

Natural Gas with DOE/FECM (“Extension Request”).⁵ In that submission, PALNG requested that the start date of the terms of its FTA and Non-FTA authorization orders be modified to June 18, 2028.

On December 19, 2022, DOE/FECM issued notice of PALNG’s Extension Request in the *Federal Register*.⁶ The notice set a deadline of January 3, 2023, for protests, interventions, and comments relating to “this portion” of the proceeding (i.e., relating to PALNG’s November 18, 2022 request). DOE/FECM explained that all protests, comments, and interventions must meet the requirements specified by the regulations in 10 C.F.R. Part 590.⁷

On January 3, 2023, Public Citizen filed a Motion to Intervene and Protest in Docket No. 15-96-LNG (i.e., the Non-FTA docket).

II. ANSWER

A. *Public Citizen’s Filing Fails to Satisfy the DOE’s Regulatory Requirements for Interventions and Should Be Dismissed*

Public Citizen’s motion to intervene fails to meet the requirements for interventions set forth in DOE’s regulations and should therefore be denied.

Section 590.303 provides that a person seeking to become a party to a proceeding “shall file a motion to intervene, *which sets out clearly and concisely the facts upon which the petitioner’s claim of interest is based.*”⁸ The *Federal Register* notice for the Extension Request, in turn, reiterates that motions to intervene must satisfy the requirements set forth in 10 C.F.R. Part 590, which includes the requirements of section 590.303.⁹

⁵ Request of Port Arthur LNG, LLC for Extensions for Long-Term Authorizations to Export Liquefied Natural Gas, Docket Nos. 15-53-LNG, 15-96-LNG & 18-162-LNG (Nov. 18, 2022).

⁶ *Port Arthur LNG, LLC*, 87 Fed. Reg. 77585 (Dec. 19, 2022) (“Notice”).

⁷ *Id.* at 77586.

⁸ 10 C.F.R. § 590.303(b).

⁹ Notice at 77586.

Public Citizen, however, makes no attempt whatsoever to satisfy this requirement. Public Citizen’s filing does not set out the facts upon which its claim of interest in the Extension Request is based. Rather, Public Citizen merely states that it “moves to intervene in this proceeding.”¹⁰ This is insufficient. Public Citizen has failed to meet the basic requirements for interventions, and its motion to intervene in this proceeding should be denied.

To the extent Public Citizen seeks party status in this portion of the proceeding by virtue of its intervention in a prior proceeding involving a statement of Change in Control filed by PALNG and its affiliates,¹¹ such a request must also be denied. As explained in the *Federal Register* notice, “DOE will not consider comments or protests that do not bear directly on this [Extension] Request. Any person wishing to become a party to this *portion* of the proceeding evaluating PALNG’s [Extension] Request must file a motion to intervene or notice of intervention.”¹²

B. Public Citizen Fails to Demonstrate that the Extension Request is Inconsistent with the Public Interest

As shown above, Public Citizen’s intervention should be denied. To the extent DOE/FECM accepts Public Citizen’s protest, however, PALNG respectfully submits that Public Citizen’s arguments opposing the Extension Request are unsupported and should be rejected.

Public Citizen argues that extending the start date of PALNG’s Non-FTA authorization will render DOE/FECM’s public interest analysis stale because PALNG’s exports will impact energy poverty, utility disconnections, and energy security. As an initial matter, this line of argument seems to be directed toward the export of natural gas generally and not to the Extension Request, which does not seek to make the term of the authorization longer. However, in the

¹⁰ Public Citizen Filing at 1.

¹¹ *Id.*

¹² Notice at 77586 (emphasis added).

Federal Register notice DOE/FECM warned that it will not entertain arguments that do not directly bear on the Extension Request.¹³

To the extent Public Citizen is otherwise attempting to argue that granting the Extension Request will result in adverse distributional impacts on consumers, its filing makes only vague and generalized claims that fail to demonstrate that the requested extension will be inconsistent with the public interest. In its response to comments on the 2018 economic Study, DOE/FECM concluded that the public interest “generally favors authorizing proposals to export natural gas that have been shown to lead to net benefits to the U.S. economy.”¹⁴ Furthermore, while it noted that “there could be circumstances in which the distributional consequences of an authorizing decision could be shown to be so negative as to outweigh net positive benefits to the U.S. economy as a whole,” DOE/FECM found that:

DOE had not been presented with sufficiently compelling evidence that those circumstances were present. . . . with respect to consumer well-being, the 2018 Study found that all scenarios within the more likely range of results are welfare-improving for the average U.S. household. This result is driven by households’ receipt of additional income from export revenues and take- or-pay tolling charges for LNG exports, and this additional income outweighs the income lost from higher energy prices.¹⁵

As DOE/FECM further explained, the Court of Appeals for the District of Columbia Circuit (“D.C. Circuit”) has rejected arguments from Sierra Club that DOE/FECM erred by failing to consider distributional impacts under the public interest standard in issuing certain export authorizations.¹⁶ In *Sierra Club II*, the D.C. Circuit found DOE/FECM adequately addressed concerns regarding distributional impacts, upholding DOE/FECM’s determination that “given that ‘exports will benefit the economy as a whole’ and ‘absent stronger record evidence on the

¹³ *Id.*

¹⁴ *Study on Macroeconomic Outcomes of LNG Exports*, 83 Fed. Reg. 67251, 67266 (Dec. 28, 2018).

¹⁵ *Id.*

¹⁶ *Id.*

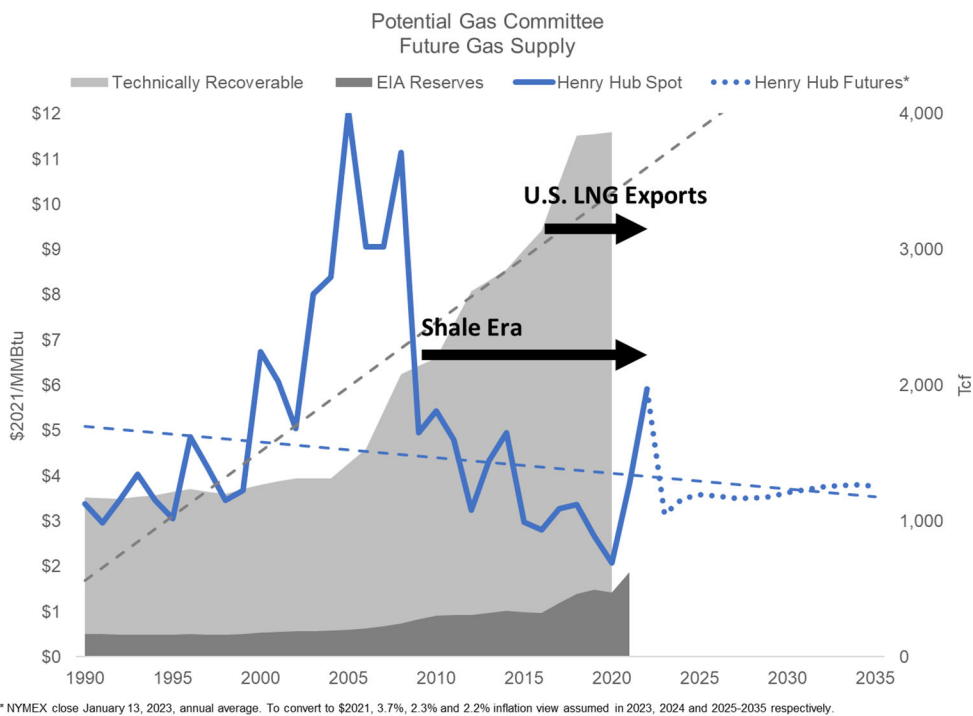
distributional consequences,’ [DOE/FECM] could not ‘say that . . . exports were inconsistent with the public interest on these grounds.’”¹⁷ In its response to comments on the 2018 Study, DOE/FECM similarly found that commenters failed to provide a “*quantitative analysis* of the distributional consequences of authorizing LNG exports *at the household level*. Absent stronger record evidence on these alleged distributional consequences, we cannot say that increased LNG exports are inconsistent with the public interest on these grounds.”¹⁸ Thus, DOE/FECM has provided clear guidance on the kind of specific evidence that would be required to show there are adverse distributional impacts of LNG exports that might render an export authorization contrary to the public interest. In its filing, Public Citizen makes vague claims that granting the Extension Request will harm consumers and adversely impact energy security but has failed to provide a quantitative analysis showing the distributional consequences of LNG exports on the household level. Accordingly, Public Citizen has not provided the strong record evidence necessary to support a finding that the proposed exports are inconsistent to the public interest, and these arguments should be rejected.

Public Citizen also takes issue with DOE’s 2018 economic study, suggesting the study failed to account for the fact that LNG exports have supposedly resulted in large domestic gas price increases and gas shortages. Public Citizen’s claims in this regard are misguided for several reasons. As a preliminary matter, Public Citizen’s filing does not specify any specific flaws in the 2018 economic study other than claiming without support that the study “arrived at the disproven prediction that LNG exports only had a 3% probability of increasing domestic prices, and made the absurd claim that Americans’ stock ownership in LNG export terminals would provide income

¹⁷ See *Sierra Club v. U.S. Dep’t of Energy*, 703 Fed. Appx. 1, at *3 (D.C. Cir. Nov. 1, 2017).

¹⁸ 83 Fed. Reg. at 67266 (emphasis added).

in excess of any increase in home energy costs.”¹⁹ While Public Citizen’s filing claims that LNG exports have “directly resulted in punishing natural gas price increases,”²⁰ in reality, a comparison of natural gas prices (as shown on the chart below) demonstrates that the Henry Hub price has, in fact, been flat or declining over time. Moreover, by exclusively faulting LNG exports on recent price dynamics, Public Citizen ignores the complexity of the domestic and global gas markets and the fact that various factors—such as the global energy crisis precipitated by Russia’s invasion of Ukraine and the lingering impacts of the global COVID-19 pandemic—have had acute effects on gas prices in recent years. Public Citizen also fails to account for the fact that natural gas inventory, as measured by reserves and resources, has substantially increased over this same period, resulting in significant available economic supply.



Sources: (1) Reserves Data—US Energy Information Administration, (2) Technically Recoverable Resources—Potential Gas Committee, (3) Henry Hub Prices—Chicago Mercantile Exchange and New York Mercantile Exchange close price as of January 13, 2023.

¹⁹ Public Citizen Filing at 2.
²⁰ *Id.*

In recently issued orders, DOE/FECM has upheld the continuing validity of the 2018 economic study, explaining 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.”²¹ DOE/FECM also took administrative notice of the U.S. Energy Information Administration’s most recent projections set forth in the Annual Energy Outlook 2022 (“AEO 2022”). DOE/FECM noted that the AEO 2022 reference cases projected that by 2050, approximately 25% more natural gas would be produced than consumed in the United States. Based on this, DOE/FECM concluded that “the AEO 2022 Reference case is *even more supportive* of exports than the AEO 2017 Reference case without the CPP.”²² DOE/FECM also noted that with respect to price impacts, the AEO 2022 Reference case “projects an average Henry Hub natural gas price that is lower than the AEO 2017 Reference case without the CPP by 43%.”²³ DOE/FECM concluded in those proceedings that both the 2018 study and the AEO 2022 support a finding that the requested export volumes in those proceedings would not be inconsistent with the public interest.

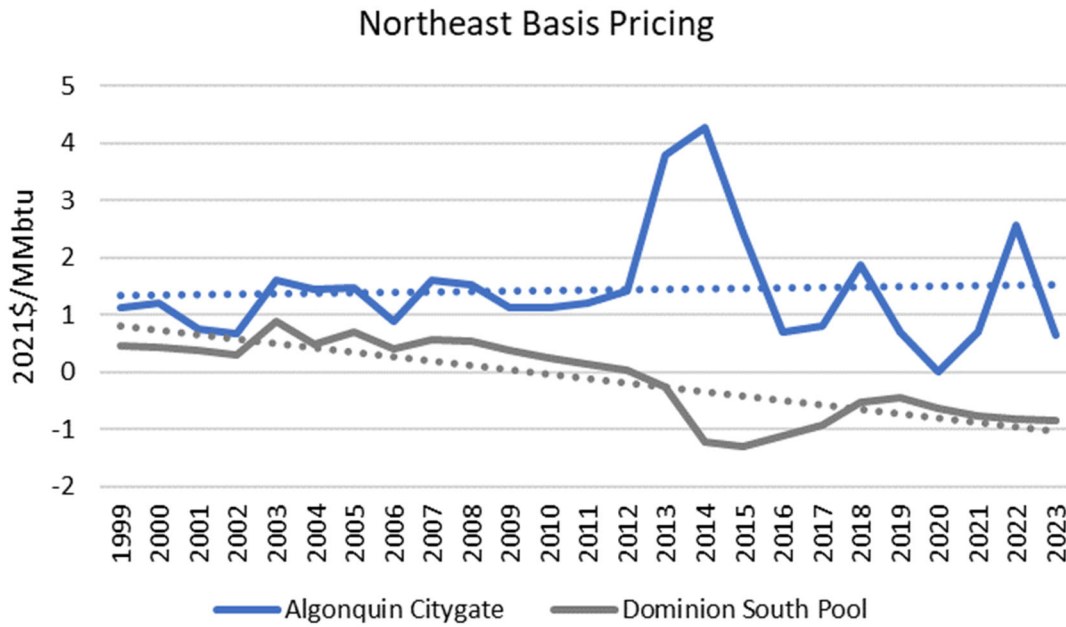
Public Citizen further contends that granting the Extension Request will exacerbate energy shortages in the U.S. northeast. However, Public Citizen has failed to demonstrate how, if at all, U.S. LNG exports materially contribute to natural gas price increases in New England. The figure below compares the Dominion South Path basis (the implied value of transport between the Henry Hub and the regional pricing point), which is a pricing point in the Mid-Atlantic Region near the Marcellus/Utica supply basin to the Algonquin City Gate basis. The Dominion basis shows a

²¹ See, e.g., *Energia Costa Azul S. de R.L. de C.V.*, Docket No. 18-145-LNG, DOE/FECM Order No. 4365-B at 54 (Dec. 20, 2022) (“Order No. 4929”); *Vista Pacifico LNG, S.A.P.I. de C.V.*, Docket No. 20-153-LNG, DOE/FECM Order No. 4929 at 54 (Dec. 20, 2022).

²² Order No. 4365-B at 55 (emphasis added); Order No. 4929 at 55 (emphasis added).

²³ Order No. 4365-B at 59; Order No. 4929 at 59.

decline trend while the Algonquin City Gate shows a rising trend. This divergence in basis trends supports the conclusion that natural gas prices at Algonquin Citygate and in New England are in large part a function of limited pipeline capacity in that region. This dynamic routinely results in gas supply constraints and high gas prices in the region during the winter, as a result of which, New England is an *importer* of LNG. Public Citizen’s claims in this regard also fail to demonstrate that the Extension Request is inconsistent with the public interest.



Key: Algonquin Citygate —Northeast Price, Dominion South Pool —Dominion South Path Price (Mid Atlantic)

Source: Chicago Mercantile Exchange

III. CONCLUSION

For the foregoing reasons, PALNG respectfully requests that DOE/FECM dismiss Public Citizen’s motion to intervene. PALNG also respectfully submits that each of the perfunctory and unsupported arguments raised in Public Citizen’s protest is meritless and should be rejected, as detailed above.

Respectfully submitted,

/s/ Brett A. Snyder

Brett A. Snyder

Lamiya Rahman

Blank Rome, LLP

1825 Eye Street, NW

Washington, D.C. 20006

(202) 420-2200

brett.snyder@blankrome.com

lamiya.rahman@blankrome.com

Counsel for Port Arthur LNG, LLC

Dated: January 17, 2023

VERIFICATION

I, William Gurrola, declare that I am Vice President – Project Development for Port Arthur LNG, LLC and am duly authorized to make this Verification; that I have read the foregoing instrument 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 under the laws of the United States of America that the foregoing is true and correct.

Executed in San Diego, California on January 17, 2023.

/s/ William Gurrola _____

William Gurrola
Vice President – Project Development
Port Arthur LNG, LLC
488 8th Avenue
San Diego, CA 92101

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list in this proceeding.

Dated at Washington, D.C. this 17th day of January 2023.

/s/ Lamiya Rahman _____
Lamiya Rahman
Blank Rome, LLP
1825 Eye Street, NW
Washington, D.C. 20006
(202) 420-2200
lamiya.rahman@blankrome.com