

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

**Cameron LNG, LLC** )  
 ) **FE Docket No. 11-162-LNG**  
 )

**MOTION FOR LEAVE TO ANSWER AND ANSWER  
OF CAMERON LNG, LLC TO SIERRA CLUB’S REQUEST FOR REHEARING**

Pursuant to Rule 302 of the Department of Energy’s (“DOE”) Rules of Practice and Procedure,<sup>1</sup> Cameron LNG, LLC (“Cameron LNG”) hereby submits this Motion for Leave to Answer and Answer to the Request for Rehearing that Sierra Club filed on October 10, 2014 in the captioned proceeding (“Request for Rehearing”).<sup>2</sup> As discussed herein, Sierra Club has waived most of the arguments in its Request for Rehearing by failing to prosecute those arguments before the Federal Energy Regulatory Commission (“FERC”) as required by DOE’s Office of Fossil Energy (“DOE/FE”) in DOE/FE Order No. 3391, the Order Conditionally 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 (“Conditional Order”).<sup>3</sup> However, DOE/FE’s environmental review sufficiently addresses these arguments, and the DOE/FE’s order is supported by substantial evidence and is the product of reasoned decision-making. Sierra Club’s Request for Rehearing should be denied.

**I. INTRODUCTION**

DOE/FE’s “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,” DOE/FE Order No. 3391-A, issued on

<sup>1</sup> 10 C.F.R. § 590.302 (2014).  
<sup>2</sup> *Cameron LNG, LLC*, FE Docket No. 11-162-LNG, Request for Rehearing (filed Oct. 10, 2014).  
<sup>3</sup> *Cameron LNG, LLC*, FE Docket No. 11-162-LNG, DOE/FE Order No. 3391 (Feb. 11, 2014).

September 10, 2014 (“Final Order”) is supported by substantial evidence and is the product of reasoned decision-making. The primary purpose of the Final Order was a public interest analysis of LNG exports by Cameron LNG under section 3 of the Natural Gas Act (“NGA”), and the Final Order properly held that section 3(a) of the NGA creates a rebuttable presumption that such export of LNG is in the public interest. Sierra Club again has failed to make an affirmative showing to overcome this presumption. DOE/FE conducted a thorough public interest review and properly determined that the proposed LNG export will be consistent with the public interest.

Sierra Club continues to improperly conflate the public interest determination with the environmental review required under the National Environmental Policy Act (“NEPA”). The environmental impacts of a proposed project are relevant to the public interest review but are not the sole factors considered. In its review, DOE/FE can exercise substantial discretion in deciding how expansive it wishes to make its public interest review.

Sierra Club has also waived many of its NEPA-related arguments regarding the environmental impact of the liquefaction and related facilities to be constructed by Cameron LNG (“Liquefaction Project”) because it failed to prosecute these arguments before FERC or failed to raise them altogether. By order and by statute, FERC is the lead agency for purposes of a NEPA analysis. Sierra Club was required to air its environmental arguments before FERC and failed to do so to exhaustion.

FERC’s Environmental Impact Statement (“EIS”) satisfies FERC’s and DOE/FE’s statutory obligations to take a “hard look” at the environmental impacts associated with the proposed LNG exports. Based on FERC’s EIS and the environmental conditions incorporated into its final order, FERC concluded that the Liquefaction Project would not result in significant

adverse environmental impacts. As a cooperating agency, DOE/FE participated in the environmental review. It conducted an independent review of the EIS and mitigation measures and determined that its comments and suggestions were satisfied. DOE/FE appropriately relied on and adopted the EIS to support its decision to grant Cameron LNG long-term authorization to export to non-Free Trade Agreement (“non-FTA”) nations and to satisfy its environmental review obligations under NEPA.

Although it was not required by NEPA to supplement the EIS with its own environmental review, DOE/FE took an additional step and evaluated the potential impacts arising from induced gas production associated with the increase in LNG exports in the Environmental Addendum. Based on the EIS, its additional environmental review, and other factors relevant to a public interest analysis, DOE/FE properly concluded that the Liquefaction Project is in the public interest. DOE/FE adequately considered the environmental effects associated with the Liquefaction Project. Sierra Club’s Request for Rehearing therefore must be rejected.

## **II. BACKGROUND**

On October 10, 2014, Sierra Club filed a request for rehearing of DOE/FE’s Final Order.<sup>4</sup> Sierra Club also requests rehearing of “two related actions,”<sup>5</sup> i.e., the Record of Decision for the Cameron LNG, LLC Export Application<sup>6</sup> and the Conditional Order, “to the extent it is relied upon or incorporated by reference within 3391-A.”<sup>7</sup>

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<sup>4</sup> *Cameron LNG, LLC*, FE Docket No. 11-162-LNG, DOE/FE Order No. 3391-A (Sept. 10, 2014).

<sup>5</sup> Request for Rehearing at 1.

<sup>6</sup> *Record of Decision and Floodplain Statement of Findings for the Cameron LNG, LLC Export Application*, 79 Fed. Reg. 55443 (Sept. 16, 2014).

<sup>7</sup> Request for Rehearing at 1.

### **III. MOTION FOR WAIVER OF SECTION 590.505**

DOE's regulations do not ordinarily permit answers to applications for rehearing.<sup>8</sup> However, Cameron LNG respectfully requests that DOE grant Cameron LNG a waiver of Section 590.505 and permit this Answer. Cameron LNG's Answer will not unduly delay the proceeding or prejudice any party and will provide information that will assist the DOE in its decision-making process and complete the record. FERC has, in some cases, permitted answers to requests for rehearing under its similar rule.<sup>9</sup> For these reasons and in order to address fully the issues raised by Sierra Club, Cameron LNG respectfully submits that there is good cause to permit this Answer.

### **IV. ANSWER**

As discussed below, DOE/FE should deny Sierra Club's Request for Rehearing. The primary purpose of the Final Order was a public interest analysis under section 3 of the NGA. Sierra Club continues to improperly conflate this public interest determination with the environmental review required under NEPA. Sierra Club has waived many of its NEPA-related arguments regarding the environmental impact of the Liquefaction Project because it failed to prosecute these arguments before FERC or failed to raise them altogether. However, even if DOE/FE reaches the merits of Sierra Club's arguments, they must be rejected because DOE/FE's Final Order and environmental review were adequate under the NGA and NEPA, respectively. The Final Order is supported by substantial evidence and is the product of reasoned decision-making.

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<sup>8</sup> See 10 C.F.R. § 590.505 (2014).

<sup>9</sup> E.g., *Columbia Gas Transmission, LLC*, 146 FERC ¶ 61,116 at P 3 (2014) (waiving Rule 213(a)(2) of FERC's Rules of Practice and Procedure to admit answers to rehearing requests because the answers assisted in FERC's decision-making process); *ANR Pipeline Co., et al.*, 143 FERC ¶ 61,225 at P 19 (2013) (same).

**A. Sierra Club Errs in Arguing that the Final Order Presumes that the Liquefaction Project Will Have No Environmental Impacts Inconsistent With the Public Interest.**

In Part I.A of the Request for Rehearing, Sierra Club argues that the NGA does not compel DOE/FE to presume that exports will not have environmental impacts inconsistent with the public interest.<sup>10</sup> It begins by arguing that section 3 of the NGA does not create a rebuttable presumption that exports of liquefied natural gas (“LNG”) are in the public interest.<sup>11</sup> It then asserts that a rebuttable presumption should not apply such “that exports will not have environmental impacts inconsistent with the public interest.”<sup>12</sup> This argument is a straw man.

Sierra Club errs in asserting that the 1984 Policy Guidelines<sup>13</sup> and precedent on natural gas imports cited by DOE/FE are inapplicable for the purposes of assessing whether the environmental impact of exports are in the public interest. DOE/FE has long held to the contrary, and Sierra Club improperly restricts its discussion to *Panhandle Producers and Royalty Owners Ass’n v. Economic Regulatory Administration*,<sup>14</sup> while ignoring other precedent cited by DOE/FE.<sup>15</sup> *Panhandle* held that there is a rebuttable presumption that natural gas imports are in the public interest.<sup>16</sup> DOE/FE has found that the policy considerations for imports and exports are similar and has extended the presumption under section 3 of the NGA in favor of approving

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<sup>10</sup> Request for Rehearing at 2.

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

<sup>12</sup> *Id.* at 3.

<sup>13</sup> *New Policy Guidelines and Delegations Orders From Secretary of Energy to Economic Regulatory Administration and Federal Energy Regulatory Commission Relating to the Regulation of Imported Natural Gas*, 49 Fed. Reg. 6684 (Feb. 22, 1984).

<sup>14</sup> 822 F.2d 1105 (D.C. Cir. 1987).

<sup>15</sup> See Final Order at 8 n.26.

<sup>16</sup> *Panhandle Producers and Royalty Owners Ass’n v. Economic Regulatory Administration*, 822 F.2d 1105, 1111 (D.C. Cir. 1987).

an import application to exports in numerous cases. For example, in *Phillips Alaska Natural Gas*,<sup>17</sup> DOE/FE stated:

[I]n evaluating exports, DOE is mindful of the broad energy policy principles set forth in the Secretary's natural gas import policy guidelines. The guidelines established a policy of minimizing Federal control and involvement in the natural gas market based on the premise the market, not government, should determine energy contract terms. **While those guidelines deal specifically with imports, the principles are applicable to exports as well.**<sup>18</sup>

The Final Order properly held that section 3(a) of the NGA creates a rebuttable presumption that a proposed export of natural gas is in the public interest.<sup>19</sup>

Sierra Club also mischaracterizes the Final Order when it suggests that DOE/FE presumed that the Liquefaction Project will not have environmental impacts inconsistent with the public interest. DOE/FE observed that a range of factors go into a public interest analysis, including “economic impacts, international impacts, security of natural gas supply, and environmental impacts, among others.”<sup>20</sup> Thus, the environmental impacts of a proposed project are relevant to the public interest review but are not the sole factors considered. The presumption applies to the public interest determination generally, not to any of the individual components. Sierra Club cites to no statement by DOE/FE that the presumption applies to environmental issues specifically.

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<sup>17</sup> *Phillips Alaska Natural Gas Corporation and Marathon Oil Co.*, FE Docket No. 96-99-LNG, DOE/FE Opinion and Order No. 1473 (Apr. 2, 1999), *amended*, *ConocoPhillips Alaska Natural Gas Corp.*, DOE/FE Order No. 1473-A (Jan. 30, 2008).

<sup>18</sup> *Phillips Alaska Natural Gas Corporation and Marathon Oil Co.*, FE Docket No. 96-99-LNG, DOE/FE Opinion and Order No. 1473 at 14 (Apr. 2, 1999) (citing *New Policy Guidelines and Delegations Orders From Secretary of Energy to Economic Regulatory Administration and Federal Energy Regulatory Commission Relating to the Regulation of Imported Natural Gas*, 49 Fed. Reg. 6684 (Feb. 22, 1984) and *Yukon Pacific Corp.*, DOE/FE Order No. 350, 1 FE ¶ 70,259 at 71,128 (1989), *order denying reh'g*, DOE/FE Opinion and Order No. 350-A, 1 FE ¶ 70,303 (Mar. 8, 1990)) (emphasis added).

<sup>19</sup> *E.g.*, *Sabine Pass Liquefaction, LLC*, FE Docket No. 10-111-LNG, DOE/FE Order No. 2961 at 28 (May 20, 2011); *Conoco Alaska Natural Gas Corp. and Marathon Oil Co.*, FE Docket No. 07-02-LNG, DOE/FE Order No. 2500 at 43 (June 3, 2008), *order denying reh'g*, DOE/FE Order No. 2500-A (July 30, 2008); *Conoco Phillips Alaska Natural Gas Corp. and Marathon Oil Co.*, FE Docket No. 96-99-LNG, DOE/FE Order No. 1473 at 13 (Apr. 2, 1999), *amended*, *ConocoPhillips Alaska Natural Gas Corp.*, DOE/FE Order No. 1473-A (Jan. 30, 2008).

<sup>20</sup> Final Order at 8.

It follows that a showing that negative environmental effects may be present does not mandate a finding that the presumption that a proposed project is in the public interest has been overcome. Countervailing positive effects must be taken into account. Unless an opponent of an application overcomes that presumption by making an affirmative showing of inconsistency with the public interest, DOE/FE is required to grant an application to export natural gas.<sup>21</sup> In this case, Sierra Club has failed to make an affirmative showing to overcome the rebuttable presumption that LNG exports from the Liquefaction Project are in the public interest.

Sierra Club concludes that “even if DOE were to determine that Sierra Club has failed to meet the burden DOE/FE describes in the order, the Natural Gas Act would give DOE/FE the authority and obligation to take its own steps to cure the deficiencies in DOE/FE’s environmental analysis and to deny the application.”<sup>22</sup> However, Sierra Club does not explain what it means by this assertion and in any event cites to no legal authority. This argument should be rejected.

**B. Sierra Club Has Waived its NEPA-Related Arguments in Parts I.B.2, I.B.3, and I.B.4 Because it Failed to Prosecute These Arguments at FERC.**

Sierra Club has waived the NEPA-related arguments it presents in Parts I.B.2, I.B.3, and I.B.4 of the Request for Rehearing because Sierra Club either failed to prosecute such arguments before the lead agency for the NEPA review, FERC, as required by the Conditional Order,<sup>23</sup> or failed to raise them at FERC at all. DOE/FE was a cooperating agency in the production of the EIS, with FERC taking the leading role in producing the EIS, as required by the NGA. As a cooperating agency, DOE/FE would ultimately adopt the EIS for purposes of its own NEPA

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<sup>21</sup> *Conoco Phillips Alaska Natural Gas Corp. and Marathon Oil Co.*, FE Docket No. 96-99-LNG, Order No. 1473 at 13 n.42 (Apr. 2, 1999) (citing *Panhandle Producers and Royalty Owners Ass’n v. ERA*, 822 F.3d 1105, 1111 (D.C. Cir. 1987)); *see also Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 2961, FE Docket No. 10-111-LNG (May 20, 2011).

<sup>22</sup> Request for Rehearing at 3.

<sup>23</sup> Conditional Order at 141.

review following an independent review.<sup>24</sup> In light of this relationship, DOE/FE made clear in the Conditional Order that any NEPA-related issues must be raised at FERC and that the party raising the issue must exhaust all remedies available at FERC:

As explained above, DOE/FE intends to complete its NEPA review as a cooperating agency in FERC's review of the Liquefaction Project. The authorization issued in this Order will be conditioned on Cameron's satisfactory completion of the environmental review process.

Accordingly, this conditional Order makes preliminary findings and indicates to the parties DOE/FE's determination at this time on all but the environmental issues in this proceeding. All parties are advised that the issues addressed herein regarding the export of natural gas will be reexamined at the time of DOE/FE's review of the FERC environmental analysis. Inasmuch as DOE/FE is a cooperating agency in the FERC environmental review, **persons wishing to raise questions regarding the environmental review of the present Application are responsible for doing so within the FERC proceedings.** As explained in the *Sabine Pass* orders, **DOE/FE's participation as a cooperating agency in the FERC proceeding is intended to avoid duplication of effort by agencies with overlapping environmental review responsibilities,** to achieve early coordination among agencies, and to concentrate public participation in a single forum.

Insofar as a participant in the FERC proceeding actively raises concerns over the scope or substance of environmental review but is unsuccessful in securing that agency's consideration of its stated interests, DOE/FE reserves the right to address the stated interests within this proceeding. However, **absent a showing of good cause for a failure of interested persons to participate in the FERC environmental review proceeding, DOE/FE may dismiss such claims if raised out of time in this proceeding.**<sup>25</sup>

In addition, Section 15(b)(1) of the NGA states: “[FERC] shall act as the lead agency for the purposes of coordinating all applicable Federal authorizations and for the purposes of complying with the National Environmental Policy Act of 1969.”<sup>26</sup> Therefore, by order and by statute,

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

<sup>25</sup> *Id.* at 140-141 (underscore added) (internal footnotes omitted).

<sup>26</sup> NGA § 15(b)(1), 15 U.S.C. § 717n(B)(1).



FERC is the lead agency for purposes of a NEPA analysis for the Cameron LNG project, and Sierra Club's environmental arguments were to have been brought and prosecuted before FERC.

In Part I.B.2, Sierra Club again raises the argument that the scope of the environmental review should have taken into account the effects of inducted gas production and attempts to respond to FERC's rejection of that assertion, a position that was also adopted by DOE/FE.<sup>27</sup> In Part I.B.3, Sierra Club proposes substantive arguments that DOE/FE's environmental review should have taken into account the "climate impacts" of natural gas production. In Part I.B.4, Sierra Club argues that DOE/FE improperly excluded from its environmental review an analysis of the environmental impacts of changes in electric generation caused by domestic gas price increases.

All of these arguments should have been made at FERC as required by the Conditional Order. For it to raise these arguments before DOE/FE, Sierra Club was required to exhaust its remedies before FERC. However, as recognized in the Final Order, Sierra Club failed to timely seek rehearing on these issues at FERC.<sup>28</sup> Sierra Club makes no attempt to show good cause for why it could not press its arguments to completion before FERC. By raising these arguments before DOE/FE now, Sierra Club is attempting to circumvent the DOE and FERC process that it failed to complete with a collateral attack on the FERC's order.<sup>29</sup> Therefore, under the requirements of the Conditional Order,<sup>30</sup> Sierra Club has effectively conceded the issues it raises in Parts I.B.2, I.B.3, and I.B.4 and waived the right to raise them before DOE/FE at this juncture.

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<sup>27</sup> Final Order at 72-74.

<sup>28</sup> *Id.* at 4. The deadline to file a request for rehearing with FERC is established by statute and cannot be waived. *Cameron LNG, LLC, et al.*, Docket Nos. CP13-25-000, *et al.*, 148 FERC ¶ 61,237 at P 19 (2014).

<sup>29</sup> *Cameron LNG, LLC, et al.*, 147 FERC ¶ 61,230, *reh'g rejected*, 148 FERC ¶ 61,073, *reh'g denied*, 148 FERC ¶ 61,237 (2014).

<sup>30</sup> *See* Conditional Order at 140-141.

Sierra Club should not be afforded a second chance to make these environmental-related arguments now before DOE/FE.

In addition, at least one of Sierra Club's arguments must be rejected because Sierra Club never fully raised it before FERC. In Part I.B.2.b, Sierra Club now contends that "NEPA requires DOE to undertake or commission [modeling using EIA's National Energy Modeling System]." <sup>31</sup> Sierra Club contends that NEMS models production at a "regional level" rather than on an individual well basis and that because some impacts could be felt at the "regional level" further geographic specificity is not required. Sierra Club now argues that DOE can estimate the cumulative effects of multiple wells on water resources within a region based on a combination of EIA's modeling of types of production and NETL modeling of recovery from shale gas plays. <sup>32</sup> Sierra Club cannot be permitted to raise this new argument at this juncture. In its comments on FERC's draft EIS, Sierra Club listed the National Energy Modeling System ("NEMS") as a tool that can be used to predict where additional production may occur. <sup>33</sup> Another tool Sierra Club listed was Deloitte Marketpoint's "World Gas Model." Sierra Club noted in its comments that "multiple tools exist which allow predictions of how and where production will respond to exports." <sup>34</sup> However, it did not provide any specific examples that supported the use of any one of these models and did not provide the detailed arguments it attempts to offer here. By failing to thoroughly raise this argument at FERC, Sierra Club has waived this argument.

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<sup>31</sup> Request for Rehearing at 10.

<sup>32</sup> *Id.* at 10-11.

<sup>33</sup> *Cameron LNG, LLC, et al.*, Docket Nos. CP13-25-000, *et al.*, Comments on Draft Environmental Impact Statement for Cameron LNG, LLC's and Cameron Interstate Pipeline, LLC's Liquefaction Project at 41-42 (filed Mar. 3, 2014).

<sup>34</sup> *Id.* at 42.

**C. Even Looking at Sierra Club’s Arguments on the Merits, the Request for Rehearing Must Be Rejected**

Even if DOE/FE finds that Sierra Club has not waived its NEPA-related arguments and addresses the merits of those arguments, DOE/FE’s environmental review was adequate, and the Request for Rehearing must be rejected.

Sierra Club takes issue with DOE/FE’s adoption but lack of specific discussion of the arguments on induced production, climate impacts, and the impacts on emissions from the changes in electricity production. Sierra Club contends that the induced production arguments in the EIS are “flawed and inapplicable.”<sup>35</sup> It also claims that DOE/FE violated NEPA by failing to take a “hard look” at the climate impacts of induced gas production and by concluding that such impacts should be excluded because exports that could induce gas production are uncertain.<sup>36</sup> Additionally, Sierra Club contends that DOE/FE erred by refusing to consider the indirect and cumulative impact on emissions caused by changes in electricity generation.<sup>37</sup> As explained below, DOE/FE has already adequately addressed each of Sierra Club’s arguments.

DOE/FE participated in FERC’s environmental review process as a cooperating agency. It subsequently conducted an independent review of the EIS and determined that its comments and suggestions were satisfied.<sup>38</sup> DOE/FE appropriately relied on and adopted the EIS to support its decision to grant Cameron LNG non-FTA export authorization and to satisfy its environmental review obligations under NEPA. DOE/FE was under no obligation to supplement the EIS with its own environmental review, since it was a cooperating agency during the

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<sup>35</sup> Request for Rehearing at 6.

<sup>36</sup> *Id.* at 13-16.

<sup>37</sup> *Id.* at 17.

<sup>38</sup> Final Order at 72 (citing 40 C.F.R. § 1506.3(c)) (“DOE/FE is permitted to adopt FERC’s final EIS, provided that DOE/FE has conducted an independent review of the EIS and determines that its comments and suggestions have been satisfied. . . . DOE/FE has not found that the arguments raised in the FERC proceeding, the current proceeding, or the LNG Export Study proceeding detract from the reasoning and conclusions contained in the final EIS.”).

environmental review process. DOE/FE appropriately adopted and relied on the EIS in granting Cameron LNG long-term authorization to export to non-FTA nations.

### 1. Induced Gas Production

Sierra Club has failed to establish a “reasonably close causal relationship”<sup>39</sup> between induced production and the Liquefaction Project and that induced production is reasonably foreseeable.<sup>40</sup> FERC found that Sierra Club did not provide any constructive suggestions as to how FERC can engage in a non-speculative, meaningful analysis of the induced gas production that would be attributable to the Liquefaction Project.<sup>41</sup> The environmental effects that Sierra Club continues to raise are speculative and premature.

Both the DOE and FERC drew reasonable boundaries and exercised reasonable judgment in indicating that induced production cannot be sufficiently specified such that further analysis would be required under NEPA or the NGA. Both agencies properly found that insufficient facts exist to consider the timing, location, and scope of future shale development as part of the NEPA

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<sup>39</sup> FERC has made clear that “NEPA requires a ‘reasonably close causal relationship’ between the environmental effect and the alleged cause. In order to be sufficiently causally connected, the environmental impact must be 1) caused by the proposed action, and 2) reasonably foreseeable.” *Central New York Oil & Gas Co.*, 137 FERC ¶ 61,121 at P 83 (2011); *see also Sabine Pass Liquefaction, LLC*, 139 FERC ¶ 61,039 at P 95 (2012).

<sup>40</sup> *Cameron LNG, LLC, et al.*, Docket Nos. CP13-25-000, *et al.*, Final Environmental Impact Statement, Appendix L at L-97, Response IP2-73 (Apr. 30, 2014) (“In this case, the environmental impacts from induced production and pipeline transportation which may result from additional shale gas development are not ‘reasonably foreseeable’ and such additional development, or any correlative potential impact, is not an ‘effect’ of the Cameron Liquefaction Project for purposes of a cumulative impacts analysis. No specific shale-gas play has been identified as a source of natural gas and the proposed Project does not depend on additional shale gas production, which may occur for reasons unrelated to the Project and over which the Commission has no control, such as state permitting for additional gas wells.”). *See also U.S. Dept. of Transportation v. Public Citizen*, 541 U.S. 752, 767 (2004) (“[A] ‘but for’ causal relationship is insufficient to make an agency responsible for a particular effect under NEPA and the relevant regulations. . . . NEPA requires ‘a reasonably close causal relationship’ between the environmental effect and the alleged cause.”).

<sup>41</sup> *Cameron LNG, LLC, et al.*, 147 FERC ¶ 61,230 at P 69 (2014) (“Even if, for the sake of argument, the Commission agreed that the Liquefaction Project would cause induced production, such production is not reasonably foreseeable. The Liquefaction Project will receive natural gas through Cameron Interstate, which, as described above, will interconnect with five major interstate pipelines. Those pipelines cross multiple shale-gas, as well as conventional-gas, plays and, through their interconnections with still other pipeline systems. Even, effectively provide access to essentially all of the production areas in the lower-forty-eight. Thus, it is speculative as to where the gas processed by the Liquefaction Project will originate, much less where the wells, gathering line locations and the potential associated environmental impacts will occur. Accordingly, the level of analysis commenters seek would require the Commission to engage in speculative analysis that would not provide meaningful information to inform our decision here.”).

analysis.<sup>42</sup> Although DOE concludes that there will be additional national production due to LNG export licensing, this does not necessarily establish a causal connection between a particular project and particular effects.

FERC has already thoroughly addressed Sierra Club's arguments on induced production. In the Order Granting Authorization Under Section 3 of the Natural Gas Act and Issuing Certificates, which FERC issued on June 19, 2014,<sup>43</sup> FERC found that Sierra Club had not demonstrated that the Liquefaction Project would induce additional upstream gas production and that this additional gas production was not "reasonably foreseeable" within the meaning of NEPA, given the multiple pipeline connections that could supply gas to the project.<sup>44</sup> The impacts from the specific new well sites and the related environmental effects are highly speculative and cannot be estimated in any meaningful way.<sup>45</sup> FERC also noted that supply sources may change over time. Consistent with its determinations with regard to other projects, FERC determined that shale gas development and associated potential environmental impacts were not sufficiently causally related to the Liquefaction Project.<sup>46</sup> FERC also noted that, as explained in the EIS, "induced production is not caused by the Liquefaction Project" for purposes of NEPA, and "the purpose of the Liquefaction Project is not to facilitate additional shale production, which may occur for reasons unrelated to the project and over which [FERC]

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<sup>42</sup> *Cameron LNG, LLC, et al.*, Docket Nos. CP13-25-000, *et al.*, Final Environmental Impact Statement, Appendix L at L-97, Response IP2-73 (Apr. 30, 2014).

<sup>43</sup> *Cameron LNG, LLC, et al.*, 147 FERC ¶ 61,230 (2014) ("FERC's June 19 Order").

<sup>44</sup> *Cameron LNG, LLC, et al.*, 148 FERC ¶ 61,237 at P 31 (2014) (citing *Cameron LNG, LLC, et al.*, 147 FERC ¶ 61,230 at PP 30, 68 (2014)).

<sup>45</sup> *Cameron LNG, LLC, et al.*, 147 FERC ¶ 61,230 at PP 68-69 (2014).

<sup>46</sup> See *Texas Eastern Transmission, LP*, 139 FERC ¶ 61,138 at P 72 (2012); *Sabine Pass Liquefaction, LLC*, 139 FERC ¶ 61,039 at P 96 (2012); *Central New York Oil & Gas Co.*, 137 FERC ¶ 61,121 at P 84 (2011), *reh'g denied*, 138 FERC ¶ 61,104 at PP 33-56 (2012), *aff'd*, *Coalition for Responsible Growth & Resource Conservation v. FERC*, 2d Cir. No. 12-566 (June 12, 2012).

has no jurisdiction.”<sup>47</sup> FERC also previously rejected Sierra Club’s argument that the draft EIS did not have a sufficiently broad scope because it did not consider the indirect effects of induced natural gas production associated with the Liquefaction Project.<sup>48</sup> DOE/FE adopted FERC’s analysis in the Final Order.<sup>49</sup>

As noted above, Sierra Club also argues that DOE/FE was required to commission modeling using NEMS and that forecasts from the modeling system are “certain enough to support meaningful discussion.”<sup>50</sup> Sierra Club never explained how these models, which may work on a generic national basis for gross amounts of gas consumption or LNG exports, would produce reliable results for a single point export terminal with numerous pipeline interconnections to the nationwide pipeline grid. Sierra Club has not provided any evidence that establishes that applying any one of these models in this case would not be unduly speculative for the reasons FERC already presented.

Additionally, Sierra Club contends that uncertainty is a ground on which an effect may be excluded from a NEPA review only when “the effect is so uncertain that it is not susceptible to a ‘meaningful discussion’ at the time of the analysis.”<sup>51</sup> The determination of the extent and effects of potential cumulative impacts from a proposed project, particularly the geographic scope, “is a task assigned to the special competency of the appropriate agency,” which in this case is FERC, the agency carrying out the environmental review.<sup>52</sup>

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<sup>47</sup> *Cameron LNG, LLC, et al.*, 147 FERC ¶ 61,230 at P 68 (2014) (citing Final Environmental Impact Statement, Appendix L at L-96 to L-97, Response IP2-73 (Apr. 30, 2014)).

<sup>48</sup> *Cameron LNG, LLC, et al.*, 147 FERC ¶ 61,230 at PP 67-69 (2014).

<sup>49</sup> Final Order at 72-74.

<sup>50</sup> Request for Rehearing at 10-11.

<sup>51</sup> *Id.* at 8 (citing *Habitat Education Center, et al. v. U.S. Forest Service, et al.*, 609 F.3d 897, 902 (7th Cir. 2010)).

<sup>52</sup> *Quechan Tribe of the Fort Yuma India Reservation v. U.S. Department of the Interior*, 927 F. Supp. 2d 921, 942 (S.D. Cal. 2013) (quoting *Kleppe v. Sierra Club*, 427 U.S. 390, 414 (1976) and *Neighbors of Cuddy Mountain, et al. v. Alexander*, 303 F.3d 1059, 1071 (9th Cir. 2002)).

In summary, Sierra Club has not offered any evidence that establishes that identifiable induced production could be causally connected to the Liquefaction Project or that induced production is a reasonably foreseeable result specific to the Liquefaction Project as contemplated under NEPA. Although not required under NEPA, DOE/FE did provide information about the effects of unconventional gas production generally. Although it specifically avoided trying to characterize incremental environmental impacts from a specific project or even from non-FTA exports generally,<sup>53</sup> DOE/FE's Environmental Addendum "address[ed] unconventional natural gas production in the nation as a whole."<sup>54</sup> DOE/FE provided information on this issue to the extent it was appropriate.

## 2. Climate Effects

Sierra Club contends that DOE/FE failed to take a hard look at the climate impacts of natural gas production and that DOE/FE's choice to exclude climate impacts of induced production from the NEPA analysis due to its uncertainty was improper. Sierra Club previously raised these arguments in its comments to the draft EIS, and FERC responded to its arguments in Appendix L of the EIS.<sup>55</sup> FERC explained that it "often considers the potential environmental impacts of natural gas production and development occurring in the project area as part of the cumulative impacts analysis to the extent that there is meaningful information available to assist the FERC's decision-making process in a particular proceeding" but that the upstream effects that Sierra Club raised were not "reasonably foreseeable" under NEPA.<sup>56</sup> Instead, the EIS incorporated a discussion of the ozone modeling analysis Cameron LNG completed and also recalculated the estimated greenhouse gas ("GHG") emissions for the construction and operation

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<sup>53</sup> Final Order at 73.

<sup>54</sup> *Id.*

<sup>55</sup> *Cameron LNG, LLC, et al.*, Docket Nos. CP13-25-000, *et al.*, Final Environmental Impact Statement, Appendix L at L-96 *et seq.*, Response IP2-73 (Apr. 30, 2014).

<sup>56</sup> *Id.* at L-96, Response IP2-73.

of the Liquefaction Project using the revised global warming potential values in EPA's November 2013 finalized amendments to its Greenhouse Gas Reporting Rule.<sup>57</sup>

Sierra Club also argues that DOE/FE failed to take a hard look at the climate impacts of the Liquefaction Project because it did not quantify the greenhouse gases that would be emitted by the induced production of the project. Sierra Club, however, has not offered any evidence establishing that climate impact is a reasonably foreseeable result of Cameron LNG's project. Quantifying GHG emissions from the Liquefaction Project would require speculation. While the Environmental Addendum does not quantify the greenhouse gases tied specifically to Cameron LNG's project, it does provide estimates of GHG emissions from the upstream natural gas industry in the United States while taking into account findings from various studies.<sup>58</sup> The Environmental Addendum concludes that "[i]ncreased unconventional natural gas production will increase GHG emissions from upstream activities," which may contribute to climate change.<sup>59</sup> Although not required by NEPA, in the Environmental Addendum, DOE/FE aired this issue to the extent was appropriate for the Liquefaction Project. Because the Environmental Addendum was not issued for purposes of DOE/FE's NEPA review, DOE/FE is not obligated to respond to Sierra Club's arguments in Part I.B.3 regarding the sufficiency of that analysis.

### 3. Electric Generation and GHG Emissions

Finally, FERC has also already addressed Sierra Club's arguments relating to the changes in electricity generation.<sup>60</sup> Sierra Club contends that FERC must address the cumulative impacts

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<sup>57</sup> *Cameron LNG, LLC, et al.*, Docket Nos. CP13-25-000, *et al.*, Final Environmental Impact Statement, Appendix L at L-81 to L-83, Responses IP2-52 to IP2-54 (Apr. 30, 2014).

<sup>58</sup> U.S. Department of Energy, Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States at 40-41 (Aug. 15, 2014), *available at* <http://energy.gov/sites/prod/files/2014/08/f18/Addendum.pdf> ("Environmental Addendum"); *id.* at 41 ("The differences in GHG emissions and methane leakage rates among natural gas analyses are driven by different data sources, assumptions, and scopes.").

<sup>59</sup> *Id.* at 44.

<sup>60</sup> *Cameron LNG, LLC, et al.*, 148 FERC ¶ 61,237 at P 32 (2014).



of GHG and other air emissions that are produced by an increase in coal-fired electric generation. These issues were previously addressed in the EIS, which stated that these effects are not reasonably foreseeable.<sup>61</sup> Specifically, the EIS stated, “[w]e agree that end users would cause environmental impacts; however it is not possible to know where those end users would be, or for us to realistically be able to characterize those impacts (especially in foreign countries, where environmental constraints would be different from the U.S. permitting process).”<sup>62</sup>

Sierra Club also contends that LNG exports would lead to an increase in coal-fired electric generation. This assertion is highly speculative. As FERC held, analysis on the environmental effects related to the future relative prices of natural gas and coal would require extensive speculation, and the environmental effects related to changes in domestic power production are beyond the scope of the NEPA review.<sup>63</sup> The United States currently has over a 100-year supply of natural gas and production is increasing at a rapid rate. Even if LNG exports result in the need to increasingly rely on other energy sources for the generation of electricity, it is unlikely that it will be coal.

#### 4. Summary

Many of the Sierra Club’s arguments rest simply on disagreements with FERC’s and DOE/FE’s expert judgments as to how these issues should be analyzed. FERC and DOE/FE are not required to accept every competing and differing approach offered by commenters. FERC already addressed Sierra Club’s comments on the draft EIS in Appendix L of the final EIS and

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<sup>61</sup> *Cameron LNG, LLC, et al.*, Docket Nos. CP13-25-000, *et al.*, Final Environmental Impact Statement, Appendix L at L-95, L-124, and L-127, Responses IP2-72, IP2-74, IP2-75 (Apr. 30, 2014).

<sup>62</sup> *Id.* at L-95, Response IP2-72.

<sup>63</sup> *Cameron LNG, LLC, et al.*, 148 FERC ¶ 61,237 at P 32 (2014).

provided a thorough response.<sup>64</sup> Both agencies have sufficiently responded to the comments received on their respective studies.

**D. DOE/FE Properly Weighed Environmental Issues in its Public Interest Determination**

DOE/FE has conducted a thorough public interest review and determined that the proposed LNG export will be consistent with the public interest. In granting Cameron LNG long-term authorization to export LNG, DOE/FE reviewed the comments and protests presented in opposition to the application and determined that they did not overcome the rebuttable presumption that proposed exports are consistent with the public interest.<sup>65</sup> DOE/FE found that there was substantial evidence of economic benefits and other public benefits such that the export authorization was not inconsistent with the public interest. It concluded that LNG exports from the Liquefaction Project will result in increased production, increased economic activity, job creation, support for continued natural gas exploration, and increased tax revenues.

As set forth in the Conditional Order, DOE/FE considered the regional impacts and price impacts of the proposed project. With regard to the price impact, DOE/FE determined that even with the increase in estimated prices, as set forth in the LNG Export Study, the United States will experience net economic benefits from increased LNG exports.<sup>66</sup> DOE/FE also considered the international consequences of approving the export proposal and determined that, to the extent U.S. export can counteract concentration within the global LNG markets, it can instead diversify international supply options and improve energy security for U.S. allies and trading partners.<sup>67</sup> DOE/FE also reviewed the economic impacts of higher natural gas prices, potential increase in

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<sup>64</sup> *Cameron LNG, LLC, et al.*, Docket Nos. CP13-25-000, *et al.*, Final Environmental Impact Statement, Appendix L at L-96 to L-98, Response IP2-73 (Apr. 30, 2014).

<sup>65</sup> Conditional Order at 127.

<sup>66</sup> *Id.* at 129-30.

<sup>67</sup> *Id.* at 131.

gas price volatility, and measures to mitigate potential impacts of the LNG export.<sup>68</sup> It concluded that the record contains substantial evidence of economic benefits that would result if the project was approved<sup>69</sup> and that Sierra Club failed to rebut the presumption that the LNG export is in the public interest.<sup>70</sup>

In its review, DOE/FE may exercise substantial discretion in deciding how expansive it wishes to make its environmental review, as the environmental impact of a proposed project is one of many factors it considers in its public interest review. In this case, DOE/FE has completed more than a sufficient analysis. As a cooperating agency, it has conducted an independent review of the EIS and determined that its comments and suggestions were satisfied.<sup>71</sup> DOE/FE independently adopted the EIS and has conducted supplemental studies, the Environmental Addendum and the LCA GHG Report,<sup>72</sup> that further discuss the environmental effects related to exports to support its public interest determination and demonstrate that no challenger has rebutted the presumption that exports are in the public interest. As an example, DOE/FE's efforts in the LCA GHG Report to explore and understand whether LNG exports are better or worse than foreign coal or other foreign energy sources in terms of international GHG emissions represent a reasoned and reasonable way to assess GHG-related impacts and benefits of exports.

The Final Order properly presumes that the export of LNG is consistent with the public interest and clearly outlines the basis of DOE/FE's action. The Final Order adopts the key

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<sup>68</sup> *Id.* at 132.

<sup>69</sup> *Id.* at 127.

<sup>70</sup> *Id.* at 133.

<sup>71</sup> Final Order at 72.

<sup>72</sup> U.S. Department of Energy Office of Fossil Energy, National Energy Technology Laboratory, Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States (May 29, 2014), *available at* <http://energy.gov/sites/prod/files/2014/05/f16/Life%20Cycle%20GHG%20Perspective%20Report.pdf> ("LCA GHG Report").

findings, terms and conditions set forth in the Conditional Order,<sup>73</sup> and relies on DOE/FE's review of Cameron LNG's application, comments on the application, the EIS, comments on the draft EIS, FERC's June 19 Order, the 2012 LNG Export Study,<sup>74</sup> the draft Environmental Addendum, comments thereon, and the LCA GHG Report and comments thereon.<sup>75</sup> It is supported by substantial evidence and is based on reasoned decisionmaking.

Further reviews or studies are not necessary and would delay the benefits that will result from the construction and operation of the Liquefaction Project, which include increased economic activity and job creation (regionally and nationally), substantial energy cost savings and enhanced energy diversity and supply for the international markets to be served by the Liquefaction Project, and global environmental benefits from the increased use of natural gas.

#### **E. The Environmental Addendum Is Not Meant to Supplement the NEPA Analysis**

In Part I.B.1 of the Request for Rehearing, Sierra Club argues that the Environmental Addendum and the three NETL reports that DOE/FE released "are not a substitute for NEPA review" and "cannot fulfill DOE's NEPA obligations."<sup>76</sup>

The Environmental Addendum was not prepared as a supplement to the EIS, nor was it completed to comply with a requirement or obligation under NEPA.<sup>77</sup> As DOE explained in the Environmental Addendum:

The purpose of [the] Addendum is to provide additional information to the public regarding the potential environmental impacts of unconventional natural gas production activities. DOE has received many comments in related proceedings expressing

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<sup>73</sup> Final Order at 7.

<sup>74</sup> NERA Economic Consulting, *Macroeconomic Impacts of LNG Exports from the United States* (Dec. 3, 2012), available at [http://energy.gov/sites/prod/files/2013/04/f0/nera\\_lng\\_report.pdf](http://energy.gov/sites/prod/files/2013/04/f0/nera_lng_report.pdf).

<sup>75</sup> Final Order at 7, 71-72.

<sup>76</sup> Sierra Club Request for Rehearing at 4.

<sup>77</sup> U.S. Department of Energy, *Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States* at 40-41 (Aug. 15, 2014), available at <http://energy.gov/sites/prod/files/2014/08/f18/Addendum.pdf>.

concerns about the potential impacts from increased production of natural gas in the United States, particularly production that involves hydraulic fracturing, or fracking. *While not required by NEPA*, DOE has prepared [the] Addendum in an effort to be responsive to public and provided the best information available.<sup>78</sup>

Further, the Environmental Addendum was not prepared specifically for any of the proposed projects. DOE/FE is therefore not required to mirror the conclusions in the Final Order with the information in the Environmental Addendum or any of the three NETL reports, nor are the Environmental Addendum and any other document required to be entirely consistent with one another. The Environmental Addendum was released simply to provide information to the public on the potential environmental impacts of unconventional natural gas production activities, not the potential environmental impacts of Cameron LNG's proposed Liquefaction Project.<sup>79</sup>

FERC and DOE/FE are not required to accept every competing and differing expert approach offered by commenters. NEPA does not dictate substantive outcomes and instead sets forth the procedural requirements that agencies must adhere to when completing an environmental review. FERC already addressed Sierra Club's comments on the draft EIS in Appendix L of the final EIS and provided a thorough response.<sup>80</sup> DOE/FE also examined Sierra Club's arguments and provided reasoned responses to those arguments. Both agencies have sufficiently responded to the comments received on their respective studies, and their decisions are not arbitrary and capricious.

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<sup>78</sup> *Id.* at 3 (emphasis added).

<sup>79</sup> Sierra Club further asserts that the Environmental Addendum and EIS in some cases contradict each other, providing as an example a statement regarding induced gas production being cause of exports. Request for Rehearing at 4. However, in the example that Sierra Club provides, the language at pages L-96 and L-97 of the EIS states that induced gas production is not an "effect" of Cameron LNG project for purposes of a cumulative impacts analysis under the NEPA. There is no contradiction.

<sup>80</sup> *Cameron LNG, LLC, et al.*, Docket Nos. CP13-25-000, *et al.*, Final Environmental Impact Statement, Appendix L at L-96 to L-98, Response IP2-73 (Apr. 30, 2014).

The EIS thoroughly analyzed the environmental impacts of the Liquefaction Project and addressed all comments submitted during the environmental review process. The EIS also concluded that if the Liquefaction Project is constructed and operated in accordance with the environmental conditions and mitigation measures, the environmental impacts will not be significant. FERC reviewed the environmental impacts identified in the EIS, concluded that the impacts will be insignificant, and placed environmental conditions and mitigation measures on the construction and operation that would avoid or minimize impacts on the environment. DOE independently adopted the EIS and is not required to supplement the EIS or conduct any further reviews or studies.

## V. CONCLUSION

For the reasons stated above, Cameron LNG respectfully requests that DOE accept this Answer and deny Sierra Club's Request for Rehearing.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that, in accordance with 10 C.F.R. § 590.107 (2014), I caused a copy of the foregoing to be served on the following this 28th day of October, 2014:

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