October 27, 2022

Secretary Jennifer M. Granholm
Deputy Secretary David M. Turk
U.S. Department of Energy
1000 Independence Ave SW
Washington, DC

Dear Secretary Granholm,

The U.S. Department of Energy (DOE) is tasked by Congress to only permit exports of natural gas which are “not inconsistent with the public interest.”[1] The dramatic flood of Liquified Natural Gas (LNG) exports authorized by DOE in recent years are upending domestic energy markets, directly contributing to punishingly high energy prices for Americans, thereby exacerbating energy poverty and income inequality for the most vulnerable in our communities.[2] Unprecedented export volumes are, for the first time in history, binding American household energy bills to global calamities, resulting in a domestic energy pricing crisis.

The unprecedented increase in both LNG exports and domestic prices have overwhelmed DOEs methodological assumptions used to calculate that exports’ net economic benefits satisfy the public interest. Relying in part upon a macroeconomic study from the Trump Administration, DOE assumes, in part, that families’ investments in natural gas producers and exporters generates household income in excess of what is paid in energy bills. It is clear that DOEs hypotheses inaccurately measure the damage exports are having on depriving energy security for millions of American families.

In 2013, environmental organizations petitioned your agency requesting a rulemaking to revamp natural gas export policy to more accurately ensure that environmental, climate and consumer impacts are considered in DOE’s public interest determination to authorize exports of natural gas.[3] As DOE has thus far failed to respond to the petition, we urge the agency accept the petition’s request for a rulemaking, and, per your authority under Section 16 of the Natural Gas Act[4], <u>update its public interest assessment to include the impact LNG exports have on equity, to include a distributional incidence analysis for low-income families to document the role exports have on income inequality and exacerbating energy poverty in communities of color.</u>

DOE’s 2018 *Policy Statement Regarding Long-Term Authorizations To Export Natural Gas to Non-Free Trade Agreement* Countries makes clear that Section 16 of the Natural Gas Act gives it authority to “amend, and rescind such [export] orders . . . as it may find necessary or appropriate . . .” to satisfy its statutory responsibilities.[5]

[1] 15 USC § 717b(a).
[2] www.citizen.org/news/as-winter-approaches-fossil-fuel-exports-drive-up-consumer-prices/
[3] www.energy.gov/sites/default/files/2016/02/f30/Ex._02_-_LNG_rulemaking_petition.pdf
[4] 15 USC § 717o.
[5] www.govinfo.gov/content/pkg/FR-2018-06-21/pdf/2018-13427.pdf

Furthermore, modifications to DOE's assessment of LNG exports' impact on global energy security is needed to properly conform such considerations with the public interest. The Russian Federation's 2022 invasion of Ukraine has roiled energy stability for our European allies. But U.S. LNG exporters and energy traders are exploiting the conflict by price-gouging: many U.S. LNG sales to Europe are at prices above existing European benchmarks, with traders boasting of net profits in excess of $200 million per LNG shipment.[6] European Union leaders are now attacking the U.S. for allowing a "double standard" of selling cheaper U.S. gas at much higher prices to Europe.[7] And prioritization of U.S. LNG exports is a zero sum game, as cargoes directed to Europe come at the expense of the global south, where nations like Pakistan experience rolling blackouts as they get outbid by Europe for fuel.[8] It is not consistent with the public interest to allow a handful of LNG companies and financial traders to engage in unregulated price gouging while European and American households struggle to make ends meet.

To protect our European allies from price-gouging, DOE must condition any export authorization utilizing a global energy security justification to be subject to a cost-of-service standard tied to the landed delivery price. As Europe wrestles with concepts of how to stem out-of-control natural gas prices, a far more elegant solution would be for DOE to regulate prices of certain U.S. exports as a condition of its public interest authorization determination.

DOE Export Authorization Background

DOE is responsible for authorizing exports of U.S. produced natural gas, including LNG, to foreign nations pursuant to section 3 of the Natural Gas Act.[9] 1992 amendments to the Natural Gas Act deemed exports to countries with which the U.S. has a free trade agreement requiring national treatment for trade in natural gas are automatically deemed to be in the public interest. The U.S. has such free trade agreements with 18 countries, only two of which (South Korea and Singapore) are in Asia, with none in Europe.[10] From 2016 through August 2022, only 25% of all LNG exports are to nations with which we have a free trade agreement.[11]

[6] Harry Robertson, "Energy traders are making a killing exporting US natural gas to Europe," *Business Insider*, August 13, 2022, https://markets.businessinsider.com/news/commodities/us-natural-gas-exports-europe-surge-energy-crisis-trader-profits-2022-8
[7] Ania Nussbaum, "Macron Accuses US of Trade 'Double Standard' Amid Energy Crunch," *Bloomberg*, October 21, 2022, www.bloomberg.com/news/articles/2022-10-21/macron-accuses-us-of-trade-double-standard-amid-energy-crunch
[8] Stephen Stapczynski, "Pakistan Faces Years of Fuel Shortages After Gas Tender Flop," *Bloomberg*, October 3, 2022, www.bloomberg.com/news/articles/2022-10-03/pakistan-fails-to-secure-lng-deal-in-latest-hit-to-fuel-supply
[9] 15 USC § 717b.
[10] The other 16 nations are Australia, Bahrain, Canada, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama and Peru.
[11] www.energy.gov/fecm/articles/lng-monthly-2022

The bulk of LNG exports (75%) are to nations with which we do not have a free trade agreement, and therefore require DOE to only authorize them "it finds that the proposed exportation or importation will not be consistent with the public interest."

Seven currently operating LNG terminals (Sabine Pass, Cove Point, Elba Island, Corpus Christi I and II, Cameron, Freeport and Calcasieu Pass) have received authorizations from DOE to export to non-free trade agreement countries, and will have combined export capacity of 14 billion cubic feet per day before the end of 2022. Three additional terminals authorized to export and under construction (Plaquemines, Corpus Christi III and Golden Pass will boost export capacity to nearly 20 million Bcf/d by 2025.[12]

As a result, the U.S. catapulted from zero LNG exports prior to 2016 to the largest LNG exporter in the world today. More than 20% of natural gas produced in the U.S. was exported in the first six months of 2022, up from 11.5% in 2017.

Courts have long interpreted the intent of the Natural Gas Act public interest determination "was to protect consumers against exploitation at the hands of natural gas companies."[13]

Congress left it to the executive branch to define what factors would determine exports to be consistent with the public interest. DOE assesses several variables, including net economic impacts, international impacts, the security of domestic natural gas supply, and environmental impacts.[14]

Over the years, DOE has commissioned macroeconomic studies to determine whether LNG exports provide net economic benefits, in order to be consistent with the public interest. These studies attempt to estimate the impact exports have on domestic energy prices, and the economic contributions that LNG exports have for employment and other contributions to gross domestic product.

The most recent of these reports was conducted in 2018 during the Trump Administration, when LNG exports were still in relative infancy. *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports* was prepared by NERA Economic Consulting for DOE.[15] This study has aged poorly, as it assumed that consumer welfare—which it defines as the present value measure of the standard of living of all U.S. households—was directly and beneficially linked with higher LNG exports.[16] The 2018 study gave only a 3% probability that significant LNG exports would result in domestic prices above $10/MMBtu, concluding that "increasing U.S. LNG exports under any given set of assumptions about U.S. natural gas resources and their production leads to only small increases in U.S. natural gas prices."[17] Furthermore, the study claims that "as U.S. LNG exports increase . . . households who hold shares in

[12] www.eia.gov/todayinenergy/detail.php?id=53719
[13] *FPC v. Hope Nat. Gas Co.*, 320 U.S. 591 (1944).
[14] www.govinfo.gov/content/pkg/FR-2018-06-21/pdf/2018-13427.pdf
[15] www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf
[16] At page 20.
[17] At page 55.

companies that own liquefaction plants receive additional income from take-or-pay tolling charges for LNG exports. These additional sources of income for U.S. consumers outweigh the income loss associated with higher energy prices."[18]

DOE relies upon the conclusions of this 2018 study to help determine whether exports will be consistent with the public interest.

Record LNG Exports Result in Spiking Domestic Prices

Unfortunately, the predictions and assumptions of DOE's 2018 study have proven wrong, as higher exports are directly causing higher domestic prices. The Federal Energy Regulatory Commission's most recent Winter Energy Market and Reliability Assessment concludes that "continued growth in net exports, including from liquified natural gas (LNG) export facilities, will place additional pressure on natural gas prices this winter . . . Traditionally, domestic fundamentals drive U.S. natural gas prices; this winter, international markets will likely also affect U.S. natural gas markets and prices . . . the expansion of LNG export capability has integrated formerly disparate North American regional natural gas markets into the global market . . . In New England, high global LNG prices are contributing to higher winter natural gas futures prices."[19]

The *Wall Street Journal* reported "that natural-gas exports are pushing domestic prices higher . . . The pinch shows a growing tension between exporters and buyers who have enjoyed cheap gas for more than a decade. Some manufacturing and chemical companies have built entire businesses around low U.S. gas prices . . . Utilities from the Pacific Northwest to New England have filed regulatory requests to raise rates for natural gas this winter, citing a supply squeeze as a result of higher global demand . . . the U.S. is exporting a larger share of its natural gas than it ever has and shale producers aren't quickly ramping up in response to high prices . . . some of the biggest natural-gas producers have vowed to keep investments in production growth low."[20]

The U.S. Energy Information Agency reports that the "U.S. residential price of electricity will average 14.8 cents per kilowatthour in 2022, up 7.5% from 2021. Higher retail electricity prices largely reflect an increase in wholesale power prices driven by rising natural gas prices."[21]

The National Energy Assistance Directors' Association estimates that household heating costs for the upcoming winter will be 34.3% higher for families using natural gas and 6.9% higher for those relying on electricity.[22]

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[18] At page 67.
[19] https://ferc.gov/media/report-2022-2023-winter-assessment
[20] Collin Eaton and Katherine Blunt, "Natural-Gas Exports Lift Prices for U.S. Utilities Ahead of Winter," November 7, 2021, www.wsj.com/articles/natural-gas-exports-lift-prices-for-u-s-utilities-ahead-of-winter-11636281000
[21] www.eia.gov/outlooks/steo/
[22] https://neada.org/wp-content/uploads/2022/09/winter2022-23PR.pdf

These high prices are creating significant economic hardship for tens of millions of American families. Twenty-six percent of respondents to a U.S. Census Bureau survey taken in the summer of 2022 said they had forgone necessities like food or medicine to pay their energy bills sometime during the preceding year.[23] Rising energy costs—anchored by higher natural gas prices stemming in part from record LNG exports—are the biggest factor driving inflation in the U.S.[24]

DOE Must Revise Its Public Interest Review of LNG Exports To Include A Distributional Analysis of The Impact Higher Natural Gas Prices Have On Households And Communities of Color

DOE currently performs no distributional analysis to measure the impact that LNG exports may have on families at different incomes, and provides no assessment of the impact exports have on energy burdens of communities of color. Utility bill burdens are regressive, meaning lower-income families pay larger proportions of their income on such necessities compared to their more affluent neighbors. With natural gas representing the largest share of fuel (37%) for electric power generation in the U.S., combined with many families' reliance on natural gas for home heating, the export-driven energy spikes are resulting in profound energy insecurity for millions of Americans.

A distributional incidence analysis that measures the impact higher natural gas prices have on households at different income quintiles is necessary to demonstrate whether LNG exports are consistent with the public interest. DOE's failure to measure the price impacts for vulnerable populations renders its current methodological approaches inadequate to capture the adverse pricing dynamics impacting millions of households.

Providing price impacts by population quintile is one necessary reform; the other must be a geographic assessment of these price impacts. Because different regions of the country have unique energy profiles—including the types of home heating fuels, and the proportion of gas used in regional power generation—geographic modeling of the price impacts of LNG exports must also be determined.

A central component of both of the approaches are quantifying the impact higher prices have on communities of color. The Biden Administration's energy justice initiatives must translate to assessing the impact LNG exports have on communities of color.

Allowing U.S. Exporters and Traders to Price Gouge Undermines Global Energy Security

U.S. gas exports have reoriented to Europe from Asia in the wake of the Russian Federation's 2022 invasion of Ukraine. Of course, LNG exports become a bit of a zero sum game, as exports moving to one geographic point mean that another is deprived of such shipments. Such is the case with Bangladesh, which has endured power blackouts

[23] www.census.gov/data/tables/2022/demo/hhp/hhp48.html
[24] www.bls.gov/cpi/

and fuel shortages as the country is priced out of America's commitment to serve European markets.[25] DOE and numerous LNG export applicants have cited the need for U.S. LNG exports to provide energy security for our European allies. But it appears as though the natural gas industry and financial traders are exploiting the tragedy to engage in price-gouging. Reports detail that energy traders are making as much as $200 million in net profit per LNG shipment to Europe,[26] often selling cargoes at prices higher than existing continental benchmarks. Absent adhering LNG exports to some sort of price control, shipping U.S. LNG overseas fails to serve the public interest.

Therefore, any global energy security determination utilized as part of DOE's public interest determination of LNG exports must consider whether imposing cost-of-service rate requirements for landed delivery is necessary for the public interest.

Respectfully submitted,

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cc: Federal Energy Regulatory Commission Chairman Rich Glick

[25] Ann Koh, "Global Gas Crunch Leaves Bangladesh Facing Blackouts Until 2026," *Bloomberg*, August 1, 2022, www.bloomberg.com/news/articles/2022-08-01/global-gas-crunch-leaves-bangladesh-facing-blackouts-until-2026

[26] Harry Robertson, "Energy traders are making a killing exporting US natural gas to Europe as prices soar," *Markets Insider*, Aug 13, 2022, https://markets.businessinsider.com/news/commodities/us-natural-gas-exports-europe-surge-energy-crisis-trader-profits-2022-8