

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

Corpus Christi Liquefaction, LLC
CCL Midscale 8–9, LLC
Cheniere Marketing, LLC

Docket No. 23–46–LNG

Motion to Intervene and Protest of Public Citizen, Inc.

The U.S. Department of Energy is tasked by Congress to only permit exports of natural gas to non-FTA countries which are “not inconsistent with the public interest.”¹ The U.S. Supreme Court noted that the “primary aim” of this 85-year-old law is “to protect consumers against exploitation at the hands of natural gas companies”.²

The application must be denied because it is inconsistent with the public interest. The applicant relies on an obsolete and discredited 2018 macroeconomic study that fails to accurately measure the disruptive impact record natural gas exports are having on U.S. energy markets that are negatively impacting American consumers. The application omits necessary detail of the millions of dollars in special tax breaks Cheniere has received that undermine its claimed economic benefits. Furthermore, the application’s assertions that authorizing its requested level of exports will bring domestic and international benefits are unsupported.

Motion to Intervene

Public Citizen, Inc. moves to intervene in this proceeding. Established in 1971, Public Citizen, Inc. is a national, not-for-profit, non-partisan, research and advocacy organization representing the interests of household consumers. We have over 500,000 members and supporters across the United States, with a significant presence in Texas, including an office with full time staff based in Austin, TX. Public Citizen is active before the Federal Energy Regulatory Commission promoting just and reasonable rates. We frequently intervene in U.S. Department of Energy proceedings involving the export of electricity and natural gas. Our Energy Program Director, Tyson Slocum, is an expert on energy market regulatory matters, serving as a witness on the Department of Energy public interest standard in testimony before the U.S. Congress in February 2023.³ Slocum also serves on two federal advisory committees of the U.S. Commodity Futures Trading Commission (the Energy and Environmental Markets and Market Risk advisory committees). Financial details about our organization are on our web site.⁴

¹ 15 USC § 717b(a).

² *FPC v. Hope Nat. Gas Co.*, 320 U.S. 591 (1944).

³ www.citizen.org/article/house-testimony-energy-legislation/

⁴ www.citizen.org/about/annual-report/

The Application

Cheniere seeks to build two additional trains to its existing Corpus Christi export terminal, requesting authorization to export an additional 170 Bcf/y of natural gas to non-Free Trade Agreement nations.⁵

It is important to clarify that the application’s *Description of Applicants* omits Cheniere’s affiliation with the private equity firm Blackstone. Blackstone’s equity ownership of Cheniere Energy, combined with its control over a seat on the board of directors (filled by Blackstone’s Matthew Runkle), establishes that Blackstone has control of and affiliation with Cheniere Energy despite owning less than 10% of the company, per recent FERC precedent.⁶

Cheniere’s Proposed Exports Are Inconsistent With The Public Interest As They Will Exacerbate Domestic Supply Shortages And Threaten Higher Domestic Energy Prices

Cheniere’s application claims that its requested export authorization is consistent with the public interest, in part because of the conclusions of DOE’s macroeconomic study conducted during the Trump Administration.⁷ Not only is this 2018 study discredited, but an updated analysis by the U.S. Energy Information Administration, released May 23, 2023, concludes that increased LNG exports directly result in higher energy prices for American consumers: “higher LNG exports create a tighter domestic natural gas market (all else held equal), increasing domestic natural gas prices”.⁸ Utilizing the data in this new EIA report, Public Citizen calculates that domestic consumers will face \$14.3 billion in higher annual natural gas costs in 2050 as a result of LNG exports—including those proposed by Cheniere Energy.⁹ This new EIA analysis not only disproves the 2018 study cited in the application, but demonstrates that the requested LNG exports are inconsistent with the public interest.

*Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports*¹⁰—sited by applicants as evidence that their requested natural gas exports will be consistent with the public interest—has aged poorly. It assumes that consumer welfare—which it defines as the present value measure of the standard of living of all U.S. households—

⁵ *Application*, at page 5.

⁶ See, for example, July 3, 2023 *Notice of Denial of Rehearing by Operation of Law and Providing for Further Consideration* in FERC Docket Nos. ER20-67-003, ER20-113-003 and ER20-116-003, https://elibrary.ferc.gov/eLibrary/filelist?accession_num=20221222-3011

⁷ *Application*, at page 12.

⁸ *Effects of Liquefied Natural Gas Exports on the U.S. Natural Gas Market*, at page 7, www.eia.gov/outlooks/aeo/IIF_LNG/

⁹ Using price differential between High LNG Case and Fast Builds Plus High LNG Price in 2050, and applying that to domestic demand (leaving out exports and pipeline fuel).

¹⁰ www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf

was directly and beneficially linked with higher LNG exports.¹¹ 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.”¹² Furthermore, the study claims that “as U.S. LNG exports increase ... households who hold shares in 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.”¹³

This 2018 study not only is contradicted by EIA’s 2023 report, but by recent data. In 2023, the United States is the world’s largest natural gas producer *and* exporter. Sixty percent of our domestically produced petroleum is now exported,¹⁴ and 20% of our natural gas is now allocated for export.¹⁵ These numbers will only increase as domestic demand continues to flatten and export infrastructure capacity expands. While oil markets—and domestic gasoline prices—have long been directly influenced by global calamities, natural gas had been insulated from upheaval beyond our shores because until 2016 we lacked LNG export capacity. But LNG exports now for the first time in U.S. history tethers American consumers to global disruptions, radically upending domestic energy markets, and forcing American families to compete with Berlin and Beijing for U.S. produced energy. Natural gas exports are directly responsible for Americans paying higher prices to heat and cool their homes.

The United States is far and away the world’s largest natural gas producer, accounting for 25% of global production every day—producing as much as the next two biggest (Russia and Iran) *combined*,¹⁶ with U.S. production reaching an all-time high in 2022.¹⁷ At the same time, natural gas exports have exploded. Exports via pipeline to Mexico and Canada, combined with LNG exports by ship account for 20% of domestic gas production—up from 6% in 2015, establishing the United States as the world’s largest LNG exporter.¹⁸

These record exports have come with a tragic cost: American households, power producers and other consumers are now forced to compete with their counterparts in Berlin and Beijing, globalizing domestic benchmark prices and exposing Americans to higher prices and increased volatility.¹⁹ Spot benchmark natural gas prices on the west

¹¹ At page 20.

¹² At page 55.

¹³ At page 67.

¹⁴ <https://twitter.com/TysonSlocum/status/1617998886660112384>

¹⁵ www.citizen.org/article/letter-to-dept-of-energy-to-protect-consumers-from-lng-exports/

¹⁶ www.eia.gov/international/data/world/natural-gas/dry-natural-gas-production

¹⁷ *Global liquefied natural gas trade volumes set a new record in 2022*, July 5, 2023, www.eia.gov/todayinenergy/detail.php?id=57000

¹⁸ www.eia.gov/todayinenergy/detail.php?id=53159

¹⁹ “Surging US LNG exports hike domestic gas prices amid global supply crunch,” www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/surging-us-lng-exports-hike-domestic-gas-prices-amid-global-supply-crunch-67508815

and east coast United States in December 2022 were more expensive than in Ukraine.²⁰ U.S. natural gas price volatility is at the highest levels since the 1990s.²¹ Of course, extreme price volatility means that prices whipsaw up and down—so just because prices right now may be low, increased LNG exports threaten higher prices in the medium- and long-term.

The Federal Energy Regulatory Commission’s 2022-23 *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, as the New England regional natural gas market relies on imported LNG in the winter to meet natural gas demand and must compete for LNG volumes with Europe and Asia.”²²

USA Today reports that record LNG exports are directly contributing to punishing high energy bills for American families.²³ The National Energy Assistance Directors Association estimates that the cost of home energy for the summer of 2023 will increase by 11.8% to an average of \$578, up from \$517 last summer, driven in part by higher natural gas prices from record LNG exports.²⁴

The *Wall Street Journal* reports “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.”²⁵ Therefore so-called capital discipline is keeping a check on domestic production not rising on pace with exports in order to ensure domestic producers will enjoy higher prices.

²⁰ See www.eia.gov/todayinenergy/detail.php?id=55279 and www.naturalgasintel.com/haynesville-output-to-top-16-bcf-d-as-total-lower-48-production-continues-to-climb/

²¹ David Uberti and Ryan Dezember, “Why Gas Bills Are Going Crazy—With No End in Sight,” March 15, 2023, www.wsj.com/articles/natural-gas-prices-energy-bills-ea3ea9da

²² <https://ferc.gov/media/report-2022-2023-winter-assessment>

²³ Medora Lee, “Electricity bills may continue to shock you even as overall inflation eases”, January 24, 2023, www.usatoday.com/story/money/personalfinance/2023/01/24/electricity-prices-inflation/11089430002/

²⁴ <https://neada.org/>

²⁵ 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

Natural gas futures fell 25% after the June 8, 2022 explosion took the Freeport LNG export terminal out of commission, as traders understood that reduced natural gas exports would result in increased supply for American consumers.²⁶

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.²⁷ 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.²⁸

The application omits references to recent domestic supply shortages triggered in part by surging LNG exports. During Winter Storm Uri, the State of Texas faced severe natural gas supply shortages that resulted in the Governor issuing an emergency Disaster Declaration, requesting a halt to LNG exports from the state’s largest LNG exporter.²⁹ The application provides no information on the procedures to halt its requested LNG exports in the event of domestic gas supply shortages.

Cheniere’s Claims of Job and Tax Benefits Are Offset By Tax Breaks

Cheniere’s application claims that its job creation and tax benefits satisfy the Natural Gas Act’s public interest test.³⁰ But Cheniere’s application omits reference to the \$172 million in local property tax reductions Corpus Christi LNG’s export facility has obtained that mitigate these purported benefits.³¹ In addition, Cheniere Energy is entitled to an array of special tax breaks through the Foreign Trade Zone program.³² Any claimed economic benefits utilized to satisfy the statutory public interest standard must be net of any and all special tax breaks. Per 10 CFR § 590.305, we request Cheniere Energy detail the financial value of all federal, state, regional and local tax breaks received for Corpus Christi LNG.

²⁶ Ryan Dezember, “Natural-Gas Prices Plunge After Extended Outage at Texas LNG Facility”, June 14, 2022, www.wsj.com/articles/natural-gas-prices-plunge-after-extended-outage-at-texas-lng-facility-11655235895

²⁷ www.census.gov/data/tables/2022/demo/hhp/hhp48.html

²⁸ www.bls.gov/cpi/

²⁹ www2.tceq.texas.gov/oce/eer/index.cfm?fuseaction=main.getDetails&target=350574

³⁰ *Application*, at page 11.

³¹ Elliott Woods, “Critics say state tax break helps petrochemical companies and hurts public schools,” February 2, 2023, www.texastribune.org/2023/02/02/texas-tax-break-chapter-313/

³² www.federalregister.gov/documents/2023/03/07/2023-04566/foreign-trade-zone-122-corpus-christi-texas-application-for-expansion-of-subzone-122x-cheniere

LNG Exports Are Exacerbating Global Energy Insecurity, Violating The Public Interest

The application claims the requested LNG exports will advance “national security and the security of U.S. allies through diversification of global natural gas supplies . . . and displacing fuels with more significant environmental impacts in foreign countries.”³³

These claims are unsupported. For example, the *Financial Times* reports that “[s]urging European demand for liquefied natural gas to offset the loss of piped Russian gas has pushed prices for the commodity beyond the reach of many buyers in lower income regions such as south and south-east Asia, **driving some of them back towards a heavy dependence on coal**” [emphasis added].³⁴ So Cheniere’s requested LNG exports will likely expand the use of polluting coal.

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 and Bangladesh experience rolling blackouts as they get outbid by Europe for fuel.³⁵ Indeed, Bangladesh is suffering its worst energy crisis in more than a decade as it is priced out of the LNG market, and forced to increase reliance on coal and oil for electricity.³⁶

And the application’s claim that its requested exports will strengthen “European energy security”³⁷ is undermined by U.S. LNG exporters and energy traders exploiting the war in Ukraine 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.³⁸ European Union leaders have criticized the U.S. for allowing a “double standard” of selling cheaper U.S. gas at much higher prices to Europe.³⁹ Indeed, Europe has responded with permanent natural gas demand destruction, particularly for its industrial sector.⁴⁰ 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.

³³ *Application*, at page 14.

³⁴ Erwida Maulia, *LNG ‘inequality’ bites as Europe takes supply from Asia*, July 5, 2023, www.ft.com/content/d71def1b-6bdf-4375-81d9-7a1853a9a291

³⁵ Stephen Stapczynski, “Pakistan Faces Years of Fuel Shortages After Gas Tender Flop,” October 3, 2022, www.bloomberg.com/news/articles/2022-10-03/pakistan-fails-to-secure-lng-deal-in-latest-hit-to-fuel-supply

³⁶ Sudarshan Varadhan and Carman Chew, “Bangladesh’s worst electricity crisis in a decade,” June 7, 2023, www.reuters.com/world/asia-pacific/bangladeshs-worst-electricity-crisis-decade-2023-06-07/

³⁷ *Application* at page 15.

³⁸ Harry Robertson, “Energy traders are making a killing exporting US natural gas to Europe,” *Business Insider*, August 13, 2022, <https://sports.yahoo.com/energy-traders-making-killing-exporting-080000801.html>

³⁹ Ania Nussbaum, “Macron Accuses US of Trade ‘Double Standard’ Amid Energy Crunch,” October 21, 2022, www.bloomberg.com/news/articles/2022-10-21/macron-accuses-us-of-trade-doublestandard-amid-energy-crunch

⁴⁰ Priscila Azevedo Rocha, “Weak European Industry Is Keeping Gas Demand Depressed,” June 9, 2023, www.bloomberg.com/news/articles/2023-06-09/weak-european-industry-is-keeping-gas-demand-depressed

China—not Europe—will be the center of LNG demand growth, and therefore China is the most likely long-term destination for Cheniere’s exports. China’s domination of long-term supply contracts renders it as the global LNG price-maker, as it can either import the LNG cargoes or resell them on the open market.⁴¹ As such, Cheniere’s application actually undermines U.S. security, as its requested exports will more likely benefit China rather than Europe, and offers no guarantee that delivered LNG cargoes to Europe will not be at price-gouging levels.

Respectfully submitted,

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⁴¹ *China Is Buying Gas Like There’s Still an Energy Crisis*, July 1, 2023, www.bloomberg.com/news/articles/2023-07-02/china-is-buying-natural-gas-like-there-s-still-an-energy-crisis

VERIFICATION

Pursuant to 10 CFR § 590.103(b), I, Tyson Slocum, declare that I am Energy Program Director for Public Citizen, Inc. and am authorized to make this verification; that I have authored and read the foregoing filing and that the facts therein stated are true and correct to the best of my knowledge, information, and belief.

Pursuant to 28 U.S.C § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on July 7, 2023.

Tyson Slocum
Tyson Slocum
Energy Program Director
Public Citizen, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon the applicant and intervenors for this docketed proceeding in accordance with 10 CFR § 590.107(b). Dated at Washington, DC this 7th day of July 2023.

Signed,

Tyson Slocum

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