

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

Southern LNG Company LLC

Docket No. 23-109-LNG

Intervention 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-Free Trade Act 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 recognizing the role gas serves as essential utility service for tens of millions of Americans.

Kinder Morgan seeks permission to increase its authorized natural gas export capacity by 22% from its existing Elba Island LNG export terminal³, located five miles from downtown Savannah, Georgia. The application must be denied, as allowing increased exports will harm U.S. consumers, negatively impact domestic energy reliability, and is therefore inconsistent with the public interest.

The Application Contains Incomplete Upstream Ownership Information

The application omits material information about its upstream ownership, stating only that “Southern LNG is a wholly owned indirect subsidiary of Kinder Morgan, Inc.”⁴, which fails to include ownership of its interrelated affiliate, Elba Liquefaction Company LLC. The Kinder Morgan website states that “[t]he Elba Liquefaction facility located on Elba Island in Chatham County, Georgia, is owned by [Elba Liquefaction Company LLC] ELC and includes 10 modular liquefaction units . . . ELC then delivers the LNG to Southern LNG Company, L.L.C. (SLNG) for export.”⁵ Elba Liquefaction Company LLC is owned 49% by the private equity firm Blackstone, with Kinder Morgan owning 25.5% and an unidentified investor owning the remaining 25.5%. Since Elba Liquefaction Company LLC owns the liquification facility and “then delivers the LNG to Southern LNG Company” the application must disclose all ownership and contractual arrangements between Elba Liquefaction Company LLC and Southern LNG Company LLC, since they are interdependent and affiliated entities, each with involvement in the export of LNG in the application. It is inconsistent with the public interest for applicants to withhold ownership information of interrelated affiliates involved in the export of LNG.

¹ 15 USC § 717b(a).

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

³ *Application*, at page 1.

⁴ *Application*, at page 2.

⁵ <https://ir.kindermorgan.com/news/news-details/2022/Kinder-Morgan-Announces-Sale-of-Equity-Interests-in-Elba-Liquefaction-Company/>

The Application Relies Upon Absurdly Outdated Data In An Attempt To Demonstrate That The Requested Increase in Exports Is Consistent With The Public Interest

The application relies upon “previous applications for export authorization from the Liquefaction Project to Non-FTA Nations,”⁶ referencing in footnote 12 an October 29, 2014 EIA study; a 2012 NERA Macroeconomic study; and a January 2012 EIA study. All of these studies are woefully out-of-date and have no relevance to a required public interest determination.

A May 23, 2023 analysis by the U.S. Energy Information Administration 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”.⁷ 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 Kinder Morgan.⁸ The Federal Energy Regulatory Commission notes that “the expansion of LNG export capability has integrated formerly disparate North American regional natural gas markets into the global market”, exposing American families to global price surges.⁹ This new EIA analysis demonstrates that the requested LNG exports are inconsistent with the public interest.

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,¹⁰ and 20% of our natural gas is now allocated for export.¹¹ These numbers will only increase as domestic demand continues to flatten and export infrastructure capacity *doubles* by 2027.¹² 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 tether 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. Spot benchmark natural gas prices on the west and east coast United States in December 2022 exceeded

⁶ *Application*, at page 5.

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

⁸ 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).

⁹ <https://ferc.gov/media/report-2022-2023-winter-assessment>

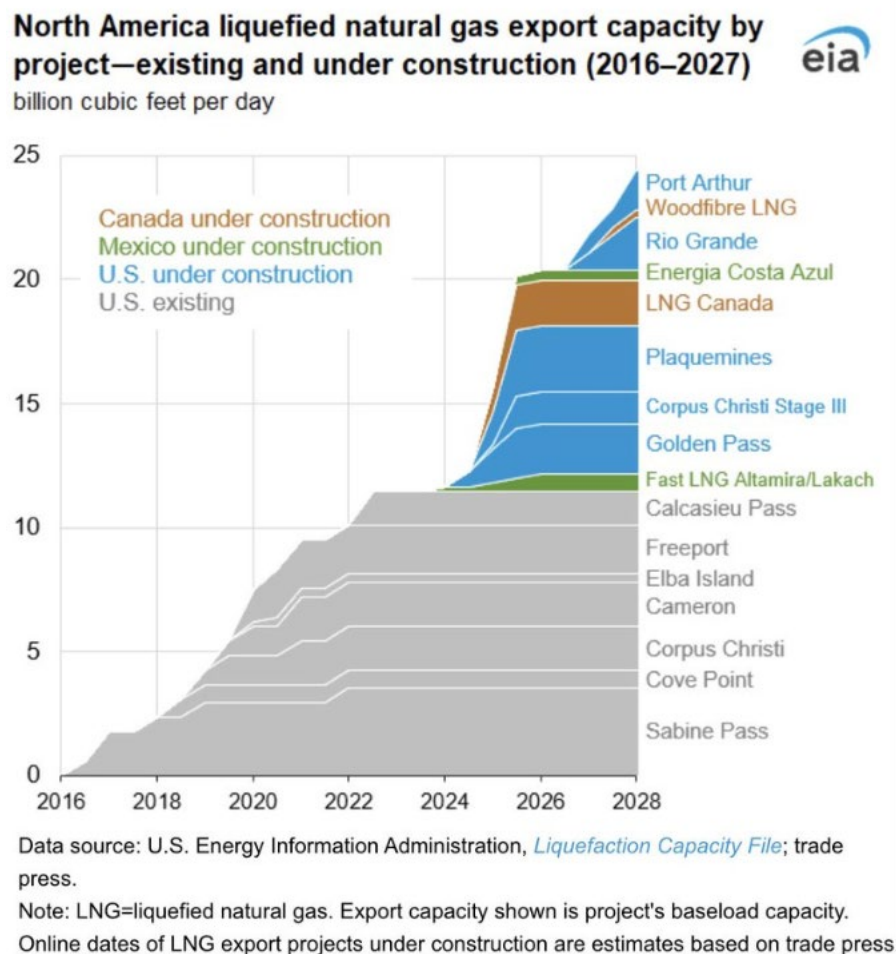
¹⁰ <https://twitter.com/TysonSlocum/status/1617998886660112384>

¹¹ www.citizen.org/article/letter-to-dept-of-energy-to-protect-consumers-from-lng-exports/

¹² www.eia.gov/todayinenergy/detail.php?id=60944

\$30/MMBtu in December 2022, forcing Americans to pay higher prices for gas than Ukrainians, in part because of U.S. LNG exports.¹³

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*,¹⁴ with U.S. production reaching an all-time high in 2023.¹⁵ 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.¹⁶

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

¹³ 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/

¹⁴ www.eia.gov/international/data/world/natural-gas/dry-natural-gas-production

¹⁵ www.eia.gov/dnav/ng/hist/ngm_epgo_fgw_nus_mmcfdm.htm

¹⁶ www.eia.gov/todayinenergy/detail.php?id=60361

Berlin and Beijing, globalizing domestic benchmark prices and exposing Americans to higher prices and increased volatility.¹⁷ U.S. natural gas price volatility is at the highest levels since the 1990s.¹⁸ 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 Center For American Progress notes that record LNG exports expose American consumers to higher prices.¹⁹

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.²⁰

Sixty-eight million Americans—more than one out of four of all households—forgot basic household necessities, such as medicine or food, in order to pay an energy bill over the last year.²¹

The Application Omits Any Impact On Regional Domestic Energy Markets

Diverting additional domestic natural gas supplies away from domestic power generation and household consumption may result in physical shortages and higher prices. The Elba Island LNG export facility is indirectly served by the 10,000 mile-long Williams' Transco pipeline, which supplies 15% of America's gas supply, running from Texas to New York City.²² The application provides no analysis of the impact of diverting gas for export away from serving critical mid-Atlantic domestic gas demand. Indeed, 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.²³ Kinder Morgan's application provides no information on the procedures to halt its requested LNG exports in the event of a similar domestic gas supply shortage.

¹⁷ "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

¹⁸ 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

¹⁹ www.americanprogress.org/article/lng-exports-raise-natural-gas-prices-for-americans/

²⁰ 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

²¹ www.census.gov/data/tables/2023/demo/hhp/hhp63.html

²² www.williams.com/pipeline/transco/

²³ www2.tceq.texas.gov/oce/eer/index.cfm?fuseaction=main.getDetails&target=350574

The Application Omits The Required Distributional Impact On Household Consumers

On November 9, 2023, the Biden Administration released a final guidance to improve regulatory analysis, which requires agencies to determine how regulations impact families of different incomes.²⁴ Such a *distributional analysis* is essential to determine whether an increase in LNG exports from Elba Island will disproportionately harm lower-income families by causing higher energy burdens.²⁵

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. 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 2023.²⁶ 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.²⁷ Public Citizen filed a timely, unopposed motion to intervene in the corresponding Federal Energy Regulatory Commission docket (CP23-375) on May 16, 2023.²⁸

In conclusion, Kinder Morgan's application is deficient and fails to demonstrate that its proposed exports are consistent with the public interest.

Respectfully submitted,

Tyson Slocum

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²⁴ www.whitehouse.gov/omb/briefing-room/2023/11/09/biden-harris-administration-releases-final-guidance-to-improve-regulatory-analysis/

²⁵ www.citizen.org/article/letter-to-dept-of-energy-to-protect-consumers-from-lng-exports/

²⁶ www.citizen.org/article/house-testimony-energy-legislation/

²⁷ www.citizen.org/about/annual-report/

²⁸ <https://elibrary.ferc.gov/eLibrary/filedownload?fileid=E5863CB1-0EFC-CBED-9F51-882458200000>

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 December 26, 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 26th day of December 2023.

Signed,

Tyson Slocum

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