

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

In the Matter of:)	
)	
Venture Global CP2 LNG, LLC)	Docket No. 21-131-LNG

**ANSWER OF
VENTURE GLOBAL CP2 LNG, LLC
TO INTERVENTIONS AND PROTESTS**

Pursuant to Sections 590.302(b), 303(e), and 304(f) of the regulations of the Department of Energy (“DOE”),¹ Venture Global CP2 LNG, LLC (“CP2 LNG”) hereby submits this answer in opposition to the following submissions filed in the above-captioned proceeding: (1) the “Motion to Intervene and Protest of Sierra Club;” (2) the “Notice of Intervention, Protest and Comment” of the Industrial Energy Consumers of America (“IECA”); (3) the “Motion to Intervene and Protest of Natural Resources Defense Council” (“NRDC”); (4) the “Comments of the Institute for Policy Integrity at New York University School of Law” (“Policy Integrity Institute”); (5) the e-mail submission by Public Citizen, Inc. with the subject line “Notice of Intervention;” (6) the “General Comment” submitted by Caleb Merendino; and (7) the “Comments To The Application of Venture Global CP2 LNG, LLC” filed by C. Russell Twist.

These submissions concern the application pursuant to Section 3 of the Natural Gas Act (“NGA”) submitted by CP2 LNG on December 2, 2021 (the “Application”) to the DOE’s Office of Fossil Energy and Carbon Management (“DOE/FE”) for long-term, multi-contract authority, as well as related short-term authority, to export domestically

¹ 10 C.F.R. §§ 590.302(b), 303(e), and 304(f) (2021).

produced liquefied natural gas (“LNG”) from the proposed CP2 LNG natural gas liquefaction and LNG export terminal and related facilities to be located in Cameron Parish, Louisiana (the “Project”). On the same day that CP2 LNG submitted its DOE/FE Application, it also submitted its Section 3 application with the Federal Energy Regulatory Commission (“FERC”) in FERC Docket No. CP22-21 for the siting, construction, and operation of the Project.²

I. Party Status Should Be Granted Only to Filings Satisfying the Requirements for a Motion to Intervene.

The regulations of DOE/FE provide that a person who seeks to become a party to a proceeding must file a motion to intervene that “sets out clearly and concisely the facts upon which the petitioner’s claim of interest is based.”³ And the regulatory definition of “interested person” is limited to persons “whose interest in a proceeding goes beyond the general interest of the public as a whole. . . .”⁴

Neither of the two individuals submitting comments, Caleb Merendino and C. Russell Twist,⁵ nor the Policy Integrity Institute, requested, mentioned, or contemplated intervention in this proceeding. DOE’s public notice of CP2 LNG’s Application, as well as the DOE/FE regulations, make clear that “[a]ny person wishing to become a party to

² The FERC application also included the request by Venture Global CP Express, LLC (“CP Express”) for NGA Section 7 certificate authority for a proposed pipeline system that includes over 90 miles of pipeline and related facilities. CP2 LNG has contracted for all the firm transportation capacity on that new pipeline system, which will connect its LNG terminal to the existing interstate pipeline grid in Louisiana and Texas.

³ 10 C.F.R. § 590.303(b).

⁴ 10 C.F.R. § 590.102(h).

⁵ Mr. Twist’s Comments focus entirely on a patently baseless concern regarding LNG Sales and Purchase Agreements (“SPAs”) entered into by CP2 LNG’s affiliates Calcasieu Pass and Plaquemines LNG. Those SPAs are fully consistent with existing export authorizations and have been submitted to DOE/FE in accordance with the terms of those authorizations. Accordingly, no further response to Mr. Twist’s Comments is needed or will be provided herein.

the proceeding must file a motion to intervene or notice of intervention. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding. . . .”⁶ Accordingly, DOE/FE certainly should recognize that none of these three commenters is a party to this proceeding.

Both IECA and Public Citizen captioned their submissions as a “Notice of Intervention;” but, under DOE’s regulations, only a State Commission may file a notice of intervention.⁷ In its short submission, Public Citizen did “move to intervene” in the proceeding and asserted that it has a “direct interest” in CP2 LNG’s Application based on a single sentence expressing the organization’s very general concerns with LNG exports. IECA, despite submitting 16 pages of substantive comments, did not do even that much. Other than the inapposite caption, IECA does not otherwise mention intervention anywhere in its pleading, does not move for intervention, nor present facts to support its claim of interest in CP2 LNG’s Application. Because these filings by IECA and Public Citizen provide no reasonable basis for granting intervention, CP2 LNG urges DOE/FE to deny each of these filers party status.

In contrast, the Sierra Club and NRDC clearly did request intervention and provide an explanation of their purported interest. That interest concerns LNG exports generally and has little connection with the specifics of the CP2 LNG Project. CP2 LNG recognizes, however, that DOE/FE has liberally granted interventions in previous LNG export proceedings, and the filings of Sierra Club and NRDC likely satisfy the established standards for intervention here.

⁶ *Venture Global CP2 LNG, LLC; Application for Long-Term Authorization To Export Liquefied Natural Gas to Non-Free Trade Agreement Nations*, 87 Fed. Reg. 1,133, 1,134 (Jan. 10, 2022).

⁷ *See* 10 C.F.R. §§ 590.303(a), (b) and 590.102(q).

II. The Protests Do Not In Any Way Demonstrate that the Proposed LNG Exports By CP2 LNG Are Inconsistent with the Public Interest.

The bulk of the protests of CP2 LNG's Application concern very general opposition to the export of LNG from the U.S., and challenge long-established DOE/FE policies. Furthermore, most of the arguments offered have been consistently rejected by DOE/FE in numerous decisions over more than a decade through three presidential administrations. Nothing in the protestors' arguments warrants a change in general DOE/FE policy, nor provides any basis to conclude that CP2 LNG's proposal would be inconsistent with the public interest.

Section 3(c) of the NGA requires that applications to authorize exports of natural gas, including LNG, to a nation with which there is in effect a free trade agreement ("FTA") requiring national treatment for trade of natural gas be "deemed to be consistent with the public interest" and "granted without modification or delay."⁸ Therefore, the filed protests are wholly irrelevant to exports to FTA nations, and CP2 LNG renews its request that DOE/FE issue the requested FTA authorization as soon as practical, consistent with the statutory mandate and its established practices.⁹

With respect to exports to non-FTA nations, NGA Section 3(a) establishes a rebuttable presumption that proposed exports of natural gas are in the public interest.¹⁰ DOE/FE has consistently held that it must grant LNG export applications unless opponents of an application overcome this presumption by making an affirmative

⁸ 15 U.S.C. § 717b(c) (2018).

⁹ See Application at 14-15.

¹⁰ 15 U.S.C. § 717b(a) (2018); see also, e.g., *Sierra Club v. U.S. Dep't of Energy*, 867 F.3d 189 at 203 (D.C. Cir. 2017) ("We have construed [NGA section 3(a)] as containing a 'general presumption favoring [export] authorization.'" (quoting *W. Va. Pub. Serv. Comm'n v. U.S. Dep't of Energy*, 681 F.2d 847, 856 (D.C. Cir. 1982)).

demonstration that the proposed export is inconsistent with the public interest,¹¹ including in orders issued just this month.¹² The protesting parties’ arguments fall far short of the required demonstration, as explained below.

A. The Need For U.S. LNG Has Never Been Clearer

The need around the world for additional export of the abundant, low-cost, and clean-burning U.S. natural gas has never been clearer: the economic, geopolitical, and environmental benefits of LNG exports are manifestly in the public interest. The CP2 LNG Project – just like the two more advanced, affiliated Venture Global LNG projects Calcasieu Pass and Plaquemines LNG – will play an important role in promoting those benefits.

Sierra Club – which has been at the forefront of opposition to DOE/FE’s authorization of LNG exports from the start¹³ – attempts to grapple with the obvious current global need for natural gas by beginning its protest with a discussion of “global

¹¹ E.g., *Philips Alaska Natural Gas Corp. & Marathon Oil Co.*, DOE/FE Order No. 1473 at 13 (Apr. 2, 1999); *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 2961 at 28 (May 20, 2011); *Dominion Cove Point LNG, LP*, DOE/FE Order No. 3331-B at 11 (Apr. 18, 2016); *Venture Global Calcasieu Pass, LLC*, DOE/FE Order No. 4346 at 19 (Mar. 5, 2019); *Venture Global Plaquemines LNG, LLC*, DOE/FE Order No. 4446 at 18-19 (Oct. 16, 2019).

¹² *Cheniere Marketing LLC & Corpus Christie Liquefaction, LLC*, DOE/FE Order No. 4799 at 26 (Mar. 16, 2022) (hereinafter “*Cheniere Marketing 2022*”); *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 4800 at 26 (Mar. 16, 2022) (hereinafter “*Sabine Pass 2022*”).

¹³ In 2015, Sierra Club petitioned the U.S. Court of Appeals for the District of Columbia Circuit (“D.C. Circuit”) for review of five long-term LNG export authorizations issued by DOE/FE for the first wave of U.S. LNG export projects (outside Alaska), which it had actively opposed at the agency. The D.C. Circuit denied four of the five petitions for review: one in a published decision issued on August 15, 2017, *Sierra Club vs. U.S. Dep’t of Energy*, 867 F.3d 189 (D.C. Cir. 2017) (denying petition of review of the LNG export authorization issued to Freeport LNG Expansion, L.P., *et al.*), and three in a consolidated, unpublished opinion issued on November 1, 2017. *Sierra Club v. U.S. Dep’t of Energy*, Nos. 16-1186, 16-1252, 16-1253, 703 Fed. Appx. 1 (D.C. Cir. Nov. 1, 2017) (denying petitions of review of the LNG export authorization issued to Dominion Cove Point LNG, LP; Sabine Pass Liquefaction, LLC; and Cheniere Marketing, LLC, *et al.*, respectively). Sierra Club subsequently withdrew its remaining fifth petition for review. See *Sierra Club v. U.S. Dep’t of Energy*, No. 16-1426, Per Curiam Order (D.C. Cir. Jan. 30, 2018) (granting Sierra Club’s unopposed motion for voluntarily dismissal). Yet, Sierra Club continues to oppose LNG exports, largely advancing the same arguments that have been consistently rejected.

strategic interests” “in light of recent events in Ukraine.”¹⁴ The geopolitical importance of U.S. natural gas supplies, which DOE has consistently recognized in its long-term export authorizations,¹⁵ unquestionably has been highlighted and dramatically reinforced by recent events associated with Russia’s invasion of Ukraine. President Biden and European Union (“EU”) President von der Leyen’s joint statement, shortly before the invasion, reflected the importance of this issue,¹⁶ as did the joint statement of the U.S.-EU Energy Council chaired by, among others, Energy Secretary Granholm.¹⁷ After the invasion, the European Commission proposed a plan to reduce Europe’s dependence on Russian gas as soon as possible, including importantly a dramatic increase in its LNG imports.¹⁸ Most recently, on March 25, 2022, the European Commission and the United States issued a joint statement on European energy security announcing a major initiative to increase deliveries of U.S. LNG to Europe, striving to ensure additional LNG volumes to the EU market of at least 15 billion cubic meters (“bcm”) in 2022 with increases going forward.¹⁹ As part of that initiative, the European

¹⁴ Sierra Club Protest at 4-6.

¹⁵ See, e.g., *Venture Global Calcasieu Pass, LLC*, DOE/FE Order No. 4346 at 62; *Venture Global Plaquemines LNG, LLC*, DOE/FE Order No. 4446 at 36; *Extending Natural Gas Export Authorizations to Non-Free Trade Agreement Countries Through the Year 2050*, Notice of Final Policy Statement and Response to Comments, 85 Fed. Reg. 52,237 at 52,244 (Aug. 25, 2020).

¹⁶ *Joint Statement by President Biden and President von der Leyen on U.S.-EU Cooperation on Energy Security*, Jan. 28, 2022, available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2022/01/28/joint-statement-by-president-biden-and-president-von-der-leyen-on-u-s-eu-cooperation-on-energy-security/>.

¹⁷ *Joint Statement on the U.S.-EU Energy Council*, Office of the Spokesperson, Feb. 7, 2022, available at: <https://www.state.gov/joint-statement-on-the-u-s-eu-energy-council/>.

¹⁸ See Press Release, European Commission, *REPowerEU: Joint European action for more affordable, secure and sustainable energy*, Mar. 8, 2022, available at: https://ec.europa.eu/commission/presscorner/detail/en/ip_22_1511.

¹⁹ See Press Release, European Commission, *Joint Statement between the European Commission and the United States on European Energy Security*, Mar. 25, 2022, available at: https://ec.europa.eu/commission/presscorner/detail/en/statement_22_2041.

Commission stated that will work toward ensuring stable demand for additional U.S. LNG until at least 2030 of approximately 50 bcm per year, while the U.S.:

commits to maintaining an enabling regulatory environment with procedures to review and expeditiously act upon applications to permit any additional export LNG capacities that would be needed to meet this emergency energy security objective and support the RePowerEU goals, affirming the joint resolve to terminate EU dependence on Russian fossil fuels by 2027.²⁰

In its long-term export authorizations, DOE/FE has consistently recognized the energy security benefits to U.S. allies and trading partners that result from U.S. LNG exports.²¹ In its most recent export authorizations, DOE/FE reiterated its long-standing point while also highlighting the current situation. Thus, DOE/FE explained:

[A]n efficient, transparent international market for natural gas with diverse sources of supply provides both economic and strategic benefits to the United States and our allies. For example, in light of the recent Russian invasion of Ukraine, there are renewed concerns about energy security for Europe and Central Asia, particularly given the relative share of Russian natural gas supplies into those regions. By authorizing additional exports to non-FTA countries, including to U.S. allies in Europe and elsewhere, this Order will enable [the applicant] to help mitigate the acute and immediate energy security concern. More generally, to the extent U.S. exports diversify global LNG supplies and increase the volumes of LNG available globally, these exports will improve energy security for many U.S. allies and trading partners.²²

²⁰ *Id.*

²¹ *See supra.* n.15.

²² *Cheniere Marketing 2022* at 54 (internal footnotes omitted); *Sabine Pass 2022* at 55-56 (internal footnotes omitted).

Sierra Club emphasizes that the CP2 LNG Project “will not provide *any* help in reducing reliance on Russian gas in the short term”²³ – which is true as far as alleviating the immediate demand for additional natural gas in Europe. But there is no basis to believe that the geopolitical importance of U.S. gas supplies will suddenly disappear or diminish, nor that the world’s demand for U.S. LNG will be short-lived. Sierra Club further “contends that there is no strategic need for export capacity beyond that provided by existing facilities.”²⁴ Contrary to this contention, the well-respected, annual Shell LNG Outlook shows that expected LNG demand will exceed available supply (including that under construction) beginning almost immediately and then by steadily growing amounts over the coming years.²⁵

Even more concretely, real-world, market evidence disproves Sierra Club’s contention. A recent Poten & Partners contract survey concluded that a record level of just under 52.5 million tonnes per annum (“mtpa”) of long-term (more than two years) LNG SPAs were signed in 2021.²⁶ Venture Global LNG has been at the forefront of that contracting success. The vast majority of the production capacity of Venture Global’s first project, Calcasieu Pass – which has recently begun exporting commissioning cargoes – is committed under long-term LNG off-take contracts with customers. Venture Global’s second project, Plaquemines LNG – which is also under

²³ Sierra Club Protest at 4 (emphasis in original). Mr. Merendino made a similar point in his comments at 2.

²⁴ *Id.* at 5.

²⁵ See Shell LNG Outlook 2022 at 28, available at: <https://www.shell.com/energy-and-innovation/natural-gas/liquefied-natural-gas-lng/lng-outlook-2022.html#i>.

²⁶ Poten & Partners, *LNG in World Markets: Special Contracts Issue: Record Term Volumes Sold in 2021 as Deals Boost New Projects*, Jan. 2022, available upon request at: <https://www.poten.com/lng-opinion-lngwm-january-2022-special-contracts-issue-record-term-volumes-sold-in-2021-as-deals-boost-new-projects/>.

construction – has sold 14 mtpa under long-term SPAs, out of a nameplate capacity of 20 mtpa. CP2 LNG itself recently entered into its first binding, long-term SPA, as explained in its notification recently filed in this proceeding.²⁷

Sierra Club further argues that, even if there is need for more LNG exports, already permitted projects that are not yet operational or under construction can serve that need.²⁸ Yet, DOE/FE has recently recognized the “uncertainty” about whether “proposed LNG export projects will ever be realized because of the time, difficulty, and expense of commercializing, financing, and constructing LNG export terminals, as well as the uncertainties and competition inherent in the global market for LNG.”²⁹ Obviously, many other project developers have had limited contracting success, and DOE/FE certainly should not assume that other permitted LNG projects will be commercialized and actually constructed, particularly as Venture Global LNG has demonstrated that it can deliver LNG to the market faster and at a lower cost than competing projects.³⁰

Furthermore, DOE/FE has never attempted to assume the role of picking the LNG projects (export or import) that will move forward, and it has no basis or authority to make such determinations. Any such approach would be contrary to the goal established in the 1984 Policy Guidelines (which continue to guide DOE/FE’s decisions

²⁷ See Press Release, *Venture Global Announces New Sales Agreements for Plaquemines and CP2 LNG, Releases Update on Pre-FID Milestones*, Mar. 16, 2022, available at: <https://venturegloballng.com/press/venture-global-announces-new-sales-agreements-for-plaquemines-and-cp2-lng-releases-update-on-pre-fid-milestones/>.

²⁸ Sierra Club Protest at 5-6.

²⁹ *Cheniere Marketing 2022* at 60; *Sabine Pass 2022* at 61-62. See also nn.285, 290, respectively, in those two orders, identifying six long-term export authorizations that have been vacated as the projects were abandoned.

³⁰ See Venture Global Press Release, *supra* n. 27.

in this area)³¹ of minimizing federal control and involvement in energy markets, and inconsistent with the principle reflected in the Guidelines that the market is the most efficient means of allocating natural gas supplies, at least under most circumstances.³² Rather, customers around the world in need of U.S. LNG supply will decide which projects with which they will contract. The recent long-term contracting activity of Venture Global LNG referenced above demonstrates that CP2 LNG will be needed and desired in the market.

B. The Macroeconomic Benefits To the U.S. of LNG Exports Are Well-Established.

In its Application, CP2 LNG summarized the series of studies conducted by DOE over the years assessing the macroeconomic impacts of LNG exports to inform its decisions on applications seeking authorization to export LNG to non-FTA nations.³³ Sierra Club and IECA have never accepted the conclusions of those studies. These long-standing opponents of LNG exports, echoed here by NRDC, continue to advance once again largely their same arguments opposing the conclusions of the studies that DOE/FE has previously rejected.

Most egregiously, pages nine to 16 of IECA's Protest here appear to reproduce, essentially verbatim, the entirety of the IECA's comments on the 2018 Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports Study (or "2018 Study").³⁴

³¹ See, e.g., *Cheniere Marketing 2022* at 44-45; *Sabine Pass 2022* at 45-46.

³² See *Policy Guidelines and Delegation Orders Relating to the Regulation of Imported Natural Gas*, 49 Fed. Reg. 6,684 (Feb. 22, 1984).

³³ See Application at 18-22. The multiple macroeconomic studies of LNG exports conducted by DOE/FE are all available at: <https://fossil.energy.gov/app/docketindex/docket/index/10>.

³⁴ Compare IECA's protest here with its comments on the 2018 Study submitted to DOE/FE on July 27, 2018, available at: <https://fossil.energy.gov/app/DocketIndex/docket/DownloadFile/569>.

DOE/FE considered and rejected those IECA arguments opposing the 2018 Study when they were previously submitted, in the appropriate proceeding.³⁵ DOE/FE again rejected challenges by the IECA to the conclusions of the DOE’s macroeconomic studies in its most recent export authorizations, explaining as follows:

DOE has considered and rejected IECA’s economic arguments in earlier proceedings based on the 2012, 2014, and 2015 LNG Export Studies and, more recently, in the 2018 LNG Export Study proceeding. The 2018 Study shows, for example, that “[o]verall GDP improves as LNG exports increase for all scenarios with the same U.S. natural gas supply conditions.”³⁶

The Sierra Club does not resort to a pure cut and paste of rejected arguments, as IECA does; but it too continues to advance its unsubstantiated claim – which DOE/FE has consistently rejected– that “[f]rom an economic perspective, LNG exports are simply making most Americans worse off. . . .”³⁷ Sierra Club emphasizes “distributional concerns” regarding the impacts of LNG exports and charges that “to date, DOE has never grappled with the distributional impacts of LNG exports. . . .”³⁸ To the contrary, DOE/FE first rejected similar arguments by the Sierra Club about distribution impacts in the first wave of export authorizations and the D.C. Circuit held on appeal that DOE/FE adequately addressed those concerns.³⁹ Then, DOE/FE again considered and rejected Sierra Club’s arguments about distributional impacts when they were advanced in its

³⁵ See *Study on Macroeconomic Outcomes of LNG Exports: Response to Comments Received on Study*, 83 Fed. Reg. 67,251 (Dec. 28, 2018).

³⁶ *Cheniere Marketing 2022* at 51 (internal footnotes omitted); *Sabine Pass 2022* at 52 (internal footnotes omitted). DOE/FE considered and rejected IECA’s arguments in detail in the pages of the orders immediately preceding the above-quoted conclusion.

³⁷ Sierra Club Protest at 8.

³⁸ *Id.*

³⁹ See *Sierra Club v. U.S. Dep’t of Energy*, Nos. 16-1186, 16-1252, 16-1253, 703 Fed. Appx. 1, at *3 (D.C. Cir. Nov. 1, 2017).

comments on the 2018 Study.⁴⁰ In its most recent export authorizations, DOE/FE once again rejected similar arguments about distribution impacts when presented by IECA.⁴¹

Sierra Club also urges DOE/FE to “carefully examin[e] the continuing validity” of its previous analyses of the macro-economic effects of LNG exports.⁴² Similarly, NRDC questions the continuing validity of the 2018 Study, which it points out was issued under the “previous administration”⁴³ – without acknowledging that the study built upon, and is entirely consistent with, similar studies done in 2012, 2014, and 2015 under the Obama-Biden Administration. Furthermore, DOE/FE has revisited this issue in its export authorizations issued just this month, and it concluded that “[t]he assumptions underlying the 2018 Study’s findings remain consistent with more recent assessments of current and future natural gas supply, demand, and prices” and that “the 2018 LNG Export Study is fundamentally sound.”⁴⁴ In those orders, DOE/FE also considered the Annual Energy Outlook 2022 (“AEO 2022”) issued by the Energy Information Administration (“EIA”) on March 3, 2022, as well EIA’s Short-term Energy Outlook issued on March 8, 2022, and concluded that those most recent analyses are consistent with the 2018 Study and support its findings that proposed increases in LNG exports will not be inconsistent with the public interest.⁴⁵

⁴⁰ See *Study on Macroeconomic Outcomes of LNG Exports: Response to Comments Received on Study*, 83 Fed. Reg. 67,251 at 67,266.

⁴¹ See *Cheniere Marketing 2022* at 50; *Sabine Pass 2022* at 51.

⁴² Sierra Club Protest at 9.

⁴³ NRDC Protest at 4-5.

⁴⁴ *Cheniere Marketing 2022* at 46, 47; *Sabine Pass 2022* at 47, 48.

⁴⁵ *Cheniere Marketing 2022* at 46-47; *Sabine Pass 2022* at 47-48.

In short, the protesting parties have provided no basis to question DOE/FE's long-standing recognition that LNG exports provide macroeconomic benefits to the country. Furthermore, their macroeconomic arguments provide no basis to conclude the CP2 LNG's proposed LNG exports would be contrary to the public interest.

C. Recent Increases in Domestic Natural Gas Prices Do Not Show That LNG Exports Are Contrary to the Public Interest.

IECA, NRDC, and Sierra Club all emphasize recent increases in domestic natural gas prices in their effort to oppose additional LNG exports.⁴⁶ CP2 LNG explained in its Application that, as a result of the increasing natural gas production and abundant reserves, domestic natural gas prices have remained very low as natural gas exports have increased, and that EIA's studies continue to project low domestic prices through 2050.⁴⁷ EIA's most recent projections continue to do so, as DOE/FE recently concluded.

IECA (oddly) includes in its protest a graph that shows Henry Hub prices remaining flat or decreasing at low levels from 2015 to 2020,⁴⁸ as LNG exports ramped up⁴⁹ – undermining the protestants' arguments that the exports cause increases in domestic prices. As U.S. natural gas exports increased, and the exports have now set record highs for seven consecutive years,⁵⁰ domestic natural gas prices remained low, with EIA pricing data showing average Henry Hub prices per Million British thermal

⁴⁶ IECA Protest at 2-3, 9; NRDC Protest at 6-7; Sierra Club Protest at 5-6.

⁴⁷ Application at 24-27.

⁴⁸ See IECA Protest at 2.

⁴⁹ NRDC emphasizes the increasing levels of LNG exports in recent years, and includes its own graph illustrating the increase. See NRDC Protest at 11-12.

⁵⁰ See EIA, Today in Energy, *EIA expects U.S. natural gas production to rise as demand for exports grow* Mar. 9, 2022, available at: <https://www.eia.gov/todayinenergy/detail.php?id=51558>.

units (“MMBtu”) of \$3.10 in 2017, \$3.27 in 2018, and \$2.57 in 2019,⁵¹ followed by the lowest prices in decades in 2020 with an average of just \$2.05 for Henry Hub.⁵²

Domestic natural gas prices did increase significantly in 2021, with Henry Hub prices averaging \$3.89 per MMBtu as a result of numerous factors including weather disruptions, low inventories, and demand rebounding faster than supply following the pandemic.⁵³ Natural gas prices have increased even more in early 2022⁵⁴ because of some of those same factors as well as the extraordinary events leading up to and following Russia’s invasion of Ukraine.

Yet, EIA projects the current high natural gas prices to be short-lived, with low prices returning soon and then continuing throughout the period of the requested export authorization through 2050. Specifically, in the reference case of AEO 2022, EIA projects that Henry Hub prices (in 2021 dollars per MMBtu) will average \$3.84 per MMBtu in 2022, then decrease steadily each year until reaching a low below \$3.00 in 2026, and then increase very gradually over time but never again reach as high as the \$3.84 projected in any subsequent year through 2050.⁵⁵

⁵¹ See EIA, Today in Energy, “Natural gas prices in 2019 were the lowest in the past three years” Jan. 9, 2020, available at: <https://www.eia.gov/todayinenergy/detail.php?id=42455>.

⁵² See EIA, Today in Energy, *In 2020, U.S. natural gas prices were the lowest in decades*, Jan. 7, 2021, available at: <https://www.eia.gov/todayinenergy/detail.php?id=46376>.

⁵³ See EIA, Today in Energy, *U.S. natural gas prices spiked in February 2021, then generally increased through October*, Jan. 6, 2022, available at: <https://www.eia.gov/todayinenergy/detail.php?id=50778>; EIA, Today in Energy, *Energy prices rose more than other commodities in 2021*, Jan. 3, 2022, available at: <https://www.eia.gov/todayinenergy/detail.php?id=50718#>.

⁵⁴ See EIA, *Short-Term Energy Outlook*, Mar. 8, 2022, available at: <https://www.eia.gov/outlooks/steo/>.

⁵⁵ EIA, AEO 2022, *Natural Gas Supply, Disposition, and Prices (Reference Case)*, at Table 13, Mar. 3, 2022, available at: <https://www.eia.gov/outlooks/aeo/data/browser/#/?id=13-AEO2022&cases=ref2022&sourcekey=0>.

When considering arguments about domestic prices increases in its most recent export authorizations, DOE/FE compared the projections in AEO 2022 to the AEO 2017 data that DOE/FE relied upon in the 2018 Study.⁵⁶ As DOE/FE summarized, the AEO 2022 Reference Case for 2050 projects domestic dry natural gas production of 115.6 billion cubic feet per day (“Bcf/d”) and total consumption of 93.2 Bcf/d, compared to the 107.9 Bcf/d of production and 92.4 Bcf/d of consumption projected in AEO 2017.⁵⁷ Thus, the excess of projected production over consumption has increased significantly since the 2018 Study. The differences in prices are even more dramatic: as DOE/FE explained, the 2017 AEO projected a Henry Hub price for 2050 of \$6.27 per MMBtu compared to the 2022 AEO projection for that year of \$3.59 per MMBtu, using 2021 dollars in each case.⁵⁸

Indeed, while not mentioned in DOE/FE’s latest orders, the 2017 AEO projected Henry Hub prices in excess of \$4.00 every year from 2020 to 2050, whereas the 2022 AEO shows prices below that level every year.⁵⁹ Thus, the current EIA pricing data is even more supportive of LNG exports than the data that DOE/FE studied in 2018, and it continues to demonstrate that arguments against LNG exports based on misplaced concern about insufficient supplies or domestic natural gas prices are baseless.

⁵⁶ See *Cheniere Marketing 2022* at 51-54; *Sabine Pass 2022* at 53-55.

⁵⁷ See *Cheniere Marketing 2022* at 53; *Sabine Pass 2022* at 54-55.

⁵⁸ See *Cheniere Marketing 2022* at 53; *Sabine Pass 2022* at 55.

⁵⁹ Compare Table 13 in AEO 2022, cited in n.47, *supra*, with Table 13 in AEO 2017, available at: <https://www.eia.gov/outlooks/aeo/data/browser/#/?id=13-AEO2017&cases=ref2017&sourcekey=0>.

D. IECA’s Baseless Pleas To Protect Domestic Manufacturing Fail To Show That LNG Exports Are Contrary to the Public Interest.

In addition to repeating its prior comments criticizing the 2018 Study, IECA also advanced two additional arguments that warrant a brief response. First, much of the IECA Protest essentially argues that domestic manufacturers should be protected with preferential access to domestic natural gas and should not have to compete on price with overseas markets.⁶⁰ The arguments are, at best, speculative, and notably fail to recognize that overseas consumers of U.S. LNG must also bear the costs of liquefaction, transportation by ocean-going vessel, and regasification – which ought to provide ample competitive advantage to domestic manufacturing. Moreover, the IECA presents an entirely false choice: domestic natural gas resources are undoubtedly sufficient to meet both the domestic consumption demand and any expected level of LNG exports in the long-term.⁶¹ DOE/FE has long embraced this conclusion and reiterated it once again in its most recent export authorizations while rejecting these very same arguments from IECA.⁶²

IECA also argues that LNG exporters have “locked-up” firm pipeline capacity to the detriment of domestic consumers.⁶³ Interstate pipelines are regulated by the FERC, not DOE, and are subject to comprehensive open access regulation by FERC making them available to all potential customers. CP2 LNG has contracted for firm transportation capacity on the proposed new CP Express pipeline system to be constructed at a cost estimated at approximately \$1.483 billion to connect its LNG

⁶⁰ See IECA Protest at 3, 5-6.

⁶¹ See Application at 23-24.

⁶² See *Cheniere Marketing 2022* at 49; *Sabine Pass 2022* at 50.

⁶³ See IECA Protest at 3-4.

terminal to the existing interstate pipeline grid in Louisiana and Texas. Nothing prevents manufacturers needing natural gas from making their own investments in pipeline capacity to support new infrastructure as needed. In any event, in its most recent export authorizations, DOE/FE concluded with respect to these very same IECA arguments about pipeline capacity as follows:

IECA's generalized arguments concerning the permitting and regulation of interstate pipelines are beyond the scope of this proceeding and are properly raised with FERC, not DOE. To the extent these arguments are relevant to this proceeding, they do not overcome the statutory presumption favoring export authorization.⁶⁴

E. The CP2 LNG Project Will Be Subject To Full NEPA Review, and DOE/FE Should Continue Its Existing Policies Regarding Life Cycle GHG Emissions and Upstream Natural Gas Production Matters.

The protestants focus a great deal on the need for environmental review of the CP2 LNG Project. Sierra Club and Policy Integrity Institute argue adamantly that a categorical exclusion from the National Environmental Policy Act ("NEPA") should not apply to the Project.⁶⁵ Their concerns apparently arise from DOE's NEPA rulemaking in late 2020 that revised the scope of its categorical exclusions related LNG exports to non-FTA countries to exclude effects over which the agency has no authority.⁶⁶ Putting aside arguments about the scope, and wisdom, of that rulemaking, the fact is that the FERC is conducting a full NEPA review of the CP2 Project (and CP Express) and has publicly

⁶⁴ *Cheniere Marketing 2022* at 49 (internal footnotes omitted); *Sabine Pass 2022* at 50 (internal footnotes omitted).

⁶⁵ *See* Sierra Club Protest at 12-16; Policy Integrity Institute Comments at 14-16.

⁶⁶ *See* DOE, *National Environmental Policy Act Implementing Procedures*, Final Rule, 85 Fed. Reg. 78,197 (Dec. 4, 2020)

announced its intent to prepare an Environmental Impact Statement.⁶⁷ CP2 LNG presumes, confidently, that DOE will be a cooperating agency in that FERC-led NEPA effort, just as it has been in similar projects over the years. Indeed, the NEPA rulemaking that protestants reference explained that “DOE intends to continue to participate as a cooperating agency in FERC's environmental review of natural gas export facilities.”⁶⁸ This established course will also accomplish the result, which the Policy Integrity Institute argued for at length,⁶⁹ that the authorizations of FERC and DOE for the CP2 LNG Project be considered together for NEPA purposes.

Sierra Club, Policy Integrity Institute, and NRDC also present in detail their views of how DOE/FE should consider greenhouse gas (“GHG”) emissions related to LNG exports.⁷⁰ In the Application, CP2 LNG explained that exporting natural gas will provide environmental benefits by encouraging the use of more environmentally friendly natural gas for the generation of electricity as opposed to coal, diesel or heavy fuel oil used in foreign countries.⁷¹ This conclusion is bolstered by statements of SPA customers that have contracted with Venture Global LNG emphasizing the benefits of U.S. gas supply to their long-term climate and carbon emissions goals.⁷² CP2 LNG further explained in the

⁶⁷ See *Notice of Intent to Prepare an Environmental Impact Statement for the Proposed CP2 LNG and CP Express Project, Request for Comments on Environmental Issues, and Schedule for Environmental Review*, issued in FERC Docket Nos. CP22-21 and CP22-22 on February 9, 2022. The issues raised by Mr. Merendino in his comments will be addressed in the NEPA review.

⁶⁸ Final Rule, *supra* n.60, at 78,202.

⁶⁹ Policy Integrity Institute Comments at 17-24.

⁷⁰ See Sierra Club Protest at 16-19; Policy Integrity Institute Comments at 3-4; NRDC Protest at 7-10, 12-16.

⁷¹ See Application at 31-32.

⁷² See Press Release, *Venture Global LNG and PGNiG Finalize Expansion of LNG Partnership* (Venture Global LNG and PGNiG Finalize Expansion of LNG Partnership, Sept. 2, 2021, available at: <https://venturegloballng.com/press/venture-global-lng-and-pgnig-finalize-expansion-of-lng-partnership/>); Press Release, *Venture Global and Sinopec Announce Historic LNG Sales and Purchase Agreements*, Nov.

Application the DOE's prior studies of Life Cycle GHG emissions associated with LNG exports conducted in 2014 and updated in 2019.⁷³ The Sierra Club criticized the 2019 Update when it was released (much as it does in its protest here), and DOE/FE generally rejected that criticism.⁷⁴ While Policy Integrity Institute and NRDC did not comment on the 2019 Update when issued, their criticism of DOE's approach is similar to that of the Sierra Club.

DOE/FE just revisited this issue in its very recent export authorizations, and generally reaffirmed the approach and conclusions of its prior GHG studies.⁷⁵ The bottom-line is that DOE/FE concluded there, as it has consistently in the past, that an increase in exports of U.S. LNG has not been shown to increase GHG emissions in a material or predictable way.⁷⁶ Nothing submitted by the protestants here provide any basis to alter that conclusion.

The protestants also argue that DOE/FE needs to evaluate the environmental impacts of new natural gas production that, theoretically, could be induced by the

4, 2021, available at: <https://venturegloballng.com/press/venture-global-and-sinopec-announce-historic-lng-sales-and-purchase-agreements/>; Press Release, *Venture Global LNG and CNOOC Gas & Power Announce LNG Sales and Purchase Agreements*, Dec. 21, 2021, available at: <https://venturegloballng.com/press/venture-global-lng-and-cnooc-gas-power-announce-lng-sales-and-purchase-agreements/>.

⁷³ See Application at 32-34 (discussing: DOE, DOE/NETL-2014/1649, *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States* (May 14, 2014) ("2014 GHG Study"), available at: <http://www.energy.gov/sites/prod/files/2014/05/f16/Life%20Cycle%20GHG%20Perspective%20Report.pdf>; DOE, DOE/NETL-2019/2041, *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States: 2019 Update* (Sept. 12, 2019), available at: <https://fossil.energy.gov/app/docketindex/docket/index/21>).

⁷⁴ See DOE, *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update—Responses to Comments*, 85 Fed. Reg. 72 at 81-86 (Jan. 2, 2020).

⁷⁵ See *Cheniere Marketing 2022* at 20-22, 58-59; *Sabine Pass 2022* at 20-22, 59-61.

⁷⁶ See *Cheniere Marketing 2022* at 59; *Sabine Pass 2022* at 60.

Project.⁷⁷ This is another argument that Sierra Club has long advanced in its opposition to LNG exports that DOE/FE has rejected, with its decisions upheld by the D.C. Circuit. For example, in the lead decision rejecting Sierra Club’s challenge to prior export authorizations, the D.C. Circuit rejected Sierra Club’s NEPA argument concerning the indirect effects of “export-induced” natural gas production.⁷⁸ The Court held that DOE, relying in part on the 2014 Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States (“Addendum”)⁷⁹ “offered a reasoned explanation as to why it believed the indirect effects pertaining to increased [natural] gas production were not reasonably foreseeable.”⁸⁰ In particular, the Court recognized that DOE had described upstream natural gas impacts generally,⁸¹ while affirming DOE’s explanation that particularized impacts are highly location-dependent and could not be attributed to any given export application.⁸² The Court concluded that, “we cannot say that the Department failed to fulfill its obligation under NEPA by declining to make specific projections about environmental impacts stemming from specific levels of export-induced gas production.”⁸³

DOE/FE explicitly referenced the Addendum in its public notice of CP2 LNG’s Application as something that it will consider here.⁸⁴ The agency again utilized the

⁷⁷ See Sierra Club Protest at 13; Policy Integrity Institute Comments at 9-11; NRDC Protest at 8, 10.

⁷⁸ *Sierra Club vs. U.S. Dep’t of Energy*, 867 F.3d 189 at 192 (D.C. Cir. 2017) (“*Sierra Club*”).

⁷⁹ 79 Fed. Reg. 48,132 (Aug. 15, 2014), available at: <http://energy.gov/fe/addendum-environmental-review-documents-concerning-exports-natural-gas-united-states>.

⁸⁰ *Sierra Club*, 867 F.3d at 197-99.

⁸¹ *Id.* at 201 (“Generalizing the impacts does not necessarily mean minimizing them; and here, the Addendum candidly discussed significant risks associated with increased gas production.”).

⁸² *Id.* at 198-99.

⁸³ *Id.* at 201.

⁸⁴ See 87 Fed. Reg. 1,133 (Jan. 10, 2022).

Addendum (as it has consistently over the years) in its recently issued export authorizations.⁸⁵ In those decisions, DOE/FE explained that its decisions to authorize LNG exports could accelerate the development of the U.S. natural gas resources by some increment and that there are potential environmental issues associated with unconventional natural gas production that need to be carefully managed, but that the environmental concerns are best addressed by federal, state, or local environmental regulators.⁸⁶ The agency also noted the D.C. Circuit’s prior decision (discussed above) upholding the ruling that locational-specific indirect effects of “export-induced” natural gas production are not “reasonably foreseeable” under NEPA, adding that “[t]he Court’s conclusions and reasoning guide our review in this proceeding.”⁸⁷

That conclusion is equally applicable here. Both NRDC and Policy Integrity Institute urge DOE/FE to obtain information about the gas supply for the CP2 LNG Project and fault CP2 LNG for not providing such information.⁸⁸ Yet, as explained in the Application:

The particular natural gas supplies that will be transported on the CP Express Pipeline and liquefied at the CP2 LNG Terminal cannot be known at this time and undoubtedly will change over the life of the Project. The Project by design is not dependent upon any particular natural gas supply. The CP Express Pipeline will have numerous direct interconnections with other pipelines, providing access to numerous markets with ample domestic natural gas supplies and liquidity. Access to the integrated pipeline grid through CP Express will enable CP2 LNG, or its customers, to purchase natural gas from a multitude of sources of conventional and non-conventional U.S.

⁸⁵ See *Cheniere Marketing 2022* at 56-57; *Sabine Pass 2022* at 57-59.

⁸⁶ See *Cheniere Marketing 2022* at 56-57; *Sabine Pass 2022* at 57-59.

⁸⁷ *Cheniere Marketing 2022* at 57; *Sabine Pass 2022* at 59.

⁸⁸ Policy Integrity Institute Comments at 10-11; NRDC Protest at 10.

production. Such supplies could be produced from any of a wide variety of production areas, including conventional Gulf Coast production regions, the robust and expanding supplies produced from nearby shale gas plays such as the Haynesville, Permian, Barnett, and Bossier formations, as well as the more distant but prolific Marcellus and Utica shale regions. The feed gas will be sourced in requisite volumes in the spot market or purchased under long-term arrangements. CP2 LNG has not yet entered into any natural gas supply arrangements, but it will file all long-term natural gas supply agreements, once executed, with the DOE/FE in accordance with established policy and precedent.⁸⁹

The simple fact is that the source of domestic natural gas for the Project is entirely unknown and unknowable at this time. There is no basis to assume that any particular incremental natural gas production must be developed to supply the Project nor that DOE authorization of exports from the Project will induce increased production. Therefore, any attempted analysis of particular upstream impacts would be wholly speculative, just as DOE/FE has previously recognized for other projects.

III. Conclusion

Wherefore, for all the foregoing reasons, CP2 LNG requests that DOE/FE accept this answer to the interventions, comments, and protests in this proceeding and, when acting on the Application, reject the arguments by the protesting parties for all the

⁸⁹ Application at 11-12.

foregoing reasons and recognize that the proposed LNG exports by CP2 LNG are unquestionably not inconsistent with the public interest.

Respectfully submitted,

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Dated: March 28, 2022

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing document upon each person designated on the official service list compiled for this proceeding.

Dated at Washington, D.C., this 28th day of March, 2022.

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