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

*1:24 pm, Jan. 17, 2017*

**IN THE MATTER OF  
  
MAGNOLIA LNG, LLC**

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**FE Docket No. 13-132-LNG**

**ANSWER OF MAGNOLIA LNG, LLC  
IN OPPOSITION TO SIERRA CLUB'S  
MOTION FOR STAY AND REQUEST FOR REHEARING**

Pursuant to the U.S. Department of Energy's ("DOE") regulations at 10 C.F.R. § 590.302(b), Magnolia LNG, LLC ("Magnolia LNG") hereby offers the following Answer in Opposition to Sierra Club's Motion for Stay and Motion for Leave to Answer and Answer to Sierra Club's Request for Rehearing in the above-captioned proceeding.

In support of this Answer, Magnolia LNG states the following:

**I. Background**

On October 15, 2013, Magnolia LNG filed an application pursuant to Section 3 of the Natural Gas Act, as amended, and Part 590 of DOE's Rules and Regulations, for authorization to export approximately 1.08 billion cubic feet per day ("Bcf/d") of natural gas.<sup>1</sup> Magnolia LNG seeks authorization to export the natural gas to nations that do not have a free trade agreement with the United States requiring national treatment for trade in natural gas, which have or in the future develop the capacity to import liquefied natural gas ("LNG"), and with which trade is not prohibited ("non-FTA nations"). Magnolia LNG plans to export the natural gas as LNG via the Magnolia LNG Project planned for Lake Charles, Louisiana.

<sup>1</sup> *Magnolia LNG, LLC*, Application of Magnolia LNG, LLC for Long-Term Authorization to Export LNG to Non-Free Trade Agreement Countries, DOE/FE Docket No. 13-132-LNG (Oct. 15, 2013) (hereinafter "Magnolia LNG Non-FTA Application").

On November 13, 2015, the Federal Energy Regulatory Commission (“FERC”) published its Final Environmental Impact Statement (“FEIS”) for the Project. DOE participated in the development of the FEIS as a cooperating agency and adopted the findings and conclusions of the FEIS.<sup>2</sup> FERC issued an order approving Magnolia LNG’s application on April 15, 2016.<sup>3</sup> Sierra Club requested rehearing on May 16, 2016, and FERC issued an order rejecting Sierra Club’s request for rehearing on November 23, 2016.<sup>4</sup>

DOE approved the Magnolia LNG Non-FTA Application on November 30, 2016.<sup>5</sup> Sierra Club filed a Request for Rehearing,<sup>6</sup> including a Motion to Stay, on December 30, 2016. Magnolia LNG now files the instant Answer in Opposition to the Motion to Stay and Motion for Leave to Answer and Answer to Request for Rehearing.

## II. Answer in Opposition to Motion for Stay

As part of its Rehearing Request, Sierra Club makes a motion for a “stay of the [Magnolia LNG DOE Order] pending the resolution of this motion.”<sup>7</sup> However, as Magnolia LNG demonstrates below, Sierra Club has not met the high bar for this extraordinary remedy.<sup>8</sup>

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<sup>2</sup> Environmental Impact Statements, Notice of Availability, 81 Fed. Reg. 67,348 at 67,348-49 (Sept. 30, 2016). *See also Magnolia LNG, LLC*, DOE/FE Order No. 3909 at 9 (2016).

<sup>3</sup> *Magnolia LNG, LLC, et al.*, Order Granting Authorization Under Section 3 of the Natural Gas Act and Issuing Certificates, 155 FERC ¶ 61,033 (2016).

<sup>4</sup> *Magnolia LNG, LLC, et al.*, Order Denying Rehearing, 157 FERC ¶ 61,149 (2016). Sierra Club was the only party to request rehearing in the FERC proceeding.

<sup>5</sup> *Magnolia LNG, LLC*, DOE/FE Order No. 3909 (2016) (hereinafter “Magnolia LNG DOE Order”).

<sup>6</sup> Although styled as a “Request for Rehearing,” Sierra Club’s Request for Rehearing is more accurately an Application for Rehearing as permitted by DOE’s procedural rules at 10 C.F.R. § 590.501(a). Because DOE has previously permitted Sierra Club’s Requests for Rehearing as an Application for Rehearing, *see Dominion Cove Point LNG, LP*, Order Denying Rehearing, DOE/FE Order No. 3331-B at 3 (2016), Magnolia LNG is treating Sierra Club’s Request for Rehearing as an Application for Rehearing for the purposes of this Motion for Leave to Answer and Answer.

<sup>7</sup> Rehearing Request at the cover page. However, the body of the Rehearing Request requests a stay of DOE’s authorization “pending resolution of this motion for rehearing and any judicial appeal.” Rehearing Request at 21.

<sup>8</sup> *See, e.g., Cuomo v. Nuclear Regulatory Comm’n*, 772 F.2d 972, 974 (D.C. Cir. 1985); *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008).

Therefore, Magnolia LNG respectfully requests that DOE deny Sierra Club’s Motion for Stay.

Under DOE regulations, an application for rehearing does not operate as a stay of an order unless otherwise ordered.<sup>9</sup> Sierra Club requests “an immediate order specifically staying DOE’s authorization” pursuant to these regulations.<sup>10</sup> Sierra Club argues that DOE should grant the stay based on the “general four-factor test used for stays of agency or judicial orders,”<sup>11</sup> which it outlines as the movant’s showing (1) a substantial likelihood of success on the merits, (2) irreparable harm to the movant, (3) a lack of substantial harm to the nonmovant, and (4) consistency with the public interest.<sup>12</sup> These factors generally match the factors federal courts use to evaluate petitions for stay. However, the U.S. Supreme Court has clarified that the third factor not only evaluates the potential harm against the nonmovant, but that the moving party must establish that the balance of equities tips in the moving party’s favor.<sup>13</sup> Regardless, Sierra Club does not meet any of these requirements.

With respect to the first factor, Sierra Club’s Rehearing Request is not substantially likely to succeed on the merits before either the DOE or a federal appellate court. Federal courts have required more than conclusory statements to support a request for a stay.<sup>14</sup> However, to support its request for a stay, Sierra Club offers no support for its assertion that “induced production” of natural gas is at least as foreseeable as “numerous other indirect effects that circuit courts have

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<sup>9</sup> 10 C.F.R. § 590.502.

<sup>10</sup> *Magnolia LNG, LLC*, Request for Rehearing, FE Docket No. 13-132-LNG at 21 (Dec. 30, 2016) (hereinafter “Rehearing Request”).

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

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

<sup>13</sup> *Winter v. Natural Res. Def. Council*, 555 U.S. at 20.

<sup>14</sup> *See, e.g., Ottawa Dev. Corp. v. U.S. Dep’t of Housing*, 21 Fed.Appx. 307, 309 (6th Cir. 2001) (explaining that “[a] movant for a stay is required to show, at a minimum, serious questions going to the merits”) (internal quotation omitted).

required agencies to consider under NEPA.”<sup>15</sup> DOE has rejected nearly identical arguments when denying Sierra Club’s requests for rehearing in other non-FTA proceedings.<sup>16</sup> The D.C. Circuit also recently rejected Sierra Club’s similar argument in a proceeding related to FERC’s authorization of LNG export facilities under the Natural Gas Act.<sup>17</sup> More specifically with respect to Magnolia LNG, FERC already has considered and rejected a similar claim in Sierra Club’s request for rehearing of FERC’s order.<sup>18</sup>

In addition, Sierra Club is not substantially likely to succeed on the merits because DOE already considered the impact of a possible increase in natural gas production when it approved the Magnolia LNG Non-FTA Application. As a cooperating agency, DOE participated in and adopted FERC’s FEIS<sup>19</sup> and, although not required by NEPA, prepared an addendum that focused on the environmental impacts of the “unconventional natural gas production” that will be a significant part of the feed gas supply for LNG exports.<sup>20</sup> Based on this information, DOE determined that increased natural gas production “cannot be described with sufficient specificity to make its consideration useful to reasoned decision makers.”<sup>21</sup> Sierra Club’s Motion for Stay

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<sup>15</sup> Rehearing Request at 22.

<sup>16</sup> See, e.g., *Cheniere Marketing, LLC et. al*, Order Denying Rehearing, DOE/FE Order No. 3638-A at 15-23 (2016) (rejecting “the conclusion that the environmental impacts of such marginal production are ‘reasonably foreseeable’ within the meaning of the CEQ’s regulations and the applicable case law”); *Dominion Cove Point LNG, LP*, Order Denying Rehearing, DOE/FE Order No. 3331-B at 17-25 (2016) (reaching the same conclusion).

<sup>17</sup> See *EarthReports, Inc. v. FERC*, 828 F.3d 949, 956 (D.C. Cir. 2016) (finding that the indirect effect of increased exports on natural gas production “similarly cannot occur unless a greater volume of [LNG] is shipped from [Cove Point] and enters the international marketplace”).

<sup>18</sup> *Magnolia LNG, LLC, et al.*, Order Denying Rehearing, 157 FERC ¶ 61,149 at PP 107-17 (2016) (finding both that “the Commission has not been presented with a proposed pipeline that the record shows will cause the predictable development of gas reserves. . . . [and even if a project did, FERC has] found that the potential environmental impacts resulting from such production are not reasonably foreseeable”).

<sup>19</sup> Magnolia LNG DOE Order at 149.

<sup>20</sup> *Id.* at 86.

<sup>21</sup> *Id.* at 141-42.

offers nothing to demonstrate that DOE should change its conclusion or that the federal appellate courts would arrive at a different conclusion. Therefore, Sierra Club has not satisfied this factor.

For the same reasons, Sierra Club's assertion that denying the stay will cause immediate and irreparable harm because it will result in an increase in natural gas production is also unsupported.<sup>22</sup> In fact, this claim directly contradicts FERC and DOE's conclusions that any adverse environmental impact caused by the Project "would be reduced to less-than-significant levels" under the mitigation measures recommended in the FEIS.<sup>23</sup> Moreover, as DOE and FERC expressly found, production is likely to continue regardless of an LNG export project. Further, given the three to four years required to construct an LNG export project, it is simply incorrect and impossible for there to be an immediate and irreparable harm resulting from natural gas production that will not occur for several years. Sierra Club provides no evidence that DOE or a federal appellate court's denial of the stay request would cause immediate and irreparable harm to its interests.

Third, Sierra Club erroneously dismisses the substantial harm that a stay would inflict on Magnolia LNG by alleging that it would "impose only a few additional months of delay."<sup>24</sup> Based on precedent, this is far from accurate, particularly given the fact that Sierra Club has requested a stay pending resolution of the rehearing motion *and any subsequent judicial appeal*.<sup>25</sup> For example, in the DOE proceeding related to the Dominion Cove Point LNG project Sierra Club filed its request for rehearing on June 8, 2015. DOE denied the request on April 18, 2016, and Sierra Club then filed a petition for review with the D.C. Circuit on June 15, 2016.

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

<sup>23</sup> FED. ENERGY REGULATORY COMM'N, MAGNOLIA LNG AND LAKE CHARLES EXPANSION PROJECTS: FINAL ENVIRONMENTAL IMPACT STATEMENT, FERC Docket No. CP14-347-000 at ES1-15 (Nov. 13, 2015) (hereinafter "Magnolia LNG FEIS").

<sup>24</sup> Rehearing Request at 21.

<sup>25</sup> *Id.*

This appeal remains pending before the court. A stay of this duration would present a substantial obstacle as Magnolia LNG continues to develop its project. The global LNG market is fluid and commercial discussions with possible offtakers are ongoing. Granting a stay would have serious detrimental impacts on Magnolia LNG, causing potential customers to question the viability of a project that has gone through more than 36 months of environmental and safety reviews by a dozen or more federal and state agencies. Moreover, reversing DOE’s approach to-date of denying Sierra Club’s unwarranted motions for stay would inject unnecessary confusion and uncertainty into a dynamic global market, discouraging potential offtake customers from contracting with U.S. LNG exporters, like Magnolia LNG. This confusion may even prompt potential customers to shift their focus to other global LNG sources to satisfy growing natural gas demand. Even considering the “balance of equities” does not favor Sierra Club, but rather favors Magnolia LNG. Sierra Club has had the opportunity to offer its arguments throughout DOE’s review of Magnolia LNG’s Non-FTA Application, as well as offering nearly identical arguments in other DOE LNG export proceedings.<sup>26</sup> Therefore, DOE should deny the stay request.

Finally, Sierra Club wrongly asserts that the export of LNG is a “major shift in the United States’ energy policy”<sup>27</sup> and therefore is not in the public interest. A discussion of DOE’s public interest analysis is included in Section III.B below and incorporated by reference here to avoid duplication. The concept that U.S. LNG exports are new is incorrect, in fact the United States has been exporting LNG since the late 1950s. In 1959, LNG was exported out of Louisiana to

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<sup>26</sup> See n. 35 *infra*.

<sup>27</sup> Rehearing Request at 22.

Algeria, followed by Alaska's first LNG export to Japan in 1969.<sup>28</sup> More recently, LNG exports from the Lower 48 States already have begun<sup>29</sup> with U.S. LNG having been delivered to multiple countries in Europe, Asia, and South America.<sup>30</sup>

Further, the federal government does not have an overarching national LNG export policy; rather, DOE considers the domestic need for natural gas and market-based competition in the natural gas market.<sup>31</sup> The administrative review of a single LNG export authorization is not the proper vehicle to debate a general change to national energy policy. In this instance, DOE thoroughly analyzed Magnolia LNG's Non-FTA Application in compliance with the Natural Gas Act. On its own accord, DOE also conducted several studies on the economic and environmental effects of LNG exports over the past five years and incorporated their findings in the agency's export authorization decisions, including the Magnolia LNG DOE Order.<sup>32</sup> Therefore, Sierra Club offers no valid reason why granting a stay is in the public interest.<sup>33</sup>

As Magnolia LNG demonstrates above, Sierra Club's stay request does not meet any of the four factors that DOE should consider when deciding whether to grant a stay: (1) the request for rehearing is not likely succeed on the merits; (2) failure to grant the stay will not create

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<sup>28</sup> DEP'T OF ENERGY, LIQUEFIED NATURAL GAS: UNDERSTANDING THE BASICS at 4 (2005), [https://energy.gov/sites/prod/files/2013/04/f0/LNG\\_primerupd.pdf](https://energy.gov/sites/prod/files/2013/04/f0/LNG_primerupd.pdf).

<sup>29</sup> *American LNG Marketing*, Notification of First Export, DOE/FE Docket No. 14-209-LNG (2016) (explaining that the first LNG export under the American LNG Marketing DOE authorizations occurred on February 5, 2016); *Cheniere Marketing, LLC*, Notification of First Export, DOE/FE Docket No. 10-111-LNG (2016) (explaining that the first export from the Sabine Pass LNG liquefaction facility occurred on June 3, 2016).

<sup>30</sup> *See, e.g.*, DEP'T OF ENERGY, NATURAL GAS IMPORTS AND EXPORTS SECOND QUARTER REPORT 2016 at 43 (2016) <https://energy.gov/sites/prod/files/2016/11/f34/2Q2016.pdf> (providing data for U.S. LNG exports to Argentina, Barbados, Brazil, Chile, India, Kuwait, Portugal, and the U.A.E.); Scott DiSavino, *U.S. Shifts LNG Exports to Asia as arb Opens up*, REUTERS (Jan. 11, 2017), <http://www.reuters.com/article/us-usa-asia-lng-idUSKBN14V2KX> (reporting on LNG exports to Japan and South Korea).

<sup>31</sup> *See* nn. 44-47 *infra*.

<sup>32</sup> Magnolia LNG DOE Order at 3-7 (providing an overview of the studies), 45-85 (providing a detailed analysis of the economic studies), 95-120 (providing a detailed overview of the environmental studies).

<sup>33</sup> *See also* Part III.B.

immediate and irreparable harm; (3) granting the stay will cause substantial harm to Magnolia LNG and therefore the balance of equities does not favor Sierra Club; and (4) granting the stay is not in the public interest. Therefore, Magnolia LNG respectfully requests that DOE deny the Motion for Stay.

### **III. Motion for Leave to Answer and Answer to Request for Rehearing**

Magnolia LNG moves for Leave to Answer and offers the following Answer to Sierra Club's Request for Rehearing.

#### **A. Motion for Leave to Answer Rehearing Request**

Although DOE's rules do not generally allow answers to applications for rehearing, DOE has permitted answers to applications for rehearing where the answer is "relevant to [DOE's] consideration of the issues" in the application for rehearing.<sup>34</sup> Magnolia LNG submits that the instant Answer is relevant to DOE's consideration of Sierra Club's Rehearing Request because the Answer responds directly to the misplaced assertions of fact and law that Sierra Club proffers in its Rehearing Request. Therefore, Magnolia LNG respectfully requests that DOE grant Magnolia LNG's Motion for Leave to Answer.<sup>35</sup>

#### **B. Answer to Rehearing Request**

Sierra Club's Rehearing Request offers the same general arguments outlining its general opposition to expanding U.S. LNG exports. DOE has considered and rejected these same

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<sup>34</sup> See, e.g., *Dominion Cove Point LNG, LP*, DOE/FE Order No. 3331-B at n. 42 (2016); *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 3357-C at n. 36 (2015).

<sup>35</sup> If DOE denies Magnolia LNG's Motion for Leave to Answer, Magnolia LNG requests, in the alternative, that DOE consider the analysis Magnolia LNG's Answer contains when analyzing Sierra Club's Motion for Stay. Although titled a "Request for Rehearing," Sierra Club's filing also contains a Motion for Stay pending resolution of the Rehearing Request and any future judicial appeal. Rehearing Request at 21. The Motion for Stay incorporates the reasoning of the rest of the Rehearing Request, which relies principally on the assertion that Sierra Club is likely to succeed on the merits by wrongly concluding that alleged "induced production" is foreseeable. Therefore, Magnolia LNG's timely Answer to the Rehearing Request is no less an answer to the Motion for Stay and should be permitted under DOE's rules at 10 C.F.R. § 590.302(b).

arguments repeatedly in previous LNG export proceedings and the agency should do the same here.<sup>36</sup> Furthermore, Sierra Club's sole novel argument on rehearing, raising concerns with distributional impacts, is without merit and DOE should reject this argument. Therefore, DOE should deny Sierra Club's Rehearing Request.

Sierra Club asserts that DOE failed to consider "distributional impacts" adequately when applying the Natural Gas Act's "public interest" test to Magnolia LNG's Non-FTA Application. More specifically, Sierra Club defines the benefits of Magnolia LNG's proposed exports too narrowly, focusing solely on Magnolia LNG's shareholders, and argues that DOE should have considered whether benefits inure to "all or most of the people" under a dictionary definition of the word "public."<sup>37</sup> Longstanding legal precedent and the facts in the record demonstrate that Sierra Club's argument is without merit.

Sierra Club's incorrect assertion that Magnolia LNG's proposed exports will only benefit Magnolia LNG's shareholders is a variation on an argument that it has made in nearly every other LNG export proceeding before DOE and FERC. Sierra Club's assertion ignores the evidence presented in Magnolia LNG's Non-FTA Application<sup>38</sup> and DOE's findings in the Magnolia LNG DOE Order that demonstrate the local, regional, national, and international benefits of Magnolia LNG's proposed exports.<sup>39</sup> Given the complete lack of supporting evidence presented in its Rehearing Request, Sierra Club's argument on this point amounts to nothing more than an attempt to place an emotional gloss on a bald assertion that DOE already has examined and found lacking. As such, DOE should reject Sierra Club's contention that

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<sup>36</sup> See *Dominion Cove Point LNG, LP*, DOE/FE Order No. 3331-B (2016); *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 3669-A (2016); *Freeport LNG Expansion, L.P.*, DOE/FE Order No. 3357-C (2015); *Cameron LNG, LLC*, DOE/FE Order No. 3391-B (2015).

<sup>37</sup> Rehearing Request at 18-19.

<sup>38</sup> See Magnolia LNG Non-FTA Application at 21-25.

<sup>39</sup> See Magnolia LNG DOE Order at 133-37 and 140-41.

Magnolia LNG’s shareholders will be the only segment of the population that will benefit from Magnolia LNG’s proposed exports.

With respect to the proper scope of DOE’s “public interest” analysis, Section 3 of the Natural Gas Act provides in relevant part that DOE “shall issue” an order approving an application to import or export natural gas “unless, after opportunity for hearing, it finds that the proposed exportation or importation will not be consistent with the public interest.”<sup>40</sup> Ignoring well accepted canons of statutory interpretation and decades of DOE and judicial precedent, Sierra Club uses its Rehearing Request to assert that the proper interpretation of the Natural Gas Act’s “public interest” test is based on one of the definitions of the word “public” provided by the online version of the Merriam-Webster Dictionary.<sup>41</sup>

There is no basis for Sierra Club’s reading of this statutory language. The U.S. Supreme Court has explained that the meaning of the words “public interest” in Section 3 of the Natural Gas Act arises from the purposes for which Congress adopted the Natural Gas Act.<sup>42</sup> The Supreme Court explained further that “the use of the words ‘public interest’ in a regulatory statute is not a broad license to promote the general welfare,” but, in the case of Natural Gas Act, the phrase is a charge to “promote the orderly production of plentiful supplies of ... natural gas at just and reasonable rates.”<sup>43</sup>

In the case of LNG exports, DOE has executed Congress’s charge under the Natural Gas Act by applying the statute’s presumption in favor of approving natural gas exports<sup>44</sup> and

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<sup>40</sup> 15 U.S.C. § 717b(a).

<sup>41</sup> Rehearing Request at 18-19.

<sup>42</sup> *Nat’l Ass’n for the Advancement of Colored People v. Fed. Power Comm’n*, 425 U.S. 662, 669 (1976).

<sup>43</sup> *Id.* at 669-70.

<sup>44</sup> *Panhandle Producers and Royalty Owners Ass’n v. Economic Regulatory Admin.*, 822 F.2d 1105, 1111 (D.C. Cir. 1987). *See also EarthReports, Inc. v. FERC*, 828 F.3d 949, 953 (D.C. Cir. 2016) (“[Natural Gas Act] § 3 ... sets out

evaluating an export application against a range of factors to ensure the proposed exports are not inconsistent with the statute's goal to promote the orderly production of plentiful supplies of natural gas at just and reasonable rates. Founded on the agency's 1984 policy guidelines for considering natural gas imports,<sup>45</sup> DOE has consistently applied complementary policies of natural gas supply security and market-based competition to every LNG export application over the last five years.<sup>46</sup>

DOE's analysis of an LNG export application in light of the public interest focuses on several factors: (1) the domestic need for the natural gas proposed to be exported; (2) whether the proposed exports pose a threat to the security of domestic natural gas supplies; (3) whether the arrangement is consistent with DOE's policy of promoting market competition; and (4) any other factors bearing on the public interest.<sup>47</sup> These factors make clear that DOE focuses on security of natural gas supply and market competition, while allowing for DOE's discretion to evaluate additional factors to determine whether the proposed natural gas export is not inconsistent with the Natural Gas Act's "public interest" goal of promoting the orderly production of plentiful supplies of natural gas at just and reasonable rates.

Importantly, there is no evidence to support Sierra Club's assertion that the Natural Gas Act's "public interest" language demands that a specific import or export of natural gas equally divide the benefits of the relevant transaction or transactions among all people in the United States. The Natural Gas Act does not require such a division of economic benefits because

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a general presumption favoring" approval of exports or imports of natural gas) (quoting *W. Va. Pub. Servs. Comm'n v. Dep't of Energy*, 681 F.2d 847, 856 (D.C. Cir. 1982)).

<sup>45</sup> New Policy Guidelines and Delegation Orders Relating to the Regulation of Imported Natural Gas, 49 Fed. Reg. 6684 (Feb. 22, 1984).

<sup>46</sup> *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 2961 at 29 (2011); *Phillips Alaska Natural Gas Corp, et al.*, DOE/FE Order No. 1473 at 14 (1999).

<sup>47</sup> Magnolia LNG DOE Order at 12.

compelling such a result would conflict with the Supreme Court’s explanation of an agency’s goal under the “public interest” of the Natural Gas Act: to promote the orderly production of plentiful supplies of natural gas at just and reasonable rates.

Sierra Club attempts to support its argument by relying on a broad-based report interpreting the economic studies that DOE has commissioned regarding the economic impacts of increased LNG exports.<sup>48</sup> However, there are two problems with Sierra Club’s use of this report. First, DOE considered this evidence as part of the record in this proceeding and explained that none of the commenters, Sierra Club included, performed a “quantitative analysis of the distributional consequences of authorizing LNG exports at the household level.”<sup>49</sup> Absent more compelling evidence and the Application’s alleged distributional effects, DOE “could not say that [the] exports are inconsistent with the public interest.”<sup>50</sup> Therefore, DOE already considered this report and found it lacking in specificity and granularity on the issue of household-level distributional impacts.

Second, Sierra Club relies on a report that looks very generally at LNG export projects but does not account for important distinctions between projects. Ignoring these distinctions renders an imprecise picture of the LNG market generally and an LNG project specifically. For example, Magnolia LNG plans to serve not only overseas natural gas markets, but also to help grow domestic transportation fuel markets by making LNG available for transport by marine barge or truck.<sup>51</sup> This infrastructure will assist the development of a domestic network for clean-

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<sup>48</sup> Rehearing Request at 19.

<sup>49</sup> Magnolia LNG DOE Order at 73-74.

<sup>50</sup> *Id.* at 74.

<sup>51</sup> Magnolia LNG FEIS at 1-12 (Nov. 13, 2015).

burning LNG as a transportation fuel, dispersing the benefits of the Magnolia LNG Project throughout Louisiana and beyond.

In contrast to Sierra Club's general assertion, Magnolia LNG submitted an economic report to DOE with its Application that considers the specific attributes of the Magnolia LNG Project. Prepared by Berkeley Research Group, this report analyzed the anticipated LNG market broadly, as well as the Magnolia LNG Project specifically, and found that exports via the Magnolia LNG Project would have a "negligible" impact on the domestic price of natural gas through 2035.<sup>52</sup> Neither the Rehearing Request nor any of Sierra Club's other submissions in the record of this proceeding have disputed the likelihood of Magnolia LNG's positive economic impacts on the local, regional, and national economies.

Therefore, DOE should reject Sierra Club's Rehearing Request because DOE adequately considered and properly rejected Sierra Club's arguments regarding alleged distributional impacts from Magnolia LNG's planned LNG export activities.

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<sup>52</sup> BERKELEY RESEARCH GROUP, LLC, NORTH AMERICAN MARKET IMPACT STUDY: MAGNOLIA LNG DOE APPLICATION FOR AUTHORITY TO EXPORT LNG TO NON-FTA NATIONS at 20 (2013).

#### IV. Conclusion

WHEREFORE, for the foregoing reasons, DOE should deny Sierra Club's Motion for Stay, grant Magnolia LNG's Motion for Leave to Answer, and deny Sierra Club's Rehearing Request. DOE should reaffirm its authorization for Magnolia LNG to export LNG to non-free trade agreement nations.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I certify that I have this 17th day of January, 2017, serviced copies of the foregoing document filed with the DOE/FE on the designated representatives of all of the parties to this proceeding, in accordance with 10 C.F.R. § 590.107(a).

Dated: January 17, 2017

/s/ Michael L. O'Neill  
Michael L. O'Neill  
*Counsel for Magnolia LNG, LLC*