion for Leave to Intervene and Protest Out of Time submitted by FISH, and the Motion for Leave to Intervene and Protest Out of Time submitted by NRDC are each denied.

Issued in Washington, D.C., on February 14, 2025.

A handwritten signature in black ink, appearing to read "C Wright", is written above a horizontal line.

Chris Wright  
U.S. Secretary of Energy