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October 26, 2023

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, DOE/FECM Docket No. 21-99-LNG  
Application to Amend Blanket Authorization to Export  
Previously Imported Liquefied Natural Gas – Answer to Protest**

Dear Ms. Sweeney:

Pursuant to Section 304<sup>1</sup> 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 protest filed in the referenced proceeding by Public Citizen, Inc. (“Public Citizen”). As explained below, the Public Citizen protest mischaracterizes Carib Energy’s pending application, wholly lacks merit and provides no credible basis for delaying, let alone denying, approval of the authorization amendment requested by Carib Energy to its existing two-year blanket authorization to re-export previously imported liquefied natural gas (“LNG”) from Puerto Rico.

## **A. BACKGROUND**

On September 6, 2023 Carib Energy submitted a request to the Department of Energy’s Office of Fossil Energy and Carbon Management (“DOE/FECM”) to amend the blanket authorization to re-export LNG from Puerto Rico to Free Trade Agreement (“FTA”) and Non-Free Trade Agreement (“non-FTA”) nations granted by DOE/FECM Order No. 4772.<sup>2</sup> Carib Energy requested an increase in the overall level of volumes authorized for re-export during the two-year term from 0.48 Bcf of natural gas to 1.4 Bcf. Carib Energy subsequently provided additional information to DOE/FECM in support of its request on September 21, 2023. If its amendment request were approved, Carib Energy would continue to re-export LNG previously imported into

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<sup>1</sup> 10 C.F.R. §§590.304.

<sup>2</sup> *Carib Energy (USA) LLC*, DOE/FECM Order No. 4772, Docket No. 21-99-LNG, “Order Granting Blanket Authorization to Export Previously Imported Liquefied Natural Gas in ISO Containers By Vessel to Free Trade and Non-Free Trade Agreement Nations” (Dec. 20, 2021) (“Order No. 4772”).

Puerto Rico via the EcoEléctrica LNG Terminal in approved IMO7/TVAC-ASME LNG containers transported on ocean-going vessels to Barbados (a non-FTA country) and the Dominican Republic (an FTA country), and anticipates commencing exports to Antigua (a non-FTA country) in January 2024. DOE/FECM published notice of Carib Energy’s amendment application in the Federal Register on October 6, 2023.

Public Citizen filed its “Motion to Intervene and Protest” in this docket on October 23, 2023. As explained below, the Public Citizen protest (i) does not apply to the FTA portion of Carib Energy’s authorization amendment request, (ii) misstates the applicable standard of review regarding exports to non-FTA countries, (iii) mischaracterizes the modest volume increase requested by Carib Energy, (iv) provides irrelevant information regarding the EcoEléctrica LNG Terminal, and (v) asserts that Carib Energy should have assessed how its continued LNG re-exports from Puerto Rico might impact market conditions for the Everett LNG Terminal in New England. Because it combines misinformation, unsupported speculation, irrelevant data and a worthless market study demand, the Public Citizen protest merits swift rejection by DOE/FECM.

## **B. ANSWER**

### **1. Carib Energy’s Amendment Application Regarding Re-Exports to an FTA Country Must Be Approved Without Modification or Delay.**

As a preliminary matter, the Public Citizen protest has no applicability to the FTA portion of Carib Energy’s 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.”<sup>3</sup> Here, the portion of Carib Energy’s amendment request that would support ongoing re-exports to the Dominican Republic falls within NGA Section 3(c) and should be approved by DOE/FECM without modification or delay.

### **2. The Public Citizen Protest Misstates the Applicable Standard of Review.**

The Public Citizen protest contends that Carib Energy’s application and supplemental information “fail to establish that its proposed 200% increase in LNG exports is consistent with the public interest.”<sup>4</sup> Public Citizen’s formulation, however, ignores the standard actually applicable to the instant review. NGA Section 3(c) creates a rebuttable presumption that a proposed export of natural gas to non-FTA countries is in the public interest. Consequently, DOE/FECM “must grant such an application unless *opponents of the application* overcome that presumption by making an affirmative showing of inconsistency with the public interest.”<sup>5</sup> As detailed below, Public Citizen’s substance-free protest does not satisfy its burden to rebut the

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<sup>3</sup> 15 U.S.C. § 717b(c).

<sup>4</sup> Public Citizen Protest at 1.

<sup>5</sup> *Cheniere Marketing LLC and Corpus Christi Liquefaction, LLC*, DOE/FECM Order No. 3638, “Final Opinion and Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Proposed Corpus Christi Liquefaction Project to Be Located in Corpus Christi, Texas to Non-Free Trade Agreement Nations,” at 12 (May 12, 2015); *Sabine Pass Liquefaction, LLC*, DOE/FECM Order No. 2961, “Opinion and Order Conditionally Granting Long-Term Authorization to Export Liquefied Natural Gas From Sabine Pass LNG Terminal to Non-Free Trade Agreement Nations,” at 28 (May 20, 2011) (emphasis added).

presumption that Carib Energy's proposed re-exports to non-FTA countries are in the public interest.

Aside from failing to correctly state or satisfy the relevant burden of proof, Public Citizen makes no effort to contest the information provided by Carib Energy demonstrating that its proposed authorization amendment would serve the public interest. In brief, Carib Energy has shown that its requested increase in authorized re-export volumes:

- Would not displace natural gas volumes needed to satisfy domestic demand in the United States.<sup>6</sup>
- Would contribute to achieving the climate change and energy security policies underlying the U.S.-Caribbean Partnership to Address Climate Change 2030 ("PACC 2030").<sup>7</sup>
- Would play an integral role in meeting the gas supply needs of Barbados, the Dominican Republic and Antigua.<sup>8</sup>

In sum, Public Citizen's inapt discussion regarding the standard of review provides no basis for rejecting Carib Energy's pending application. The record amply demonstrates that Carib Energy's requested increase in authorized re-export volumes to non-FTA countries would benefit the public interest and warrants prompt approval by DOE/FECM.

### **3. Carib Energy's Proposed Authorization Amendment Would Not Diminish or Divert Gas Supplies Available to Puerto Rico.**

The crux of Public Citizen's protest turns on its mistaken belief that Carib Energy's amendment application proposes a major increase in re-exported volumes that would "divert" gas supplies from Puerto Rico and "will interfere with the island's ability to procure adequate gas supplies for its domestic needs."<sup>9</sup> Public Citizen's contentions lack supporting evidence and cannot withstand even cursory scrutiny.

Public Citizen attempts to justify its protest by repeatedly claiming that Carib Energy's application seeks a "200% increase" in authorized re-export volumes, a rhetorical sleight-of-hand intended to suggest a massive increase in Carib Energy's re-exports that would diminish Puerto Rico's gas supplies. In reality, however, the incremental export volume increase requested by Carib represents a small fraction of the LNG volumes imported into Puerto Rico. The 0.92 Bcf increase requested by Carib Energy would constitute a monthly increase of approximately 38,333 Mcf over the 24-month period covered by Carib's blanket authorization. To date in 2023, LNG

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<sup>6</sup> Carib Energy Supplemental Information at 5.

<sup>7</sup> *Id.* at 7.

<sup>8</sup> *Id.* at 6-7.

<sup>9</sup> Public Citizen Protest at 1.

imports into Puerto Rico have averaged approximately 6.0 Bcf through August.<sup>10</sup> Thus, Carib's increased monthly volumes constitute an amount equivalent to 0.6% of the island's monthly LNG imports, a minimal level of exports that poses no threat to Puerto Rico's gas supplies.

Moreover, Public Citizen's protests fails to recognize that DOE/FECM previously has considered and dismissed similar suggestions of harm to Puerto Rico.<sup>11</sup> In Order No. 4772, DOE/FECM found that the level of annual LNG export volumes proposed by Carib Energy represented 0.3% of the LNG imported into Puerto Rico during a recent 12-month period.<sup>12</sup> DOE/FECM further noted the significant number of DOE authorization holders that could increase the level of their imports into Puerto Rico in response to market conditions, and rejected the suggestion that Carib Energy's proposed exports "could impact the availability of imported LNG for citizens of Puerto Rico."<sup>13</sup> Properly understood, Carib Energy's current request for a modest increase in its authorized level of exports poses no more threat to Puerto Rico's gas supply than the original authorization granted by Order No. 4772.

Equally erroneous is Public Citizen's contention that Carib Energy's requested increase in export volumes would "divert" gas supplies otherwise intended for consumption in Puerto Rico, thereby harming Puerto Rico's citizens by siphoning off needed gas supplies. In fact, the minor export volume increase requested by Carib Energy represents an incremental increase in LNG volumes imported into Puerto Rico for re-export intended to achieve the most effective supply chain solution for delivery. Put another way, absent Carib Energy's requested amendment, the increased volumes would not be imported into Puerto Rico.

Accordingly, there would be no "redirection of LNG supplies from Puerto Rico"<sup>14</sup> that "could contribute to physical shortages on the island and cause price spikes for the island's consumers,"<sup>15</sup> if Carib Energy's application is granted. Public Citizen has adduced no evidence to back up its dire predictions of impending gas supply shortages and price spikes that "could" befall Puerto Rico's citizens. It is telling that no entity responsible for ensuring adequate gas supplies for Puerto Rico has contested Carib Energy's application or joined in the Public Citizen protest. Public Citizen's unsubstantiated speculation, which echoes previously rejected claims of harm to Puerto Rico, affords no credible basis for rejecting Carib Energy's pending amendment application.

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<sup>10</sup> See U.S. Dep't of Energy, Office of Fossil Energy and Carbon Management, *LNG Monthly*, at 7 (August 2023) (Table 1g(ii)): Vessel-Borne Imports of LNG to Puerto Rico), *available at*: [https://www.energy.gov/sites/default/files/2023-10/LNG%20Monthly%20August%202023\\_1.pdf](https://www.energy.gov/sites/default/files/2023-10/LNG%20Monthly%20August%202023_1.pdf).

<sup>11</sup> Conspicuously absent from the Public Citizen protest is any mention of or reference to DOE/FECM Order No. 4772, which afforded Carib Energy its original re-export authorization.

<sup>12</sup> Order No. 4772 at 12-13.

<sup>13</sup> *Id.* at 13.

<sup>14</sup> Public Citizen Protest at 1.

<sup>15</sup> *Id.*

**4. Public Citizen’s Reference to the EcoEléctrica Terminal Has No Relevance to  
Carib Energy’s Pending Application.**

In contesting Carib Energy’s pending application, Public Citizen highlights the importance of the EcoEléctrica LNG storage tanks in fueling the island’s on-site power plants.<sup>16</sup> Public Citizen also attaches correspondence between the Federal Energy Regulatory Commission (“FERC”) and the Governor of Puerto Rico (Exhibit A) and the Puerto Rico Electric Power Authority (“PREPA”) (Exhibit B) that similarly recognize EcoEléctrica’s role in that regard.

At no point, however, does Public Citizen explain the relevance of EcoEléctrica’s role in fueling power plants to DOE/FECM’s consideration of Carib Energy’s pending application. If Public Citizen intends to suggest an existing concern over export-related supply risks at the EcoEléctrica LNG storage tank, such suggestion has no basis in fact. In their correspondence with FERC, the Governor of Puerto Rico and PREPA make no mention of LNG export-related concerns regarding the EcoEléctrica Terminal. Moreover, the recent FERC order cited by Public Citizen itself<sup>17</sup> grants the relief sought by the Governor and PREPA regarding EcoEléctrica, thereby resolving the operational concerns identified in their correspondence. In short, Public Citizen’s invocation of the EcoEléctrica Terminal represents little more than an unexplained distraction that deserves no consideration from DOE/FECM.

**5. Public Citizen’s Suggestion that Carib Energy Assess the Potential Impact of  
LNG Exports from Puerto Rico on the New England Power Market is Flawed.**

In its concluding paragraph, the Public Citizen protest makes the remarkable suggestion that Carib Energy should have assessed whether its exports from Puerto Rico “may compete with Constellation’s Everett facility, and lead to higher oil use and more expensive LNG for new (sic) England ratepayers.”<sup>18</sup> According to Public Citizen, such a study is necessary because (i) the Everett facility in Massachusetts competes with Puerto Rico for LNG imports from Trinidad and Tobago, and (ii) during Winter Storm Elliott, the New England power market had to rely extensively on fuel oil “in part because it couldn’t procure adequate LNG supplies.”<sup>19</sup>

Public Citizen’s attempt to impose a New England power market study obligation on Carib Energy has several evident flaws. First, Public Citizen fails to substantiate its claim that New England’s power market could not procure adequate LNG supplies during Winter Storm Elliott, let alone that a nexus existed between that claimed inability and LNG exports from Puerto Rico. The “support” relied on by Public Citizen amounts to nothing more than an individual’s Twitter post showing the relative fuel mix in ISO-New England on December 25, 2022. The post makes no statement and contains no analysis concerning the availability of LNG to the New England market on that day or at any other time, and it is similarly silent regarding LNG exports from Puerto Rico.

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<sup>16</sup> *Id.* at 2.

<sup>17</sup> Public Citizen Protest at 1 n. 3.

<sup>18</sup> *Id.* at 2.

<sup>19</sup> *Id.*

Second, Carib Energy does not purchase LNG in the global marketplace in competition with the Everett facility. Carib Energy purchases LNG for re-export that has been purchased by others for import into Puerto Rico. Carib Energy has no control over whether the volumes it re-exports come from Trinidad and Tobago or elsewhere in the global LNG marketplace. Thus, Carib Energy's past or future re-export activities cannot possibly impact the Everett facility's ability to attract LNG volumes, either during Winter Storm Elliott or in the future.

Third, at the risk of stating the obvious, it is not possible in the competitive global LNG marketplace to draw any firm conclusions regarding how one market participant's activities might impact either another market participant, the price of fuel oil or ratepayers. In that regard, any attempt to forecast how Carib Energy's future re-export volumes "may compete with Constellation's Everett's facility, and lead to higher oil use and more expensive LNG for new (sic) England ratepayers" would require near endless assumptions regarding prevailing market conditions producing little more than far-fetched speculation. The practical impossibility of performing anything akin to Public Citizen's proposed power market study likely explains why DOE/FECM's requirements for exports to non-FTA countries has never required it.

### **C. CONCLUSION**

For the foregoing reasons, Public Citizen's protest regarding Carib Energy's application to amend the blanket authorization to re-export LNG to FTA and Non-FTA countries from Puerto Rico originally granted by DOE/FECM Order No. 4772 merits swift rejection. Carib Energy respectfully requests that DOE/FECM approve the pending amendment application without modification or delay.

Respectfully submitted,

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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 Tyson Slocum via email at [tslocum@citizen.org](mailto:tslocum@citizen.org). on October 26, 2023.

/s/ Paul Forshay  
Paul F. Forshay

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