

December 16, 2021

Ms. Amy Sweeney
Office of Fossil Energy and Carbon Management
U.S. Department of Energy
Room 3E-052, FE-34
Forrestal Building
1000 Independence Avenue, S.W.
Washington, D.C. 20585

**Re: Carib Energy (USA) LLC, FE Docket No. 21-99-LNG
Application for Blanket Authorization to Export
Previously Imported Liquefied Natural Gas**

Dear Ms. Sweeney:

Pursuant to Sections 302 and 304¹ of the Department of Energy's "Administrative Procedures With Respect to the Import and Export of Natural Gas," Carib Energy (USA) LLC (Carib Energy), respectfully submits this answer to the motion/opposition submitted in the referenced proceeding by Matthew Deinhardt. As explained below, Mr. Deinhardt's submission wholly lacks merit and provides no credible basis for delaying, let alone denying, approval of the two-year blanket authorization to re-export previously imported liquefied natural gas (LNG) requested by Carib Energy.

A. BACKGROUND

On September 14, 2021, Carib Energy submitted its application for a two-year, blanket authorization to re-export LNG previously imported into the United States from foreign sources. Carib Energy proposed to purchase LNG at the Crowley LNG Puerto Rico Truck Loading Facility in Peñuelas, Puerto Rico and to re-export those volumes via approved IMO7/TVAC-ASME LNG containers transported on ocean-going carriers to free-trade agreement (FTA) and non-FTA countries within Central America, South America or the Caribbean. Carib Energy requested authorization to re-export LNG equivalent to 0.24 Bcf of natural gas during any consecutive 12-month period, and equivalent to 0.48 Bcf of natural gas during the entire two-year period covered by the requested authorization. DOE/FE published notice of Carib Energy's application in the Federal Register on November 5, 2021.

¹ 10 C.F.R. §§590.302 (motions) and 509.304 (protests). Because Mr. Deinhardt characterizes his submission as "a motion to oppose this application," Carib Energy treats that pleading as both a motion under Section 302 and a protest under Section 304.

Mr. Deinhardt submitted his one-page motion in opposition to DOE/FE on December 3, 2021. Mr. Deinhardt's motion (i) objects to the absence of an environmental impact statement (EIS) regarding the proposed re-export of LNG from Puerto Rico, (ii) questions the impact of the proposed re-exported LNG volumes on Puerto Rico, (iii) suggests that Florida-based companies like Carib Energy or its parent, Crowley Shipping, Inc. (Crowley), cannot understand the "impacts" on Puerto Rico, (iv) notes the absence of "total profit information" in the application, (v) suggests that a "trend" toward future use of "green energy" might provide a basis to deny the application, and (vi) requests pricing information regarding LNG purchases made by both Carib Energy and Puerto Rico. None of Mr. Deinhardt's concerns provide any basis for delaying approval of Carib Energy's application.

B. ANSWER

1. Carib Energy's Application Regarding Re-Exports to FTA Countries Must Be Approved Without Modification or Delay.

At the outset, Carib Energy observes that Mr. Deinhardt's concerns have no applicability to the FTA portion of the pending application. Congress amended Section 3(c) of the Natural Gas Act (NGA) through Section 201 of the Energy Policy Act of 1992 to require that FTA applications "shall be deemed to be consistent with the public interest" and granted "without modification or delay."² The FTA portion of Carib Energy's application falls within NGA section 3(c). Therefore, DOE should approve the proposed re-export of LNG to FTA countries without modification or delay.

2. Carib Energy's Application Does Not Require An EIS.

The National Environmental Policy Act (NEPA) provides for certain "categorical exclusions" if neither an EIS nor an environmental assessment (EA) is required. As explained in Carib Energy's application and subsequent clarification, the proposed re-export activity requires no new construction, and would merely expand the potential disposition of LNG volumes from the Crowley Facility to include re-exports by containers transported on marine vessel.³ Consequently, the requested authorization falls within NEPA categorical exclusion B5.7 (*Export of natural gas and associated transportation by marine vessel*).⁴

DOE has determined that the application of categorical exclusion B5.7 should focus "exclusively on the analysis of the potential environmental impacts resulting from activities occurring at or after the point of export. . . Such impacts begin at the point of export and are

² 15 U.S.C. § 717b(c).

³ See Application at 7-8; see also Email from Greg Buffington, Vice-President Business Development for Crowley Shipping, Inc. to DOE/FE, FE Docket No. 21-99-LNG (Oct. 26, 2021)(confirming re-export of LNG volumes by ISO containers only, not by LNG bulk carrier).

⁴ See 10 C.F.R. Part 1021, Subpart D, App. B, Categorical Exclusion B5.7, *Export of natural gas and associated transportation by marine vessel*.

limited to the marine transport affects.”⁵ DOE has concluded that “transport of natural gas by marine vessel normally does not pose the potential for significant environmental impacts,”⁶ *i.e.*, does not require the preparation of an EIS or EA. In short, Mr. Deinhardt did not find an EIS or EA included in Carib Energy’s application because none was required, and his motion takes no issue with the applicability of categorical exclusion B5.7.

3. There Is No Domestic Need for Carib Energy’s Re-Exported LNG Volumes.

In evaluating proposed exports to non-FTA countries, DOE/FE applies the principles set forth in DOE Delegation Order No. 0204-111.⁷ Domestic need is the only explicit public interest consideration identified by DOE in Delegation Order No. 0204-111. Mr. Deinhardt’s reference to an “impact statement on the territory of Puerto Rico” appears to posit concern over the availability of natural gas to Puerto Rico. Because the LNG proposed for re-export consists of volumes previously imported from foreign sources, the proposed re-exports would not reduce the level of domestically produced natural gas available to Puerto Rico.

Furthermore, domestic natural gas production during 2022 and 2023 is projected to significantly surpass annual gas consumption. EIA’s *Annual Energy Outlook 2021* (AEO 2021) projects annual lower-48 domestic dry natural gas production in 2022 of 32.45 trillion cubic feet (Tcf) and 33.68 Tcf in 2023,⁸ with projected consumption levels in 2022 of 29.13 Tcf and 29.86 Tcf in 2023.⁹ Because domestic natural gas production levels are projected to reach an amount that well exceeds the amount of natural gas proposed for short-term export by Carib Energy, Puerto Rico’s consumers will continue to have access to substantial quantities of domestic natural gas from multiple sources at competitive prices without drawing on the LNG that Carib Energy seeks to export.

4. Carib Energy and Crowley Have a Significant Presence in Puerto Rico.

Equally without merit is Mr. Deinhardt’s parochial surmise that Florida-based companies like Carib Energy and Crowley cannot “understand the impacts to an island in which they do not live.” To state the obvious, DOE’s regulations do not require an entity to “live” or be based in a jurisdiction from which it seeks to export LNG.

⁵ *Final Rule, National Environmental Policy Act Implementing Procedures*, 85 Fed. Reg. No. 234 at 78197 (Dec. 4, 2020). DOE defines export activities as starting at the point of delivery to the export vessel, and extending to the territorial waters of the receiving country. *Id.* at 78199.

⁶ *Id.* at 78198.

⁷ DOE Delegation Order No. 0204-111 (Feb. 22, 1984) at 1(¶ b).

⁸ See AEO 2021 Reference Case, Table 59: Lower 48 Natural Gas Production and supply Prices by Supply Region, available at: <http://www.eia.gov/outlooks/aeo/data/browser/#?id=72-AEO2021&cases=ref2021&sourcekey=0>.

⁹ See AEO 2021 Reference Case, Table 13: Lower 48 Natural Gas Production and supply Prices by Supply Region, available at: <http://www.eia.gov/outlooks/aeo/data/browser/#?id=13-AEO2021&cases=ref2021&sourcekey=0>.

Moreover, even a cursory review of the application demonstrates the significant presence that Carib Energy and Crowley have established in Puerto Rico through their investment of time and money in the Crowley Facility and their ongoing commercial activities, including the proposed re-export of LNG. Mr. Deinhardt simply ignores the beneficial impacts, in terms of revenue and jobs, that Crowley's construction of the Crowley Facility and Carib Energy's proposed re-export activities have brought and will bring to Puerto Rico.

5. "Total Profit Information" Is Irrelevant.

Mr. Deinhardt's apparent interest in "total profit information" is irrelevant to the matter at hand. It is unclear at best exactly what type of financial information he seeks and from whom. Furthermore, information on a proposed export activity's "total profit" (however defined) is not and has never been part of DOE's assessment of export authorizations to non-FTA countries. Again, the irrelevance of the financial information that interests Mr. Deinhardt explains why he could not find it in Carib Energy's application materials.

6. Speculation Concerning a Green Energy "Trend" Deserves No Weight.

Mr. Deinhardt's motion suggests that there "seems to be a trend" toward green energy that "may be adequate grounding" for denying Carib Energy's application. Here again, Mr. Deinhardt provides no evidentiary support for his generalized speculation regarding either the green energy "trend" or the "adequate grounding" he perceives.

Nor does Mr. Deinhardt explain how preventing re-exported LNG volumes -- which, by definition, are not consumed in Puerto Rico -- would "limit the overall impact of the transition from fossil fuels to green energy" on the island. Such baseless, unsupported contentions deserve no weight in considering Carib Energy's application.

7. Relative LNG Purchase Prices Are Irrelevant and Unknown.

Mr. Deinhardt expresses interest in the LNG purchase prices paid by Carib Energy relative to those paid by the "citizens of Puerto Rico." Once again, the information sought by Mr. Deinhardt is irrelevant to consideration of Carib Energy's application. As explained earlier, Puerto Rico will continue to have access to competitively priced domestic natural gas if DOE/FE approves Carib Energy's application. Mr. Deinhardt's observation regarding what Puerto Rico's citizens "deserve to pay" for LNG may serve as a satisfying political statement, but it affords no basis for denying Carib Energy's application.

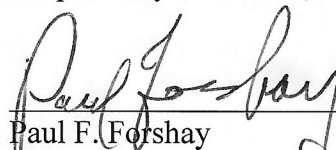
Apart from its irrelevance, as a practical matter Carib Energy does not possess the pricing information sought by Mr. Deinhardt. To date, Carib Energy has not purchased any

LNG volumes for re-export, pending approval of its application by DOE/FE.¹⁰ Nor does Carib Energy have any way of knowing the price paid for LNG by the citizens of Puerto Rico. Accordingly, Mr. Deinhardt's interest in irrelevant information that cannot be produced should not delay DOE/FE's approval of Carib Energy's application.

C. CONCLUSION

For the foregoing reasons, the motion in opposition to Carib Energy's application submitted by Mr. Deinhardt wholly lacks merit and deserves no consideration by DOE/FE. Carib Energy respectfully requests that DOE/FE approve its application to re-export previously imported LNG volumes to FTA and non-FTA countries without modification or delay.

Respectfully submitted,



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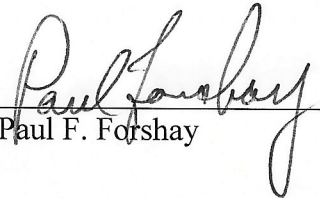
¹⁰ Carib Energy notes that export authorizations typically impose monthly reporting requirements on the applicant, including for each LNG cargo "the price at point of export per million British thermal units (MMBtu)." See, e.g., *Southern LNG Company, L.L.C.*, FE Docket No. 20-99-LNG, DOE/FE Order No 4687 (March 30, 2021). This reporting obligation would make the specified LNG pricing information available to Mr. Deinhardt on a monthly basis.

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Verification and Certificate of Service

Pursuant to 10 C.F.R. § 590.103, the undersigned affirms that he has read the foregoing Answer and is familiar with its contents; and that all the statements and matters contained therein are true and correct to the best of his information, knowledge and belief.

Pursuant to 10 C.F.R. § 590.107, the undersigned certifies that he has served a copy of the foregoing Answer on Matthew Deinhardt via email at tdrahmied@gmail.com on Thursday, December 16, 2021.


Paul F. Forshay