

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY AND CARBON MANAGEMENT

---

CARIB ENERGY (USA) LLC

---

)  
)  
)  
DOCKET NO. 21-99-LNG

ORDER AMENDING BLANKET AUTHORIZATION  
TO EXPORT PREVIOUSLY IMPORTED  
LIQUEFIED NATURAL GAS IN ISO CONTAINERS BY VESSEL  
TO FREE TRADE AGREEMENT AND  
NON-FREE TRADE AGREEMENT NATIONS

DOE/FECM ORDER NO. 4772-A

JANUARY 25, 2024

## I. INTRODUCTION AND BACKGROUND

On September 7, 2023, Carib Energy (USA) LLC (Carib Energy)<sup>1</sup> filed a “Request for Amendment” (Request)<sup>2</sup> with the Department of Energy’s (DOE) Office of Fossil Energy and Carbon Management (FECM). On September 21, 2023, Carib Energy filed “Supplemental Information Supporting Request for Export Authorization Amendment” (Supplement).<sup>3</sup> Carib Energy filed the Request and Supplement under section 3 of the Natural Gas Act (NGA),<sup>4</sup> seeking an amendment to its existing authorization, DOE/FECM Order No. 4772.<sup>5</sup>

Under Order No. 4772, issued by DOE on December 20, 2021, Carib Energy is authorized to export (or “re-export”)<sup>6</sup> liquefied natural gas (LNG) previously imported from foreign sources in a volume equivalent to 0.48 billion cubic feet (Bcf) of natural gas on a cumulative basis over a two-year period, or 0.00066 Bcf per day (Bcf/d).<sup>7</sup> Carib Energy is authorized to export this LNG in approved IMO7/TVAC-ASME LNG containers (ISO containers) loaded at the Crowley LNG Truck Loading Facility (Crowley Facility) located in Peñuelas, Puerto Rico.<sup>8</sup> The Crowley Facility receives LNG that has been imported from foreign sources into Puerto Rico via the EcoEléctrica LNG Terminal operated by EcoEléctrica, L.P.<sup>9</sup>

---

<sup>1</sup> Carib Energy is a wholly-owned subsidiary of Crowley Shipping, Inc. (Crowley), which has its principal place of business in Jacksonville, Florida. Crowley is a wholly-owned subsidiary of Crowley Maritime Corporation, which is a wholly-owned subsidiary of Crowley Holdings, Inc. Crowley Holdings, Inc. is a privately held corporation.

<sup>2</sup> Carib Energy (USA) LLC, Request for Amendment, Docket No. 21-99-LNG (Sept. 7, 2023) [hereinafter Request].

<sup>3</sup> Carib Energy (USA) LLC, Supplemental Information Supporting Request for Export Authorization Amendment, Docket No. 21-99-LNG (Sept. 21, 2023) [hereinafter Supp.].

<sup>4</sup> 15 U.S.C. § 717b. The authority to regulate the imports and exports of natural gas, including liquefied natural gas, under section 3 of the NGA has been delegated to the Assistant Secretary for FECM in Redelegation Order No. S4-DEL-FE1-2023, issued on April 10, 2023.

<sup>5</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), <https://www.energy.gov/sites/default/files/2021-12/ord4772.pdf>.

<sup>6</sup> Although Carib Energy uses the term “re-export,” DOE generally uses the term “export” in this Order consistent with DOE’s standard practice for this type of authorization.

<sup>7</sup> See *Carib Energy (USA) LLC*, DOE/FECM Order No. 4772, at 18 (Ordering Para. A). Carib Energy is authorized to export this LNG on its own behalf and as an agent for other entities. See *id.* at 17-18, 19 (Ordering Para. E).

<sup>8</sup> See *id.* at 18 (Ordering Para. B).

<sup>9</sup> See *id.* at 5-6 (describing Crowley Facility).

Carib Energy is authorized to transport the LNG in ISO containers on ocean-going carriers or container vessels to any country in Central America, South America, or the Caribbean that has, or in the future develops, the capacity to import LNG via approved ISO containers.<sup>10</sup> This includes both countries with which the United States has entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas (FTA countries),<sup>11</sup> and any other country with which trade is not prohibited by U.S. law or policy (non-FTA countries).<sup>12</sup>

On April 6, 2022, Carib Energy commenced its first export of previously imported LNG under Order No. 4772.<sup>13</sup> Because the export authorization is effective (in relevant part) “for a two-year term beginning on ... the date of first export,”<sup>14</sup> Carib Energy’s export term under Order No. 4772 is effective through April 5, 2024.<sup>15</sup> On June 20, 2023, as discussed below, Carib Energy’s exports of previously imported LNG first exceeded the 0.48 Bcf volume authorized by Order No. 4772.<sup>16</sup> Carib Energy subsequently submitted the Request and Supplement.

Carib Energy asks DOE to amend Order No. 4772 to increase its authorized export volume of previously imported foreign-sourced LNG by 0.92 Bcf—from the equivalent of 0.48 Bcf (0.00066 Bcf/d) to 1.4 Bcf (0.0019 Bcf/d) of natural gas on a cumulative basis over two years.<sup>17</sup> Carib Energy asks for this amendment to be effective retroactively on June 1, 2023,

---

<sup>10</sup> See *id.* at 18 (Ordering Para. B).

<sup>11</sup> 15 U.S.C. § 717b(c). The United States currently has FTAs requiring national treatment for trade in natural gas with Australia, Bahrain, Canada, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Republic of Korea, and Singapore. FTAs with Israel and Costa Rica do not require national treatment for trade in natural gas.

<sup>12</sup> 15 U.S.C. § 717b(a); see *Carib Energy (USA) LLC*, DOE/FECM Order No. 4772, at 18 (Ordering Paras. A & B).

<sup>13</sup> See *Carib Energy (USA) LLC*, Notice of First Export of LNG, Docket No. 21-99-LNG (Apr 6, 2022); see also Request at 1.

<sup>14</sup> *Carib Energy (USA) LLC*, DOE/FECM Order No. 4772, at 18 (Ordering Para. A).

<sup>15</sup> Although Carib Energy references April 6, 2024, as the end of its export term (see Request at 1; Supp. at 1), this is an error. Carib Energy’s two-year term began on April 6, 2022, and thus expires on April 5, 2024.

<sup>16</sup> See U.S. Dep’t of Energy, *LNG Monthly*, at 49 (Nov. 2023), [https://www.energy.gov/sites/default/files/2023-11/LNG%20Monthly%20September%202023\\_3.pdf](https://www.energy.gov/sites/default/files/2023-11/LNG%20Monthly%20September%202023_3.pdf).

<sup>17</sup> Request at 1; Supp. at 1.

through the end of its two-year export term (April 5, 2024).<sup>18</sup> Carib Energy “requests no other changes or amendments to ... Order No. 4772.”<sup>19</sup>

As support for this requested amendment, Carib Energy states that its ongoing exports to countries in the Caribbean (including to Barbados, a non-FTA country, and the Dominican Republic, a FTA country) “have increased more rapidly than originally projected and recently exceeded the cumulative export volumes [of 0.48 Bcf] authorized by Order No. 4772.”<sup>20</sup> Carib Energy further states that it anticipates exporting previously imported LNG to Antigua (a non-FTA country) beginning in January 2024.<sup>21</sup> According to Carib Energy, the requested increase in its total export volume will “cover both the excess volumes to date and any further volumes ... needed for the remaining term of its current authorization.”<sup>22</sup>

In this Order, DOE denies this Request in part and grants it in part. DOE is denying Carib Energy’s Request for this amendment to be effective retroactively on June 1, 2023.<sup>23</sup> From today’s effective date of this Order through the end of Carib Energy’s existing two-year term on April 5, 2024, Carib Energy is authorized to export LNG previously imported from foreign sources in a volume equivalent to, and not to exceed, 1.4 Bcf of natural gas minus the volume Carib Energy exported under Order No. 4772 from April 6, 2022 (the date it commenced exports) through January 24, 2024.

---

<sup>18</sup> Supp. at 1 (requesting a June 1, 2023 retroactive date, superseding the July 1, 2023 retroactive date set forth in its Request). On December 13, 2023, Carib Energy filed a new application requesting authorization to export LNG in a volume equivalent to 14.6 Bcf of natural gas on a cumulative basis for a two-year term “commencing on the earlier of April [6], 2024 or the date of an order granting the requested authorization.” That application is not at issue in this proceeding.

<sup>19</sup> Request at 1.

<sup>20</sup> Supp. at 4.

<sup>21</sup> *See id.*

<sup>22</sup> Request at 1.

<sup>23</sup> Supp. at 1; *see infra* at 18.

Specifically, DOE grants the FTA portion of the Request and Supplement under NGA section 3(c).<sup>24</sup> Section 3(c) was amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486) to require that FTA applications “shall be deemed to be consistent with the public interest, and ... granted without modification or delay.”<sup>25</sup> The FTA portion of the Request and Supplement falls within NGA section 3(c) and, therefore, DOE approves the requested amendment to Carib Energy’s FTA export volume in Order No. 4772. Accordingly, none of the public interest analysis discussed below applies to the FTA authorization.

DOE grants the non-FTA portion of the Request and Supplement under NGA section 3(a).<sup>26</sup> On October 6, 2023, DOE published a notice of the non-FTA portion of the Request and Supplement in the *Federal Register* (Notice of Request).<sup>27</sup> The Notice of Request called on interested persons to submit protests, motions to intervene, notices of intervention, and comments by October 23, 2023.<sup>28</sup> DOE received one filing in response to the Notice of Request—a “Motion to Intervene and Protest” submitted by Public Citizen, Inc. (Public Citizen).<sup>29</sup> On October 26, 2023, Carib Energy submitted an “Answer to Protest.”<sup>30</sup> Upon review of the record, DOE finds that it has not been demonstrated that Carib Energy’s requested exports to non-FTA countries are inconsistent with the public interest under NGA section 3(a). Accordingly, DOE grants the amendment to the non-FTA portion of Order No. 4772, as set forth

---

<sup>24</sup> 15 U.S.C. § 717b(c).

<sup>25</sup> *Id.*

<sup>26</sup> 15 U.S.C. § 717b(a).

<sup>27</sup> *See* Carib Energy (USA) LLC; Request for Amendment to Order Granting Blanket Authorization to Export Previously Imported Liquefied Natural Gas in ISO Containers by Vessel to Non-Free Trade Agreement Nations (Notice of Request), 88 Fed. Reg. 69,627 (Oct. 6, 2023) [hereinafter Notice of Request].

<sup>28</sup> *See id.* DOE finds that the requirement for public notice of applications in 10 C.F.R. Part 590 is applicable only to non-FTA applications under NGA section 3(a).

<sup>29</sup> Motion to Intervene and Protest of Public Citizen, Inc., Docket No. 21-99-LNG (Oct. 23, 2023) [hereinafter Public Citizen Protest].

<sup>30</sup> Carib Energy (USA) LLC, Answer to Protest, Docket No. 21-99-LNG (Oct. 26, 2023) [hereinafter Carib Energy Answer].

below.<sup>31</sup>

## II. CARIB ENERGY'S PUBLIC INTEREST ANALYSIS FOR NON-FTA AMENDMENT

Carib Energy maintains that its requested authorization is consistent with the public interest under NGA section 3(a), as well as DOE policy.<sup>32</sup> First, Carib Energy contends that its requested increase in exports of previously imported foreign-sourced LNG “will not compromise the availability of domestic natural gas supplies.”<sup>33</sup> Citing the *Annual Energy Outlook 2023* (AEO 2023) published by the U.S. Energy Information Administration (EIA), Carib Energy asserts that natural gas consumption has remained relatively flat in recent years and is projected to remain that way through 2024, whereas dry natural gas production has increased and is anticipated to continue doing so through 2024.<sup>34</sup> Carib Energy further states that, based on similar EIA data regarding domestic natural gas production and consumption trends, FECM authorized the re-export of previously imported LNG in a volume equivalent to 182.5 Bcf of natural gas over a two-year period in DOE/FECM Order No. 4982, issued to Southern LNG Company, LLC in March 2023.<sup>35</sup> According to Carib Energy, “the same domestic natural gas supply circumstances that justified authorizing LNG exports equivalent to 182.5 Bcf of natural gas [in Order No. 4982] also support granting Carib Energy’s modest requested increase of 0.92 Bcf.”<sup>36</sup>

---

<sup>31</sup> Concurrently with the issuance of this Order, DOE is issuing a Notice of Proposed Civil Penalty to Carib Energy under NGA section 22, 15 U.S.C. § 717t-1, for exceeding the authorized export volume of 0.48 Bcf set forth in Order No. 4772. See *supra* at 3-4 & note 16.

<sup>32</sup> See Supp. at 2, 4.

<sup>33</sup> *Id.* at 4.

<sup>34</sup> *Id.* at 5 (discussing U.S. Energy Info. Admin., *Annual Energy Outlook 2023* (Mar. 16, 2023), <https://www.eia.gov/outlooks/aeo/>).

<sup>35</sup> *Id.* & n.10 (citing *S. LNG Co., L.L.C.*, DOE/FECM Order No. 4982, Order Granting Blanket Authorization to Export Previously Imported Liquefied Natural Gas By Vessel to Free Trade Agreement and Non-Free Trade Agreement Nations (Mar. 15, 2023)).

<sup>36</sup> *Id.*

Next, Carib Energy asserts that its export of foreign-sourced LNG will continue to play a critical role in meeting the natural gas supply needs of non-FTA countries Barbados and Antigua (the latter beginning in 2024), as well as a FTA country—the Dominican Republic—as follows:<sup>37</sup>

- Carib Energy is the sole contracted provider of LNG to the Barbados National Oil Company (BNOC), and BNOC is the only authorized importer of natural gas for Barbados;<sup>38</sup>
- Carib Energy exports LNG to LineaClave, one of only three companies in the Dominican Republic authorized to distribute LNG on the island;<sup>39</sup> and
- Carib Energy intends to export LNG to Antigua under an agreement with Eagle LNG Partners, a U.S. company. Eagle LNG has a joint venture with Antigua Power Company Ltd. named Caribbean LNG, Inc. that is developing a 40-megawatt natural gas-fired power plant in partnership with and on behalf of the Antigua Public Utilities Authority, which provides electric power for residents and businesses on the island. Carib Energy will serve as the sole provider of LNG to the new gas-fired power plant which, in turn, is anticipated to provide climate change benefits by displacing the heavy fuel oil currently used to generate electric power in Antigua.<sup>40</sup>

According to Carib Energy, an interruption in its exports of LNG to Barbados would leave “the homes, businesses, and industries that rely on the BNOC pipeline without [natural] gas supplies, causing a substantial disruption to the country’s economy.”<sup>41</sup> Likewise, Carib Energy states that several major industries in the Dominican Republic currently depend on the LNG provided by Carib Energy to operate their facilities.<sup>42</sup> Regarding its planned exports to Antigua in 2024, Carib Energy contends that, “absent Carib Energy’s projected LNG exports, Antigua would have

---

<sup>37</sup> *Id.* at 6.

<sup>38</sup> Supp. at 6.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.* at 7.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

no [natural] gas supply for this new power plant and would be denied the [associated environmental] benefits.”<sup>43</sup>

Additionally, Carib Energy emphasizes that its exports “will contribute to achieving the climate change and energy security policies underlying the U.S.-Caribbean Partnership to Address Climate Crisis 2030 (‘PACC 2030’) by reducing the use of heavy fuel oil.”<sup>44</sup> Carib Energy states that PACC 2030 establishes the need for U.S. cooperation with Caribbean countries to support climate adaptation and strengthen energy security, while building the resilience of critical infrastructure and local economies to the climate crisis, and that its requested amendment to Order No. 4772 “furthers these ends.”<sup>45</sup>

Carib Energy asserts that, for all of these reasons, its requested non-FTA amendment is consistent with the public interest under NGA section 3(a) and should be granted.

### **III. CURRENT PROCEEDING FOR NON-FTA AMENDMENT**

#### **A. Public Citizen’s Motion to Intervene and Protest**

On October 23, 2023, Public Citizen filed a Motion to Intervene and Protest opposing Carib Energy’s requested amendment to Order No. 4772. In support of its motion, Public Citizen states that it is a “national, not-for-profit, non-partisan, research and advocacy organization representing the interests of household consumers” with “over 500,000 members and supporters across the United States.”<sup>46</sup>

Turning to its protest, Public Citizen argues that Puerto Rico is “beset by acute shortages of natural gas essential for its domestic power and energy needs.”<sup>47</sup> Thus, according to Public

---

<sup>43</sup> *Id.*

<sup>44</sup> Supp. at 6.

<sup>45</sup> *Id.* at 7.

<sup>46</sup> Public Citizen Protest at 2.

<sup>47</sup> *Id.* at 1.



Citizen, Carib Energy’s request for a “nearly 200% increase” in its exports of LNG previously imported into Puerto Rico may cause the “redirection of LNG supplies from Puerto Rico”—specifically, from the EcoEléctrica LNG Terminal, the island’s largest LNG import facility.<sup>48</sup> Public Citizen states that “[r]eexporting LNG away from Puerto Rico” could contribute to various impacts including physical shortages of LNG for the island’s domestic needs, an increased reliance on oil-fueled power, and price spikes for the island’s consumers.<sup>49</sup> To support these arguments, Public Citizen attaches as exhibits two letters from 2022, addressed to the Chair of the Federal Energy Regulatory Commission (FERC) by Puerto Rico Governor Pedro Pierluisi and the Puerto Rico Electric Power Authority (PREPA), respectively, that “noted the importance of [the] EcoEléctrica LNG storage tanks to fuel the on-site power plants that provide 40% of the island’s electricity.”<sup>50</sup> Public Citizen further argues that Carib Energy provides only a “generic discussion” of total U.S. natural gas supply and demand, while omitting any data on how its requested amendment will impact Puerto Rico.<sup>51</sup>

Additionally, Public Citizen asserts that the “lone operating LNG import terminal in New England”—Constellation Energy’s Everett LNG Facility—“competes with Puerto Rico for LNG imports from Trinidad and Tobago.”<sup>52</sup> Citing a post on Twitter (now X) dated December 25, 2022, Public Citizen argues that New England was forced to rely on oil as the largest source of fuel during Winter Storm Elliott in December 2022 because the region could not obtain adequate LNG supplies.<sup>53</sup> According to Public Citizen, Carib Energy “neglects to provide any assessment of whether diverting LNG supplies from Puerto Rico may compete with Constellation’s Everett

---

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *Id.* at 2.

<sup>51</sup> *Id.* at 1-2.

<sup>52</sup> Public Citizen Protest at 2 & n.8 (citing DOE/FECM’s *LNG Monthly* generally for this statement).

<sup>53</sup> *Id.* at 2 & n.9 (citing <https://twitter.com/naurtorious/status/1607205245779591170>).

facility” in Massachusetts, leading to higher oil use and more expensive LNG for New England ratepayers.<sup>54</sup>

In sum, Public Citizen argues that the Request and Supplement “fail to establish that [Carib Energy’s] proposed 200% increase in LNG exports is consistent with the public interest.”<sup>55</sup>

### **B. Carib Energy’s Answer**

In its Answer to Public Citizen’s protest, Carib Energy asserts that Public Citizen’s arguments lack merit, contain unsupported speculation, and do not provide a credible basis for DOE to deny the non-FTA portion of its amendment request.<sup>56</sup>

First, Carib Energy contends that Public Citizen misstates the applicable standard of review under NGA section 3(a) when it argues that Carib Energy has “fail[ed] to establish” that its requested amendment “is consistent with the public interest.”<sup>57</sup> Citing prior DOE orders, Carib Energy states that opponents of an application must overcome the presumption that exports are in the public interest under NGA section 3(a) by “making an affirmative showing of inconsistency with the public interest.”<sup>58</sup> Carib Energy argues that Public Citizen does not meet its burden of rebutting this presumption.<sup>59</sup> Carib Energy also asserts that Public Citizen does not contest the information provided by Carib Energy in its Supplement to demonstrate that its exports are in the public interest, including that “its requested increase in authorized re-export volumes” will “play an integral role in meeting the [natural] gas supply needs of Barbados, the Dominican Republic, and Antigua.”<sup>60</sup>

---

<sup>54</sup> *Id.*

<sup>55</sup> *Id.* at 1.

<sup>56</sup> Carib Energy Answer at 1-2.

<sup>57</sup> *Id.* (quoting Public Citizen Protest at 1).

<sup>58</sup> *Id.* at 2 & n.5 (citations omitted).

<sup>59</sup> *Id.* at 2-3.

<sup>60</sup> *See id.* at 3 & n.8 (citing Supp. at 6-7).

Next, Carib Energy argues that Public Citizen’s protest turns on its “mistaken belief” that the requested amendment would “divert” natural gas supplies from Puerto Rico and interfere with the island’s ability to obtain adequate natural gas supplies for its domestic needs.<sup>61</sup> Carib Energy maintains that, to the contrary, its requested increase of 0.92 Bcf in exports of previously imported LNG “represents a small fraction of the LNG volumes imported into Puerto Rico.”<sup>62</sup> According to Carib Energy, this incremental increase in its export volume “would 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 [natural] gas supplies.”<sup>63</sup> Carib Energy also points out that, in Order No. 4772, DOE already “considered and dismissed similar suggestions of harm to Puerto Rico,” yet Public Citizen does not mention or reference this existing authorization in its claims of impacts to Puerto Rico’s consumers.<sup>64</sup>

Addressing the letters to FERC attached as exhibits to Public Citizen’s protest, Carib Energy argues that Public Citizen has not explained “the relevance of EcoEléctrica’s role in fueling power plants to DOE/FECM’s consideration of Carib Energy’s pending application.”<sup>65</sup> Carib Energy emphasizes that neither the Governor of Puerto Rico nor PREPA mentioned LNG export-related concerns regarding the EcoEléctrica LNG Terminal in their letters to FERC. Carib Energy further notes that, even though this argument is an “unexplained distraction” to the current amendment proceeding, FERC did, in fact, issue an order on August 28, 2023, to increase

---

<sup>61</sup> *Id.* at 3 (quoting Public Citizen Protest at 1).

<sup>62</sup> Carib Energy Answer at 3.

<sup>63</sup> *Id.* at 4.

<sup>64</sup> *Id.* at 4 & n.11 (stating that its requested amendment “poses no more threat to Puerto Rico’s [natural] gas supply than the original authorization granted by Order No. 4772”). Carib Energy adds that “no entity responsible for ensuring adequate [natural] gas supplies for Puerto Rico has contested Carib Energy’s application or joined in the Public Citizen protest.” *Id.* at 4.

<sup>65</sup> *Id.* at 5.

the storage tank level at the EcoEléctrica LNG Terminal—thus “resolving the operational concerns identified in the correspondence” cited by Public Citizen.<sup>66</sup>

Finally, Carib Energy denies Public Citizen’s claims involving the potential impact of its requested amendment on supplies of imported LNG in New England.<sup>67</sup> Carib Energy challenges Public Citizen’s “attempt to impose a New England power market study obligation on Carib Energy” as flawed.<sup>68</sup> Addressing Public Citizen’s reference to possible shifts in fuel use during Winter Storm Elliott in December 2022, Carib Energy argues that Public Citizen has not provided evidence of a nexus between LNG supplies in New England during that storm and LNG exports from Puerto Rico. Carib Energy points out that Public Citizen’s claims are based on a social media post that showed only the relative fuel mix in ISO-New England on December 25, 2022, that contained no supporting analysis, and that was “silent regarding LNG exports from Puerto Rico.”<sup>69</sup>

Carib Energy further maintains that it does not purchase LNG in the global marketplace in competition with the Everett LNG Facility. Rather, according to Carib Energy, it “purchases LNG for re-export that has been purchased by others for import into Puerto Rico.”<sup>70</sup> Carib Energy states that, consequently, it “has no control over whether the volumes it re-exports come from Trinidad and Tobago or elsewhere in the global LNG marketplace.”<sup>71</sup> For these and other reasons set forth in the Answer, Carib Energy asserts that “it is not possible in the competitive global LNG marketplace to draw any firm conclusions regarding how one market participant’s

---

<sup>66</sup> *Id.* DOE takes administrative notice of this order, *EcoEléctrica, L.P.*, Order Approving Request to Increase Storage Tank Level, FERC Docket No. CP-95-35-000, 184 FERC ¶ 61,114 (Aug. 28, 2023) (granting EcoEléctrica’s request to increase the storage tank liquid level at its LNG terminal). Carib Energy points out that Public Citizen cites this FERC order in its Protest (at 1 n.3).

<sup>67</sup> See Public Citizen Answer at 5-6.

<sup>68</sup> *Id.* at 5.

<sup>69</sup> *Id.*

<sup>70</sup> *Id.* at 6.

<sup>71</sup> *Id.*

activities might impact either another market participant, the price of fuel oil or ratepayers.”<sup>72</sup>

Carib Energy thus urges DOE to reject Public Citizen’s protest.

#### **IV. DISCUSSION AND CONCLUSIONS FOR NON-FTA AUTHORIZATION**

##### **A. Procedural Matters**

In its Answer, Carib Energy does not oppose Public Citizen’s motion to intervene.

Accordingly, Public Citizen’s motion to intervene in the non-FTA portion of this proceeding is deemed granted.<sup>73</sup>

##### **B. Standard of Review**

Section 3(a) of the NGA sets forth the applicable standard for DOE’s review of Carib Energy’s requested amendment to the non-FTA authorization in Order No. 4772. Section 3(a) provides:

[N]o person shall export any natural gas from the United States to a foreign country or import any natural gas from a foreign country without first having secured an order of the [Secretary of Energy] authorizing it to do so. The [Secretary] shall issue such order upon application, unless after opportunity for hearing, [she] finds that the proposed exportation or importation will not be consistent with the public interest. The [Secretary] may by [the Secretary’s] order grant such application, in whole or part, with such modification and upon such terms and conditions as the [Secretary] may find necessary or appropriate.<sup>74</sup>

In evaluating an export application under this standard, DOE applies the principles described in DOE’s 1984 Policy Guidelines<sup>75</sup> and other matters determined to be appropriate to a determination of the public interest, such as the domestic need for the natural gas to be exported.

---

<sup>72</sup> *Id.*

<sup>73</sup> 10 C.F.R. § 590.303(g).

<sup>74</sup> 15 U.S.C. § 717b(a); *see also Sierra Club v. U.S. Dep’t of Energy*, 867 F.3d 189, 203 (D.C. Cir. 2017).

<sup>75</sup> U.S. Dep’t of Energy, New Policy Guidelines and Delegation Orders from Secretary of Energy to Economic Regulatory Administration and Federal Energy Regulatory Commission Relating to Regulation of Imported Natural Gas, 49 Fed. Reg. 6684, 6690 (Feb. 22, 1984).

In addition, the National Environmental Policy Act (NEPA) requires DOE to give appropriate consideration to the environmental effects of its proposed decisions.<sup>76</sup>

### **C. Public Interest Review of Carib Energy’s Requested Non-FTA Amendment**

As relevant here, Carib Energy requests authorization to export to non-FTA countries an increased volume of LNG previously imported into Puerto Rico from foreign sources—specifically, an increase of 0.92 Bcf of natural gas over its existing export volume of 0.48 Bcf in Order No. 4772, for a total export volume of 1.4 Bcf through the remainder of its export term (April 5, 2024). Consistent with DOE’s Policy Guidelines and DOE precedent, DOE considers the potential effects of this requested amendment on the public interest, including the domestic need for the increased volume of previously imported LNG and environmental factors (discussed below).

Public Citizen opposes the Request and Supplement on the grounds that there are competing needs for the incremental volume of previously imported LNG at issue, and that Carib Energy has failed to show that the requested amendment is in the public interest. As a preliminary matter, we agree with Carib Energy that Public Citizen has misstated the standard for review under NGA section 3(a). The public interest standard in NGA section 3(a) contains a general presumption favoring export authorization, such that, to overcome the presumption, there must be “an affirmative showing of inconsistency with the public interest.”<sup>77</sup> For the reasons set forth below, we find that Public Citizen has failed to satisfy this burden.

First, we note that Puerto Rico’s natural gas market operates largely independent from the rest of the U.S. market. For this reason, Carib Energy’s amended non-FTA exports will not

---

<sup>76</sup> 42 U.S.C. § 4321 *et seq.*

<sup>77</sup> *Sierra Club*, 867 F.3d at 203 (“there must be ‘an affirmative showing of inconsistency with the public interest’ to deny the application” under NGA section 3(a)) (quoting *Panhandle Producers & Royalty Owners Ass’n v. Econ. Regul. Admin.*, 822 F.2d 1105, 1111 (D.C. Cir. 1987)).

reduce the availability of domestically produced natural gas in the lower-48 states. Additionally, the volumes of natural gas imported into Puerto Rico from foreign sources do not become part of the natural gas supply in the lower-48 states.

Although the incremental volume of previously imported LNG at issue (equivalent to 0.92 Bcf of natural gas) will reduce the volume of natural gas potentially available for consumption within Puerto Rico, we find that it will do so only by a very small amount. From April 2022 through November 2023 (the most recent data available for Carib Energy's export term under Order No. 4772), Puerto Rico imported LNG in a total volume equivalent to 112.3 Bcf of natural gas.<sup>78</sup> Carib Energy's amended export volume of 1.4 Bcf—equivalent to an average of 0.7 Bcf for a 12-month period—thus amounts to approximately 1.04% of that annual imported amount.

Contrary to Public Citizen's suggestion, there are multiple ways for the amount of LNG imported into Puerto Rico to be increased. Numerous DOE authorization holders are able to increase the volumes of natural gas imported to Puerto Rico in response to market conditions. Indeed, more than 25 companies are currently authorized by DOE to import LNG from foreign sources into Puerto Rico.<sup>79</sup> If any additional applicant requests authority to import LNG into Puerto Rico, DOE must grant that request without modification or delay, as required by NGA section 3(c).

In sum, although Public Citizen warns of impacts to the residents of Puerto Rico if DOE approves the requested amendment, Public Citizen does not provide evidence or supporting

---

<sup>78</sup> See U.S. Dep't of Energy, Office of Fossil Energy and Carbon Mgmt., U.S. Natural Gas Imports Exports and Re-exports Summary (Nov. 2023), <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.energy.gov%2Fsites%2Fdefault%2Ffiles%2F2024-01%2FU.S.%2520Natural%2520gas%2520Imports%2520Exports%2520and%2520Re-Exports%2520Summary%2520%2528Nov%25202023%2529.xlsx&wdOrigin=BROWSELINK>.

<sup>79</sup> DOE maintains a list of its authorizations at <https://www.energy.gov/fecm/articles/electronic-docket-room-e-docket-room>.

analysis to demonstrate how the incremental export volume will contribute to shortages of LNG, greater reliance on oil for fuel, or price impacts in Puerto Rico. Nor does Public Citizen attempt to show that Carib Energy’s ongoing exports of previously imported LNG under Order No. 4772 have caused any of these harms to the residents of Puerto Rico since these exports commenced nearly two years ago, in April 2022.

The exhibits provided by Public Citizen—letters sent in 2022 from Puerto Rico Governor Pierluisi and PREPA to FERC concerning the LNG storage tanks at the EcoEléctrica LNG Terminal—likewise do not support Public Citizen’s arguments. As Carib Energy notes, neither letter addresses the potential impacts of exporting foreign-sourced LNG from Puerto Rico under NGA section 3(a), which is the issue before DOE in this proceeding. Insofar as the issue raised in the letters—EcoEléctrica’s then-pending request to FERC to increase the storage tank liquid level at its LNG Terminal—is relevant to this DOE proceeding, we find that FERC’s August 2023 order granting EcoEléctrica’s request (which Public Citizen cites elsewhere in its protest) renders that issue moot.<sup>80</sup>

Public Citizen’s concerns about the perceived connection between foreign-sourced LNG supplies imported into Puerto Rico and the need for foreign-sourced LNG supplies at Constellation’s Everett LNG Facility in Massachusetts are likewise unsubstantiated and speculative. There is no one-for-one competition in the U.S. LNG market for foreign-sourced LNG supplies between Puerto Rico and the New England region. The social media post cited by Public Citizen for this argument appears to identify the fuel mix in New England on a single day during Winter Storm Elliott in December 2022, and does not in any way indicate that DOE’s

---

<sup>80</sup> See *supra* note 66.



grant of Carib Energy’s requested amendment could ultimately affect (much less harm) ratepayers in New England.<sup>81</sup>

Finally, Carib Energy provides detailed evidence in its Supplement demonstrating that its ongoing exports of previously imported LNG under Order No. 4772 are providing and, with the requested amendment will continue to provide, critical energy security for the non-FTA country of Barbados. Carib Energy is the sole contracted provider of LNG to the Barbados National Oil Company, which supplies this LNG to homes, businesses, and industries in Barbados.<sup>82</sup> Further, with the requested amendment, Carib Energy states that it will supply the previously imported LNG to a new natural gas power plant under construction in Antigua (also a non-FTA country) beginning in 2024. Carib Energy asserts that, absent Carib Energy’s requested LNG exports, Antigua will have no natural gas supply for this new power plant.<sup>83</sup> Carib Energy also discusses how its requested amendment will advance the U.S. climate change policies under PACC 2030—including by reducing the use of heavy fuel oil and building the resilience of critical infrastructure and local economies in the Caribbean to the climate crisis.<sup>84</sup> Public Citizen does not address or dispute any of this information provided by Carib Energy, and therefore these significant public interest benefits associated with the requested amendment are uncontested.

#### **D. Environmental Review**

Carib Energy states that “[n]o new construction will be required to accommodate the amended export volume level requested ....”<sup>85</sup> DOE’s NEPA procedures provide for a categorical exclusion if neither an environmental assessment (EA) nor an environmental impact

---

<sup>81</sup> See Public Citizen Protest at 2 n.9.

<sup>82</sup> Carib Energy Supp. at 6.

<sup>83</sup> *Id.* at 7.

<sup>84</sup> See *id.*

<sup>85</sup> Supp. at 8.

statement (EIS) is required—specifically, categorical exclusion B5.7, *Export of natural gas and associated transportation by marine vessel*.<sup>86</sup> On January 25, 2024, DOE issued a categorical exclusion for the non-FTA portion of Carib Energy’s Request and Supplement under this provision.<sup>87</sup>

## **E. Conclusion**

DOE finds that the record evidence showing that the amendment to Order No. 4772 (as described herein) will be in the public interest under NGA section 3(a) outweighs the concerns raised by Public Citizen. The record shows that there is a sufficient supply of natural gas to satisfy demand in Puerto Rico from multiple other sources at competitive prices without drawing on the incremental volume of foreign-sourced LNG at issue (equivalent to 0.92 Bcf of natural gas) through Carib Energy’s remaining export term. Further, the proposed increase in exports of previously imported LNG qualifies for a categorical exclusion under NEPA, such that no EA or EIS will be required. On this basis, DOE is granting the non-FTA portion of Carib Energy’s Request and Supplement in part and denying them in part, subject to the Ordering Paragraphs below.

Specifically, although Carib Energy requests a retroactive date to June 1, 2023, for its amended authorization,<sup>88</sup> DOE does not believe that a retroactive effective date is warranted in these circumstances. Therefore, DOE denies that portion of Carib’s Energy Request and Supplement.<sup>89</sup> Under this Order, effective as of today (January 25, 2024) through the end of Carib Energy’s existing two-year term on April 5, 2024, Carib Energy is authorized to export

---

<sup>86</sup> See 10 C.F.R. Part 1021, Subpt. D, App. B, Categorical Exclusion B5.7; *see also* Supp. at 8 (stating that the requested amendment falls within categorical exclusion B5.7).

<sup>87</sup> U.S. Dep’t of Energy, Categorical Exclusion Determination, Carib Energy (USA) LLC, Docket No. 21-99-LNG (Jan. 25, 2024).

<sup>88</sup> See Supp. at 1.

<sup>89</sup> See *infra* at 21 (Ordering Para. A).

LNG previously imported from foreign sources in a volume equivalent to, and not to exceed, 1.4 Bcf of natural gas minus the volume Carib Energy exported under Order No. 4772 from April 6, 2022 (the date it commenced exports), through January 24, 2024.

## V. FINDINGS

(1) Section 3(c) of the NGA was amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486) to require that applications requesting authority for the export of natural gas, including LNG, to a nation with which there is in effect an FTA requiring national treatment for trade in natural gas shall be deemed consistent with the public interest and granted without modification or delay.<sup>90</sup> The FTA portion of Carib Energy's Request and Supplement falls within section 3(c), as amended, and therefore, DOE grants the requested increase in export volume.<sup>91</sup>

(2) With respect to the non-FTA portion of the Request and Supplement, and after due consideration based on all facts and evidence of record, DOE finds that a grant of the requested increase in export volume as described herein is not inconsistent with the public interest under NGA section 3(a).

(3) Carib Energy requests authorization to export LNG on its own behalf and as agent for other entities who will hold title to the LNG at the time of export. DOE previously addressed the issue of Agency Rights in DOE/FE Order No. 2913,<sup>92</sup> which granted Freeport LNG Expansion, L.P. *et al.* (collectively, FLEX) authority to export LNG to FTA countries. In that order, DOE approved a proposal by FLEX to register each LNG title holder for whom FLEX

---

<sup>90</sup> 15 U.S.C. § 717b(c).

<sup>91</sup> DOE further finds that the requirement for public notice of applications and other hearing-type procedures in 10 C.F.R. Part 590 are applicable only to applications seeking to export natural gas, including LNG, to non-FTA countries.

<sup>92</sup> *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No 2913, Docket No. 10-160-LNG, Order Granting Long-Term Authorization to Export Liquefied Natural Gas from Freeport LNG Terminal to Free Trade Nations (Feb. 10, 2011).

sought to export LNG as agent. DOE found that this proposal was an acceptable alternative to the non-binding policy adopted by DOE in *The Dow Chemical Company*, which established that the title for all LNG authorized for export must be held by the authorization holder at the point of export.<sup>93</sup> We find that the same policy considerations that supported DOE's acceptance of the alternative registration proposal in DOE/FE Order No. 2913 apply here as well.

DOE reiterated its policy on Agency Rights procedures in other authorizations, including *Cameron LNG, LLC*, DOE/FE Order No. 3680.<sup>94</sup> In that order, DOE determined that, in LNG export orders in which Agency Rights have been granted, DOE shall require registration materials filed for, or by, an LNG title-holder (Registrant) to include the same company identification information and long-term contract information of the Registrant as if the Registrant had filed an application to export LNG on its own behalf.<sup>95</sup>

To ensure that the public interest is served, this authorization requires that, where Carib Energy proposes to export LNG as agent for other entities that hold title to the LNG (Registrants), it must register those entities with DOE in accordance with the procedures and requirements described herein.

## **ORDER**

Pursuant to section 3 of the NGA it is ordered that:

A. From the effective date of this Order (January 25, 2024) through April 5, 2024, Carib Energy (USA) LLC (Carib Energy) is authorized to export LNG previously imported from foreign sources in a volume equivalent to, and not to exceed, 1.4 Bcf of natural gas minus the

---

<sup>93</sup> *The Dow Chem. Co.*, DOE/FE Order No. 2859, Docket No. 10-57-LNG, Order Granting Blanket Authorization to Export Liquefied Natural Gas, at 7-8 (Oct. 5, 2010), discussed in *Freeport LNG*, DOE/FE Order No. 2913, at 7-8.

<sup>94</sup> *Cameron LNG, LLC*, DOE/FE Order No. 3680, Docket No. 15-36-LNG, Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Cameron LNG Terminal in Cameron and Calcasieu Parishes, Louisiana, to Free Trade Agreement Nations (July 10, 2015).

<sup>95</sup> *See id.* at 8-9.

volume Carib Energy exported under Order No. 4772 from April 6, 2022 (the date it commenced exports), to January 24, 2024. Carib Energy is authorized to export this LNG on its own behalf or as agent for other entities that hold title to the LNG at the time of export.

B. This LNG may be exported from the Crowley Facility to any country in Central America, South America, or the Caribbean that has, or in the future develops, the capacity to import LNG via approved ISO containers on ocean-going carriers or container vessels, and with which trade is not prohibited by U.S. law or policy.

C. Carib Energy shall ensure that all transactions authorized by this Order are permitted and lawful under U.S. laws and policies, including the rules, regulations, orders, policies, and other determinations of the Office of Foreign Assets Control of the United States Department of the Treasury. Failure to comply with this requirement could result in rescission of this authorization and/or other civil or criminal remedies.

D. Carib Energy, or others for whom Carib Energy acts as agent, shall include the following provision in any agreement or contract for the sale or transfer of LNG exported pursuant to this Order:

Customer or purchaser acknowledges and agrees that it will resell or transfer LNG purchased hereunder for delivery only to countries identified in Ordering Paragraph B of DOE/FECM Order No. 4772-A, issued January 25, 2024, in Docket No. 21-99-LNG, and/or to purchasers that have agreed in writing to limit their direct or indirect resale or transfer of such LNG to such countries. Customer or purchaser further commits to cause a report to be provided to Carib Energy (USA) LLC that identifies the country (or countries) into which the LNG was actually delivered, and to include in any resale contract for such LNG the necessary conditions to ensure that Carib Energy (USA) LLC is made aware of all such countries.

E. Carib Energy is permitted to use its authorization in order to export LNG as agent for other entities, after registering the other entities with DOE. Registration materials shall include an acknowledgement and agreement by the Registrant to supply Carib Energy with all information and copies of contracts necessary in order to permit Carib Energy to register that

person or entity with DOE, including: (1) the Registrant's agreement to comply with this Order and all applicable requirements of DOE's regulations at 10 C.F.R. Part 590, including but not limited to destination restrictions; (2) the exact legal name of the Registrant, state/location of incorporation/registration, primary place of doing business, and the Registrant's ownership structure, including the ultimate parent entity if the Registrant is a subsidiary or affiliate of another entity; (3) the name, title, mailing address, e-mail address, and telephone number of a corporate officer or employee of the Registrant to whom inquiries may be directed; and (4) an acknowledgement and agreement by the Registrant to include the provision in Ordering Paragraph D in any contract for the sale or transfer of LNG exported pursuant to this Order.

F. Each registration submitted pursuant to this Order shall have current information on file with DOE. Any changes in company name, contact information, or other relevant modifications shall be filed with DOE within 30 days of such change(s).

G. Carib Energy shall ensure that all persons required by this Order to register with DOE have done so.

H. Monthly Reports: With respect to the export of LNG authorized by this Order, Carib Energy shall file with the U.S. Department of Energy, Office of Fossil Energy and Carbon Management, Office of Resource Sustainability, Office of Regulation, Analysis, and Engagement (FE-34), within 30 days following the last day of each calendar month, a report on Form FE-746R indicating whether exports of LNG have been made. Monthly reports must be filed whether or not initial deliveries have been made. If no exports have been made, a report of "no activity" for that month must be filed. If exports have occurred, the report must provide the information specified for each applicable activity and mode of transportation, as set forth in the

Guidelines for Filing Monthly Reports. These Guidelines are available at <https://www.energy.gov/fecm/guidelines-filing-monthly-reports>.

(Approved by the Office of Management and Budget under OMB Control No. 1901-0294)

I. All monthly report filings on Form FE-746R shall be made to the Office of Regulation, Analysis, and Engagement according to the methods of submission listed on the Form FE-746R reporting instructions available at <https://www.energy.gov/fe/services/natural-gas-regulation>.

J. The motion to intervene submitted by Public Citizen, Inc. is deemed granted.<sup>96</sup>

Issued in Washington, D.C., on January 25, 2024.

---

Amy R. Sweeney  
Director, Office of Regulation, Analysis, and Engagement  
Office of Resource Sustainability

---

<sup>96</sup> 10 C.F.R. § 590.303(g).