

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

In the Matter of:)
)
Sabine Pass Liquefaction, LLC) **Docket No. 24 -27- LNG**
and Sabine Pass Liquefaction Stage V, LLC)
)

**ANSWER OF
SABINE PASS LIQUEFACTION, LLC AND
SABINE PASS LIQUEFACTION STAGE V, LLC
TO INTERVENTIONS AND PROTESTS OF APPLICATION**

Pursuant to Sections 590.302(b), 303(e), and 304(f) of the regulations of the Department of Energy (“DOE”),¹ Sabine Pass Liquefaction, LLC and Sabine Pass Liquefaction Stage V, LLC (together “Sabine Pass”) hereby submit this answer in opposition to the following pleadings filed with DOE’s Office of Fossil Energy and Carbon Management (“DOE/FECM”) in the above-captioned proceeding on June 18, 2024: (1) the Motion to Intervene and Protest of Public Citizen, Inc. and (2) the Motion to Intervene and Protest of Fishermen Involved in Sustaining our Heritage, For a Better Bayou, Habitat Recovery Project, Healthy Gulf, Louisiana Bucket Brigade, Micah Six Eight Mission, The Vessel Project of Louisiana, and Sierra Club.²

The Protests concern the application filed by Sabine Pass pursuant to Section 3 of the Natural Gas Act (“NGA”) ³ on March 1, 2024 (the “Stage 5 Application”) for long-term, multi-contract authority, and related short-term authority, to export additional domestically produced

¹ 10 C.F.R. §§ 590.302(b), 303(e), and 304(f) (2024).

² For ease of reference, these pleadings are referred to herein as the “Public Citizen Protest” and the “Sierra Club Protest” respectively, and together as the “Protests.” In addition, when discussing the Sierra Club Protest, Sabine Pass generally will refer simply to “Sierra Club” as a short-hand reference to both that entity and the aligned parties that joined with it in its filing when applicable (*i.e.*, with respect to the current Protest itself, as opposed to prior Sierra Club actions).

³ 15 U.S.C. § 717b (2018).

liquefied natural gas (“LNG”) from the existing Sabine Pass liquefied natural gas (“LNG”) facility on the Sabine-Neches Waterway in Cameron Parish, Louisiana (“SPLNG Terminal”). The SPLNG Terminal was the first LNG export project to begin operating in the lower-48 portion of the U.S. and is the country’s largest liquefaction project. In its Stage 5 Application, Sabine Pass requests authorization to increase the amount of LNG exports from the SPLNG Terminal by the equivalent of 899.46 billion cubic feet (“Bcf”) of natural gas per year (“Bcf/yr”), or approximately 17.76 metric tonnes per annum (“MTPA”) of LNG.⁴ The requested additional export volumes reflect the total peak capacity under optimal conditions of the facilities proposed to be added to the SPLNG Terminal in the Stage 5 Project, which include two large natural gas liquefaction trains (Trains 7 and 8), as well as a boil-off gas re-liquefaction unit. Sabine Pass has requested authorization to export the proposed incremental volumes to nations with which the U.S. both (1) has a Free Trade Agreement (“FTA”) requiring national treatment for trade in natural gas and (2) does not have such an FTA but with which trade is not prohibited by U.S. law or policy (“non-FTA” nations). The Protests relate only to the non-FTA portion of Sabine Pass’ Stage 5 Application.⁵

Sabine Pass proposes to liquefy and export additional LNG volumes from its existing SPLNG Terminal to meet increased international demand for natural gas by adding liquefaction

⁴ Sabine Pass is currently authorized to export domestically-produced LNG from the SPLNG Terminal in a volume equivalent, in total, to 1661.94 Bcf/yr for a term through December 31, 2050. *See Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 4520, Docket No. 19-125-LNG, Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Free Trade Agreement Nations (Apr. 14, 2020), *amended by* DOE/FE Order No. 4520-A, *et al.* (Oct. 28, 2020) (extending export term), *further amended by* DOE/FE Order No. 4520-B, *et al.* (Feb. 26, 2021) (granting request for contract consolidation); and *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 4800 Docket No. 19-125-LNG, Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Free Trade Agreement Nations (March 16, 2022). The series of orders in which DOE has authorized these long-term, multi-contract exports of domestic LNG from the SPLNG Terminal are listed in Appendix A of the Stage 5 Application.

⁵ 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 requiring national treatment for trade of natural gas be “deemed to be consistent with the public interest” and “granted without modification or delay.” 15 U.S.C. § 717b(c) (2018). Nevertheless, DOE/FECM has not yet acted on the FTA portion of Sabine Pass’ Stage 5 Application.

capacity and leveraging its existing infrastructure, thereby enabling abundant domestic natural gas supplies to be exported as LNG while minimizing greenfield construction and associated environmental impacts. Global events in recent years have further highlighted the importance of natural gas and LNG in meeting the world's energy needs, now and throughout the energy transition. The expansion of the existing SPLNG Terminal is ideally situated to help satisfy the world's growing demand for U.S. natural gas exports, as countries around the world seek to (1) improve energy security and reliability, (2) improve energy affordability, and (3) improve air quality and public health and reduce greenhouse gas ("GHG") emissions. Export of LNG from Sabine Pass' Stage 5 Project will help to achieve these goals by providing a secure, reliable, and affordable source of energy for U.S. allies and trading partners while promoting the continued displacement outside the U.S. of coal and other more GHG emission-intensive fuels. The incremental LNG exports by Sabine Pass from the Stage 5 Project will result in: new markets for the nation's abundant natural gas supplies; increased economic growth, employment, tax revenues and net economic benefits; improved energy and economic security for many U.S. allies and trading partners; other geopolitical benefits; and improvements in the U.S. balance of trade, all as detailed in the Stage 5 Application.

Therefore, authorization of additional volumes of natural gas exports by Sabine Pass will promote the public interest. Moreover, NGA Section 3(a) provides that DOE "shall issue" an export authorization unless it finds that the proposed export "will not be consistent with the public interest," thereby establishing a rebuttable presumption that proposed exports of natural gas are in the public interest.⁶ Accordingly, DOE must grant natural gas export applications unless

⁶ 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))).

opponents of an application overcome this statutory presumption by making an affirmative demonstration that the proposed export is inconsistent with the public interest.⁷ The protesting parties' arguments here fall short of the required demonstration. Therefore, and for all the reasons explained below and in the Stage 5 Application, and consistent with its well-established policy and precedent, DOE/FECM should reject the arguments made in the Protests and grant the requested non-FTA export authorization.

I. PUBLIC CITIZEN'S MOTION TO INTERVENE SHOULD BE DENIED

DOE/FECM's regulations, at Section 590.303, require that a person seeking to become a party "shall file a motion to intervene, *which sets out clearly and concisely the facts upon which the petition's claim of interest is based.*"⁸ The public notice of the Stage 5 Application published in the Federal Register provided an explicit reminder that "notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590."⁹ Sabine Pass will concede that Sierra Club and the aligned parties joining its protest have satisfied the standard for intervention as generally applied by DOE/FECM to allow liberal intervention, but Public Citizen has not.

In the "Motion to Intervene" portion of its recent filing, Public Citizen offered as justification for its intervention merely a single paragraph that describes the organization in general.¹⁰ None of the general statements there establish any particularized interest of Public

⁷ *E.g.*, *Philips Alaska Natural Gas Corp. and 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); *Sabine Pass Liquefaction, LLC*, Order No. 4800 at 27 (March 16, 2022); *Sierra Club, et al.*, Order Denying Petition for Rulemaking on Exports of Liquefied Natural Gas, at 10 (July 18, 2023). This interpretation has been affirmed by the U.S. Court of Appeals for the D.C. Circuit. *E.g.*, *Sierra Club v. U.S. Dep't of Energy*, 867 F.3d 189 at 203 (D.C. Cir. 2017).

⁸ 10 C.F.R. § 590.303 (emphasis added).

⁹ 89 Fed. Reg. 31744 (Apr. 25, 2024).

¹⁰ Public Citizen Protest at 1.

Citizen in Sabine Pass or the Stage 5 Project, much less provide facts upon which such a claim of interest is based.

Just last month, DOE/FECM denied Public Citizen's motion to intervene in the proceeding regarding Sabine Pass' most recent filing for blanket authorization to export previously imported LNG, in which Public Citizen had provided that a similar one-paragraph purported basis for its intervention.¹¹ In that case, Public Citizen's one-paragraph generic description of its organization was the entirety of its submission, whereas here Public Citizen also added a protest. Given the protest added to the motion to intervene, the situation here is more comparable to another recent case in which DOE/FECM also denied Public Citizen's motion to intervene based on its failure to satisfy the Rule 303 standard.¹² The key point in this regard is that Public Citizen's protest consists of only general claims that domestic gas demand will increase in the future and general arguments that increased LNG exports will result in higher domestic prices and harm consumers. None of those arguments are specific to Sabine Pass, its Stage 5 Project, or set out any facts purporting to show that exports by Sabine Pass will affect Public Citizen.

Therefore, Sabine Pass opposes Public Citizen's intervention as not justified in accordance with the applicable DOE requirements, and Public Citizen should not be made a party in the proceeding with any further rights. Nevertheless, DOE/FECM presumably will consider the arguments offered in the Public Citizen Protest even it denies the intervention, and so Sabine Pass will respond to those arguments here.

¹¹ *Sabine Pass Liquefaction, LLC*, DOE/FECM Order No. 5125, Docket No. 24-28-LNG, Order Granting Blanket Authorization to Export Previously Imported Liquefied Natural Gas at 8-10 (June 6, 2024).

¹² *Port Arthur LNG, LLC*, Order Nos. 3698-C/4372-B, Docket No. 15-53-LNG, *et al.* at 11 (Apr. 21, 2023).

II. THE PROTESTS BY LONG-STANDING OPPONENTS OF ALL LNG EXPORTS FAIL TO PRESENT ANY SERIOUS QUESTION THAT THE PROPOSED INCREMENTAL EXPORTS BY SABINE PASS ARE CONSISTENT WITH THE PUBLIC INTEREST.

The Protests of the Stage 5 Application reflect general opposition to all exports of LNG from the U.S. and challenge long-established DOE/FECM policies. Sierra Club and Public Citizen are long-standing opponents of all LNG exports and consistent critics of DOE/FECM's policies. DOE/FECM has consistently rejected many of the arguments in the Protests in numerous decisions over more than a decade through three presidential administrations. It should do the same here.

A. DOE's Decision To Update Its Studies Does Not Undermine Its Well-Established Basis For Uniformly Approving Non-FTA Exports.

Sierra Club highlights the temporary "pause" on new non-FTA authorizations announced by DOE/FECM earlier this year while it updates the economic and environmental analyses that inform its determinations whether such natural gas exports are consistent with the public interest.¹³ Furthermore, it criticizes Sabine Pass for relying in its Stage 5 Application on the previous studies of LNG exports prepared by or for DOE.¹⁴ Sierra Club has consistently criticized and opposed those prior DOE studies, as well as DOE/FECM's many non-FTA export authorizations and its general approach to LNG exports.¹⁵ The DOE's prior studies, however,

¹³ See, e.g., Sierra Club Protest at 12, 46, 55, and 70. With respect to the "pause," see "The Temporary Pause on Review of Pending Applications to Export Liquefied Natural Gas," available at: https://www.energy.gov/sites/default/files/2024-02/The%20Temporary%20Pause%20on%20Review%20of%20Pending%20Applications%20to%20Export%20Liquefied%20Natural%20Gas_0.pdf.

On July 1, 2024, a Federal District Judge in the Western District of Louisiana, Lake Charles Division granted a motion for preliminary injunction by numerous states, holding the Pause to be unlawful and staying the pause in its entirety. *State of Louisiana, et al. v. Joseph R. Biden, et al.*, Case No. 2:24-CV-00406, Memorandum Ruling (W.D. La., July 1, 2024).

¹⁴ See, e.g., Sierra Club Protest at 14 and 45.

¹⁵ See DOE/FECM's Order Denying Petition for Rulemaking on Exports of Liquefied Natural Gas filed by the Sierra Club and aligned groups, issued on July 18, 2023, and available at: <https://www.energy.gov/sites/default/files/2023->

have supported and been relied upon by the agency in its long and unbroken line of decisions concluding that LNG exports are consistent with the public interest, including ones issued as recently as 2022 and 2023.¹⁶ The fact that DOE is now updating its studies in no way invalidates or undermines its prior studies or conclusions.

Sierra Club also urges DOE/FECM to “re-open the protest/intervention period” in this proceeding (and in other pending non-FTA application dockets) after DOE updates its general studies.¹⁷ Of course, the updated studies themselves will be subject to public comment before being finalized. Once they are finalized, DOE/FECM presumably will incorporate them into this docket and other non-FTA export proceedings, as it has done with similar past studies. And obviously the new studies will inform DOE/FECM’s decision-making here, which will become ripe (following FERC action on the siting, construction and operation of the Stage 5 Project) well after the studies are finalized. But Sierra Club’s proposal to allow new interventions in this

[07/DOE%20Response%20to%20Sierra%20Club%27s%20Petition%20for%20Rulemaking%207.18.2023%20%2802%29.pdf](https://www.doe.gov/DOE%20Response%20to%20Sierra%20Club%27s%20Petition%20for%20Rulemaking%207.18.2023%20%2802%29.pdf) (the “Rulemaking Denial”). In its Rulemaking Denial, DOE/FECM not only explained and defended its well-established policies related to LNG exports, but also observed that it has considered and rejected Sierra Club’s arguments opposing those policies repeatedly in numerous orders since 2013. *Id.* at 18-20. Most prominently, Sierra Club challenged at the U.S. Court of Appeals for the District of Columbia Circuit five long-term LNG export authorizations issued by DOE/FECM for the first wave of U.S. LNG export projects (outside Alaska), which it had actively opposed at the agency. *See Sierra Club v. U.S. Department 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.*); *Sierra Club v. U.S. Department 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 v. U.S. Dept. of Energy*, No. 16-1426, Per Curium Order (D.C. Cir. Jan. 30, 2018) (granting Sierra Club’s unopposed motion for voluntarily dismissal).

Sierra Club also has a long-standing history of opposing exports by Sabine Pass itself. Notably, for instance, DOE’s first order authorizing non-FTA LNG exports by Sabine Pass (which was the first such order for a Lower-48 project) rejected opposition from the Sierra Club. *See Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 2961-A, Docket No. 10-111-LNG, Final Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations (Aug. 7, 2012). The arguments advanced now in the Sierra Club Protest are merely variations on its long-standing, general opposition to LNG exports that DOE has consistently rejected.

¹⁶ *See, e.g., Sabine Pass Liquefaction, LLC*, Order No. 4800 (March 16, 2022); *Freeport LNG Expansion, L.P., et al.*, Order No. 4961 (March 3, 2023).

¹⁷ Sierra Club Protest at 70.

docket following release of the studies is unnecessary and inappropriate and should be rejected by DOE/FECM.¹⁸

B. Claims That Increased LNG Exports Will Significantly Increase Domestic Natural Gas Prices and Jeopardize Domestic Supply Remain Baseless.

Both Sierra Club and Public Citizen claim – as they have for many years, in many proceedings – that LNG exports are contrary to the public interest because they will increase domestic gas prices.¹⁹ Sabine Pass explained in its Stage 5 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 the latest studies of the Energy Information Agency (“EIA”) continue to project low domestic prices through 2050.²⁰ That explanation highlighted the fact that extensive DOE studies, and its non-FTA orders, have consistently and uniformly held that domestic natural gas resources are ample to supply both domestic needs and LNG exports and that any impacts of exports on domestic prices are limited.²¹ For instance, DOE’s most-recent general study of the issue, in 2018, concluded that

- “Increasing U.S. LNG exports under any given set of assumptions about U.S. natural gas resources and their production leads to only small increases in U.S. natural gas prices; and
- Available natural gas resources have the largest impact on natural gas prices. Therefore, U.S. natural gas prices are far more dependent on available resources and technologies to

18 When DOE last established a comment period on a draft LNG study, it explained the process as follows: “DOE is not establishing a new proceeding or docket in this Notice, and the submission of comments in response to this Notice will not make commenters parties to any of the 25 export proceedings identified by docket number above. Persons with an interest in the outcome of one or more of those proceedings have been given an opportunity to comment, protest, and/or intervene in those applications by complying with the procedures established in the respective notices of application published in the Federal Register.” Notice of Availability of 2018 LNG Export Study and request for comments, 83 Fed.Reg. 27314, 27316 (June 12, 2018). DOE/FERC should follow the same approach with its upcoming study.

¹⁹ Sierra Club Protest at 13-22; Public Citizen Protest at 6-7.

²⁰ Stage 5 Application at 26-31.

²¹ *See id.*

extract available resources than on U.S. policies surrounding LNG exports.”²²

Subsequent orders issued by DOE/FECM, for instance its 2022 decision authorizing incremental exports by Sabine Pass, considered more recent economic data and price projections and similarly concluded that “arguments concerning domestic price increases are not supported by the record evidence.”²³ The same conclusion remains true here.

Both Sierra Club and Public Citizen attempt to support their claims about domestic gas prices with references to EIA’s *Issues in Focus: Effects of Liquefied Natural Gas Exports on the U.S. Natural Gas Market* released in May 2023.²⁴ Public Citizen quotes the elementary statement from that study that “higher LNG exports create a tighter domestic natural gas market (all else held equal), increasing domestic natural gas prices.”²⁵ Of course in the real world, all else is not held equal, as natural gas production increases in response to incremental demand (from LNG exports or anything else). Furthermore, as explained in the Stage 5 Application, the Issues in Focus study went well beyond this simple statement of economic basics quoted by Public Citizen and carefully analyzed various scenarios regarding LNG exports and concluded that, in all of them, “[t]he resulting variation in natural gas prices... was narrower than recent in history and our AEO2023, despite a wide variety of U.S. LNG export volumes.”²⁶

²² Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports at 55 (July 7, 2018) (the “2018 Study”), available at: <https://fossil.energy.gov/app/docketindex/docket/index/10>. See also “Study on Macroeconomic Outcomes of LNG Exports: Response to Comments Received on Study,” 83 Fed. Reg. 67,251 at 67,258 (Dec. 28, 2018)(“[i]ncreasing U.S. LNG exports under any given set of assumptions about U.S. natural gas resources and their production leads to only small increases in U.S. natural gas prices[.]”)

²³ *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 4800, Docket No. 19-125-LNG, Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Free Trade Agreement Nations at 55 (March 16, 2022).

²⁴ Sabine Pass Protest at 15-16; Public Citizen Protest at 7. This May 2023 EIA Study (“Issues in Focus”) is available at: https://www.eia.gov/outlooks/aeo/IIF_LNG/pdf/LNG_Issue_in_Focus.pdf.

²⁵ Public Citizen Protest at 7 & n. 33, citing Issues in Focus at 7.

²⁶ See Stage 5 Application at 30-31, quoting from Issues in Focus at 3 and 8.

Seeking evidence of high domestic prices in an effort to bolster its arguments, Sierra Club emphasizes the winter of 2021-22 and more specifically natural gas prices that winter at the Algonquin Citygate, near Boston.²⁷ Regarding the latter, DOE explained in the 2018 Study:

There is often interest in New England natural gas prices because of the frequent price spikes that have been observed there. We expect the average basis differential between New England and Henry Hub to be unaffected by changes in U.S. LNG exports in the long run. Currently, the changes in basis differential between New England and Henry Hub are often caused by changes internal to New England's natural gas supply and demand balance. When New England natural gas demand exceeds New England natural gas supply, the basis will increase. This increase in basis between New England and Henry Hub can become greater than that for other Eastern regions such as Mid-Atlantic and Henry Hub. The reason for this greater change is the limited natural gas pipeline capacity into New England. New England has no indigenous natural gas production and little storage capacity relative to swings in natural gas demand. Aside from pipeline shipments, the only other supply source to New England is delivered LNG and New England's capacity to receive and store LNG is also limited. These shipments normally originate in foreign countries because the Jones Act makes shipments from the Gulf Coast prohibitively expensive. As a result, New England supply is limited by natural gas pipeline capacity into New England, New England regasification capacity, and regional storage capacity. When local demand exceeds these capacities, natural gas prices in New England will increase because it is no longer possible to deliver additional natural gas supplies into the region. This increase will happen irrespective of whether or not U.S. LNG exports are increasing or decreasing.²⁸

More generally, numerous factors contributed to the natural gas prices spikes in the 2021-22 winter, including weather disruptions, low inventories, and demand rebounding faster than supply following the pandemic, as well as the extraordinary events leading up to and following

²⁷ Sierra Club Protest at 14-15.

²⁸ 2018 Study, *supra*. n.22 at 54-55, n. 47.

Russia’s invasion of Ukraine and the related energy crisis.²⁹ Sierra Club’s claim that those short-lived domestic natural price increases were caused by growing LNG exports is disproven by subsequent events, as LNG exports have continued to increase while domestic gas prices fell to historically low levels, even leading major producers to hold back supplies in light of insufficient demand and low prices.³⁰ The Sierra Club Protest utterly ignores the most recent market price developments, emphasizing instead selected points from years earlier.³¹

Sierra Club also emphasizes domestic price reactions to the 2022 outage at the Freeport LNG facility.³² The dramatic short term price response to the sudden and unexpected disappearance of nearly 2 Bcf/d of natural gas demand, in what at the time was a tight market, is unsurprising. But it reveals nothing about the key issue of the expected *long-term* impact of LNG exports on domestic prices, as abundant U.S. natural gas supplies result in increased production over time as exports increase. As explained in the Stage 5 Application, the reference case in the 2023 Annual Energy Outlook (“AEO”) projects that total U.S. dry natural gas production will increase to 42.07 trillion cubic feet (“Tcf”) in 2050, with average growth amount

²⁹ For discussion of the cause of those price increases, 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#>; EIA, *Short-Term Energy Outlook*, July 12, 2022, available at: <https://www.eia.gov/outlooks/steo/>.

³⁰ See, e.g., Wall Street Journal, *Natural Gas Hasn’t Been This Cheap in Decades: The lowest inflation-adjusted prices in at least 34 years have drillers throttling down from record production* (Feb. 25, 2024), available at: <https://www.wsj.com/finance/commodities-futures/natural-gas-hasnt-been-this-cheap-in-decades-95959da7>; EIA, *Short-Term Energy Outlook*, June 2024, at 2-3, available at: https://www.eia.gov/outlooks/steo/pdf/steo_full.pdf (“We expect U.S. marketed natural gas production to fall by 1% in 2024 because of low natural gas prices.”)

³¹ See Sierra Club Protest at 14-15 (emphasizing price data from the Winter of 2021-22, with some mention of the Winter of 2022-23, but no mention of any more current data).

³² *Id.* at 19-21.

of 0.5% per year from 2022-50, whereas consumption is projected to decrease by an average of 0.2% per year over that time period, resulting in 2050 projected consumption of 30.01 Tcf.³³

Sierra Club now suggests that domestic gas demand may increase going forward,³⁴ and Public Citizen emphasizes a series of projections for increased electric power demand to serve data centers and cryptomining and how that may increase future natural gas demand.³⁵ This speculation, even if it proves accurate, does not alter DOE's consistent conclusions finding LNG exports to be consistent with the public interest. Notably, AEO 2017, which provided the backdrop for DOE's 2018 Study, projected consumption in 2050 of 34.52 Tcf, or about 4.5 Tcf more than the latest projections.³⁶ So future domestic consumption could increase significantly from the AEO 2023 projections without altering DOE's conclusions.

Furthermore, if domestic natural gas demand does increase even more dramatically in the future, it will inexorably lead to increased production to supply it. As also detailed in the Stage 5 Application, as LNG exports and natural gas production have grown significantly in recent years, proven gas reserves have dramatically increased as well.³⁷ Sabine Pass explained there that EIA calculates that total proved natural gas reserves grew to a record high of 625 Tcf for 2021, compared to only around 213.4 Tcf in 2005, of 322.7 Tcf in 2012 when DOE/FE first seriously studied the implications of LNG exports, and of 464.3 Tcf in 2017 (the latest data available for the

³³ Stage 5 Application at 27, citing at n. 67 EIA, AEO 2023, at Table 13 *Natural Gas Supply, Disposition, and Prices (Reference Case)*, available at:

<https://www.eia.gov/outlooks/aeo/data/browser/#/?id=13-AEO2023&cases=ref2023&sourcekey=0>.

³⁴ See Sierra Club Protest at 21-22.

³⁵ Public Citizen Protest at 2-6.

³⁶ Stage 5 Application at 28, citing at n. 70 Table 13 for AEO 2017 is available at:
<https://www.eia.gov/outlooks/aeo/data/browser/#/?id=13-AEO2017&cases=ref2017&sourcekey=0>.

³⁷ Stage 5 Application at 28.

2018 Study).³⁸ Since the filing of the Stage 5 Application, EIA has released another year of reserve data, and concluded that “Proved reserves of U.S. natural gas increased 10%, from 625.4 Tcf at year-end 2021 to 691.0 Tcf at year-end 2022, establishing a new record for natural gas proved reserves in the United States.”³⁹ Thus, should domestic natural gas demand increase in the future, the U.S. will still have ample gas for both all domestic natural gas use and all LNG export demand. And any potential increases in domestic gas prices attributable to LNG exports will be limited, and certainly do not demonstrate that exports are not consistent with the public interest.

C. The Macroeconomic Benefits To The U.S. Of LNG Exports, And From Sabine Pass’ Stage 5 Project In Particular, Are Well-Established.

In the Stage 5 Application, Sabine Pass 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 including the most recent one: the 2018 Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports Study.⁴⁰ Sierra Club has never accepted the conclusions of those studies, and DOE/FEEM has previously and consistently rejected the Sierra Club’s arguments challenging its studies.⁴¹

³⁸ *Id.*, citing at n. 72 the then-current version of EIA, U.S. Crude Oil and Natural Gas Proved Reserves, at Table 9, U.S. proved reserves of total natural gas, wet after lease separation, 2001–20.

³⁹ EIA, U.S. Crude Oil and Natural Gas Proved Reserves, Year-end 2022, Natural gas highlights (released Apr. 29, 2024), available at: [https://www.eia.gov/naturalgas/crudeoilreserves/#:~:text=Proved%20reserves%20of%20U.S.%20natural.consecutive%20year%20\(Table%208\)](https://www.eia.gov/naturalgas/crudeoilreserves/#:~:text=Proved%20reserves%20of%20U.S.%20natural.consecutive%20year%20(Table%208).). For detailed data regarding proved reserves, see Table 8: Natural gas, wet after lease separation, proved reserves, reserves changes, by states and areas, 2022, available at: https://www.eia.gov/naturalgas/crudeoilreserves/pdf/Table_8.pdf.

⁴⁰ See Stage 5 Amendment Application at 21-26. Links to all the macroeconomic studies of LNG exports conducted by or for DOE are all available at: <https://www.energy.gov/feem/downloads/lng-export-studies>. As previously noted, the 2018 Study specifically is available at: <https://www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf>.

⁴¹ See, e.g., “Study on Macroeconomic Outcomes of LNG Exports: Response to Comments Received on Study,” 83 Fed. Reg. 67,251 (Dec. 28, 2018)(discussing and rejecting numerous claims by Sierra Club challenging the 2018 Study).

Sierra Club’s oft-repeated charge that “[f]rom an economic perspective, LNG exports are simply making most Americans worse off”⁴² is contrary to the conclusion of all the detailed, economic studies conducted by DOE. Notably, in all its non-FTA decisions issued after the 2018 Study, DOE/FECM compared the analysis in the 2018 Study with more recent EIA data and 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.”⁴³ In all of those orders, DOE/FECM affirmed once again (as it has consistently found over more than a decade) that LNG exports will generate net economic benefits to the U.S. economy. DOE/FECM’s decision to update its macro-economic studies now, during the temporary “pause” in authorizations, in no way alters this fact.

Sierra Club also continues to advance its unsubstantiated theories – which DOE/FECM has consistently rejected – about supposed “distributional concerns” regarding the overall positive benefits of LNG exports and charges that “to date, DOE has never grappled with the distributional impacts of LNG exports[.]”⁴⁴ Public Citizen similarly calls for “distributional analysis” focused on whether LNG exports disproportionately harm lower-income families.⁴⁵ Yet, DOE/FECM 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/FECM

⁴² Sierra Club Protest at 17.

⁴³ See e.g., *Corpus Christie Liquefaction Stage III, LLC*, DOE/FE Order No. 4490 at 33, 34 (Feb. 20, 2020); *Cheniere Marketing LLC & Corpus Christie Liquefaction, LLC*, DOE/FE Order No. 4799 at 46, 47 (Mar. 16, 2022); *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 4800 at 46-47 (Mar. 16, 2022); *Freeport LNG Expansion, L.P., et al.*, Order No. 4961 at 56-57 (March 3, 2023) .

⁴⁴ Sierra Club Protest at 17-18.

⁴⁵ Public Citizen Protest at 7.

adequately addressed those concerns.⁴⁶ Then DOE/FECM again considered and rejected Sierra Club’s arguments about distributional impacts when they were advanced in its comments on the 2018 Study.⁴⁷ In its more recent export authorizations, DOE/FECM once again rejected similar arguments about distribution impacts, just as it had done every time they were presented.⁴⁸

Thus, the protesting parties have provided no basis to question DOE/FECM’s long-standing recognition that LNG exports in general provide macroeconomic benefits to the country. More specifically, Sierra Club also seeks to challenge the local economic benefits that will be provided by the SPL Stage 5 Project, charging that “Sabine Pass will serve corporate greed, not local economic gain.”⁴⁹ Sabine Pass preliminarily estimates that it will invest \$13 - \$15.5 billion to construct the Stage 5 Project as proposed, with construction of the Project expected to take approximately six years and to utilize a total construction workforce estimated to average 2,500 workers with a peak of approximately 6,000 workers.⁵⁰ The Project will have an estimated total construction payroll of \$4.9 billion over the six-year construction period, and these expenditures, along with spending on equipment and services in the region, will generate economic activity and support employment and income elsewhere in the economy through the multiplier effect.⁵¹ Furthermore, Sabine Pass will prioritize local hiring, and local workers are expected to account for

⁴⁶ 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).

⁴⁷ See *Study on Macroeconomic Outcomes of LNG Exports: Response to Comments Received on Study*, 83 Fed. Reg. 67,251 at 67,266 (Dec. 28, 2018).

⁴⁸ See, e.g., *Cheniere Marketing LLC & Corpus Christie Liquefaction, LLC*, DOE/FE Order No. 4799 at 50 (Mar. 16, 2022); *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 4800 at 51 (Mar. 16, 2022).

⁴⁹ Sierra Club Protest at 22.

⁵⁰ See Stage 5 Application at 32.

⁵¹ See *id.* at 32-33.

approximately 30% of the construction jobs over the Project duration, with approximately 182 full-time permanent workers expected to be added at the SPLNG Terminal.⁵²

Once operational, the Stage 5 Project will lead to an estimated annual gain in U.S. business activity of over \$1.5 billion annually in gross product and annual federal and state income taxes of approximately \$4 million and \$1 million, respectively.⁵³ Estimated tax revenues associated with construction and operation of the Stage 5 Project will result in increased tax revenues for local taxing entities, the State of Louisiana, the State of Texas, and the Federal government, while the completed Stage 5 Project, as part of the expanded SPLNG Terminal, will be subject to *ad valorem* (*i.e.*, property taxes), which are assessed and collected at the parish or municipal level.⁵⁴ All these taxes will have a positive impact for the municipalities in which the Stage 5 Project facilities are located.

In the face of this detailed description of the local economic gains – all of which was described in the Stage 5 Application – Sierra Club charges Sabine Pass with “corporate greed” based on the existence of certain tax exemptions and tax abatements.⁵⁵ Yet, the agreement by political decision-makers to provide some tax relief actually reflects their recognition of the local benefits – precisely contrary to Sierra Club’s claim that it indicates a lack of such benefits. Thus, Sierra Club’s criticism does not undermine the showing of local benefits and certainly in no way demonstrates that LNG exports are inconsistent with the public interest.

⁵² *Id.* at 32.

⁵³ *Id.* at 33.

⁵⁴ *Id.*

⁵⁵ *See* Sierra Club Protest at 22-23.

D. U.S. LNG Exports Provide Wide-Ranging Geopolitical Benefits And Will Continue To Do So For Decades.

In the Stage 5 Application, Sabine Pass pointed out that DOE has long recognized the geopolitical benefits of U.S. LNG, dating back to its initial non-FTA export authorization for Sabine Pass.⁵⁶ Sabine Pass then noted the agency's most recent authorizations expand on that point in light of recent world events, quoting the following DOE/FECM statement:

[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 Sabine Pass 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. Therefore, we find that authorizing Sabine Pass's requested exports advance the public interest for reasons that are distinct from and additional to the economic benefits identified in the 2018 LNG Export Study and DOE's prior macroeconomic studies.⁵⁷

The geopolitical importance of U.S. natural gas supplies dramatically and unquestionably took centerstage following Russia's invasion of Ukraine and resulting energy crisis. To highlight those important developments, Sabine Pass included in the Stage 5 Application a series of statements by President Biden, European Union President von der Leyen, Energy Secretary Granholm, and Director-General for Energy at the European Commission Ditte Juul Jorgenson –

⁵⁶ Stage 5 Application at 34-35 & n. 88, citing among other precedent *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 3669, FE Docket No. 13-30-LNG, et al. at 196 (June 26, 2015).

⁵⁷ *Id.* at 35 & n. 89, quoting *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 4800 at 55-56 (Mar. 16, 2022) (internal footnotes omitted). As explained in that footnote of the Stage 5 Application, essentially the same language is repeated in *Cheniere Marketing LLC & Corpus Christie Liquefaction, LLC*, DOE/FE Order No. 4799 at 54 (Mar. 16, 2022) and *Freeport LNG Expansion, L.P., et al.*, Order No. 4961 at 64-65 (March 3, 2023).

all recognizing the crucial role that U.S. LNG has played in replacing Russian gas.⁵⁸ Sabine Pass added – though apparently without sufficient explanation for Sierra Club – that “Of course, the geopolitical benefits of U.S. LNG exports are not limited just to Europe, nor to the short-term.”⁵⁹

Sierra Club’s attempt to question these geopolitical benefits, while hard to conceive of as potential evidence that LNG exports are inconsistent with the public interest, still warrants response. First, Sierra Club asserts that “Europe is the primary basis for Sabine Pass’ geopolitical rationale” and, building on that misunderstanding (or misrepresentation), suggests “If providing additional gas to Europe is the justification for these exports, DOE should explore whether to impose conditions that ensure that the authorization is actually used for that purpose.”⁶⁰ Of course, the market for U.S. LNG is worldwide, as DOE well-knows and reflects in its cumulative summary of the destinations of U.S. LNG exports, which recently listed 41 countries and regions that have received exports by vessel, with 19 of them that each have received more than 100 cargos since U.S. exports began, from Sabine Pass, in February 2016.⁶¹ Sabine Pass’ parent company, Cheniere Energy, has itself shipped LNG to 39 countries and regions around the world.⁶² Furthermore, one of the key virtues of LNG sourced from Sabine Pass (and the U.S. generally) is the absence of destination restrictions, allowing exports may go to anywhere permitted by the DOE export authorizations. Certainly, there is absolutely no basis for DOE to undercut the attractiveness and flexibility of U.S. gas supplies by restricting non-FTA exports to Europe or any other specified

⁵⁸ Stage 5 Application at 35-37.

⁵⁹ *Id.*

⁶⁰ Sierra Club Protest at 26 and 30.

⁶¹ See DOE/FECM, U.S. Natural Gas Imports and Exports Monthly, Apr. 2024, at 46, Cumulative U.S.-Produced LNG Exports by Country of Destination (Feb 2016 to Apr 2024), available at: <https://www.energy.gov/sites/default/files/2024-06/Natural%20Gas%20Imports%20and%20Exports%20Monthly%20April%202024.pdf>.

⁶² See Cheniere Energy, Inc. Annual Report, Form 10-K at 5 (Feb. 2, 2024).

countries beyond the well-established bar on nations for which trade is prohibited by U.S. law or policy.

Furthermore, the geopolitical benefits of U.S. LNG exports manifestly are not limited just to supplies to Europe. As Assistant Secretary Geoffrey Pyatt of the Department of State explained in response to a question regarding LNG exports: “for the U.S., for the Biden administration, for the State Department, there is a very clear understanding that energy security has now been understood to be a core element of American national security and the security partnerships that we maintain around the world.”⁶³ Assistant Secretary Pyatt has also emphasized the reverberations of the Ukraine invasion outside Europe, explaining that U.S. allies in Asia like Japan and South Korea have also historically relied upon Russian gas supplies, which U.S. LNG also can displace.⁶⁴ Furthermore, those nations and others in Asia also rely heavily on natural gas supplies from the Middle East, which raises other geopolitical concerns and potential benefits of U.S. LNG exports.⁶⁵

⁶³ Remarks of Assistant Secretary Geoffrey Pyatt at the North American Gas Forum (Oct. 24, 2023), available at: <https://www.state.gov/assistant-secretary-geoffrey-pyatt-north-american-gas-forum/https://www.state.gov/assistant-secretary-geoffrey-pyatt-north-american-gas-forum/>.

⁶⁴ See, e.g., *Digital Press Briefing with Geoffrey R. Pyatt, Assistant Secretary, Bureau of Energy Resources* (Oct. 13, 2023), available at: <https://www.state.gov/remarks-and-releases-asia-pacific-media-hub/> (“We’ve seen very clearly in Europe, especially over the past couple of years, both the risks of dependence on energy from a single source but also the fact that the best way to build energy security and eliminate dependence on malign actors is to diversify our energy systems and accelerate our energy transitions. And we are really convinced the United States and Japan are uniquely positioned to advance that agenda. We have a very important energy security relationship with Japan, a strong shared stake in the global LNG market, and we of course welcome the continued investment by Japanese companies and the Japanese private sector in midstream projects here in the United States. And we want to encourage Japan’s continued efforts to decouple from Russian energy supplies.”); *Digital Press Briefing with Geoffrey R. Pyatt, Assistant Secretary, Bureau of Energy Resources* (May 2, 2024), available at: <https://www.state.gov/remarks-and-releases-asia-pacific-media-hub/> (“we talked a lot about LNG, the critically important role that American gas producers have played in reinforcing Korea’s energy security amid a global gas market severely disrupted by Russia’s actions, and a very large, very large customer among all of the United States’ global partners on LNG... Korea has also substantially reduced its imports of Russian liquefied natural gas, down by about half compared to what they were before the full-scale invasion began... We talked a lot... about the readiness and enthusiasm of American gas producers to further grow their supplies to Korea in order to fill in behind that Russian supply. I also talk quite a bit about the systematic work that the United States is engaged in, some of which I have led, in order to reduce Russia’s future energy exports and energy revenue, including in the LNG space”).

⁶⁵ This issue, among others, is discussed in a study cited in the Phase 5 Application at 37 & n. 98: Center for Strategic & International Studies, “Geopolitical Significance of U.S. LNG” (Feb. 7, 2024), available at: <https://www.csis.org/analysis/geopolitical-significance-us-lng>.

Sierra Club also argues that there is a “timing disconnect” between Europe’s need for gas supplies and the Stage 5 Project,⁶⁶ and claims that LNG demand is lacking looking into the 2030s and beyond.⁶⁷ To quote Assistant Secretary Pyatt once more:

[A]s a general principle as we look to the decades ahead the world is going to need all the energy that we can provide, and we have an interest in seeing that energy is produced in the most climate-friendly, least carbon intensive way possible....

[W]e face a real challenge because we have some very large energy consumers in Asia that still rely on coal power as a major source for their power generation. Some of those coal facilities are quite new. They may have 20 or 30 years of life left in them. So we need to figure out a way to phase out that coal generation as fast as possible, just as we’ve done here in the United States.

[T]he market [thinks] that there is continued demand for gas and certainly as I travel around the world, when you have conversations in places like South Asia, one is reminded that the market for US LNG today is global.

The other major factor which is out there, which I talked about earlier is Russia and the fact that the country which until 2022 was the world’s largest oil and gas exporter, has now put itself more or less permanently into the penalty box. And I think however and whenever the tragedy in Ukraine comes to an end, the market is never again going to look at Russia as a reliable investment location or look at Russia as a reliable supplier. So that means that there is going to be continued demand for energy that the United States produces.⁶⁸

Contrary to Sierra Club’s claims, very significant long-term demand exists for incremental supplies of U.S. LNG. Sabine Pass builds its LNG projects based on long-term contracts with off-takers, and has a very successful history of doing so. That same approach of long-term contracting will be followed with the Stage 5 Project. Indeed, as explained in the Stage 5 Application, Sabine Pass’ marketing affiliates have already entered into long-term LNG sale and purchase agreements

⁶⁶ Sierra Club Protest at 27.

⁶⁷ *Id.* at 30-36.

⁶⁸ Remarks of Assistant Secretary Geoffrey Pyatt at the North American Gas Forum, note 63 *supra*.

(“SPAs”) with five customers to purchase from LNG associated with the increased volumes to be provided by the Stage 5 Project.⁶⁹ Accordingly, Sierra Club’s theorizing about the lack of long-term demand for U.S. LNG is particularly unavailing in this case, and it certainly in no way supports the claim that the proposed export application would be inconsistent with the public interest.

E. Sierra Club’s Environmental Claims Are Misplaced and Misguided.

Sierra Club devotes a large portion of its Protest to allegations about the environmental impacts of Sabine Pass’ Stage 5 Project.⁷⁰ Its most basic environmental arguments can be categorized as misplaced concerns.

There can and should be no doubt that the FERC will lead in the preparation of an Environmental Impact Statement (“EIS”) under the National Environmental Policy Act (“NEPA”) in its consideration of Sabine Pass’ Stage 5 Project. And the DOE presumably will participate as a cooperating agency in that NEPA process and will rely on the resulting EIS to support its own decision-making – just as with other LNG projects authorized by the agencies applying their shared jurisdiction under NGA Section 3. This reality of the known future NEPA procedures readily resolves Sierra Club’s adamant insistence that an EIS (or supplemental EIS) is needed here.⁷¹ It also should allay Sierra Club’s apparent concern that DOE/FECM may apply to the entirety of its decision regarding the Stage 5 Application the Categorical Exclusion from NEPA it adopted in

⁶⁹ See Stage 5 Application at 12 & notes 19-20. As explained there, LNG volumes from these off-take contracts are not required to be provided by the Stage 5 facilities, as the SPLNG Terminal operates on an integrated basis.

⁷⁰ See Sierra Club Protest at 38-69.

⁷¹ See *id.* at 39-41.

2020, which focuses on transportation of natural gas by marine vessel.⁷² Whatever the scope and application of that categorical exclusion, authorization for the siting, construction and operation of Sabine Pass' Stage 5 Project undoubtedly will involve the preparation of an EIS.

As part of its FERC application for the Stage 5 Project, Sabine Pass filed extensive environmental reports demonstrating that the Project, which builds on existing infrastructure at the SPLNG Terminal, has been sited and designed to avoid, minimize, and mitigate adverse environmental effects. Sabine Pass certainly disagrees with Sierra Club about the “environmental harms” allegedly associated with the Stage 5 Project, but responding to those claims in depth here is neither necessary nor appropriate. FERC will lead the NEPA process, and there will be ample opportunities for Sierra Club and other interested members of the public to raise environmental issues, including relevant aspects of the Sierra Club Protest, during that process. Sabine Pass will respond to those allegations in due course as a further part of the NEPA review process.

Addressing one part of the NEPA review process, Sierra Club opines “While FERC has typically analyzed environmental justice impacts of the terminal infrastructure in its role as lead agency for NEPA review, DOE can and must supervise how FERC is implementing its delegated authority,” adding the claim that “With respect to environmental justice in particular, FERC has fallen well short of the mark.”⁷³ To the contrary, the FERC has focused extensively on environmental justice (“EJ”) issues, particularly under its current Chairman.⁷⁴ In Resource Report 5 included as part of its FERC application, Sabine Pass addressed EJ issues in detail, discussed the

⁷² *See id.* at 65-69, focusing on the categorical exclusion set forth at 10 CFR Part 1021 Part D Appendix B, B5.7. Regarding that categorical exclusion, see the Final Rule on NEPA Implementing Procedures issued by DOE's Office of General Counsel, published at 85 Fed. Reg. 78197 (Dec. 4, 2020).

⁷³ Sierra Club Protest at 41.

⁷⁴ *See, e.g.*, Chairman Phillips Opening Remarks at the Environmental Justice and Equity Roundtable, FERC Docket No. AD23-5 (March 29, 2023), available at: <https://www.ferc.gov/news-events/news/chairman-phillips-opening-remarks-environmental-justice-and-equity-roundtable-ad23>

impacts on EJ communities for all affected resources, and demonstrated that the Stage 5 Project will not have a disproportionate burden on such communities. Sabine Pass also detailed there its extensive public outreach regarding the Project and its engagement with and investments in the surrounding community.

A few of Sierra Club’s environmental arguments do warrant further response here. First, Sierra Club continues to argue – as it has since the very beginning of DOE’s consideration of LNG exports from the Lower 48 – that DOE needs to consider GHG emissions associated with both upstream natural gas production and “downstream” overseas LNG usage.⁷⁵ DOE rejected such arguments when presented by Sierra Club in its opposition to the first wave of LNG projects, and its approach was affirmed by the D.C. Circuit.⁷⁶ In response to Sierra Club’s repeated efforts to change the agency’s approach to these issues, DOE/FECM has explained that it continues to be guided by the D.C. Circuit’s rulings upholding (1) its conclusion that indirect effects of upstream gas production are not “reasonably foreseeable” and (2) the adequacy of its consideration of indirect downstream GHG emissions overseas with its “Life Cycle” GHG Report.⁷⁷

Sierra Club presents no reason for DOE/FECM to alter its approach to these issues, notwithstanding its attempts. Attempting to create a distinction from the legal precedent uniformly followed by DOE/FECM, Sierra Club claims that “[i]n a closely related context regarding FERC’s approval of interstate gas pipelines, the D.C. Circuit has repeatedly affirmed that the Natural Gas

⁷⁵ Sierra Club Protest at 45-61.

⁷⁶ See *Sierra Club v. U.S. Department of Energy*, 867 F.3d 189 (D.C. Cir. 2017); *Sierra Club v. U.S. Department of Energy*, Nos. 16-1186, 16-1252, 16-1253, 703 Fed. Appx. 1 (D.C. Cir. Nov. 1, 2017).

⁷⁷ See, e.g., *Sabine Pass Liquefaction, LLC*, Order No. 4800 at 23-24 (March 16, 2022); *Cheniere Marketing LLC & Corpus Christie Liquefaction, LLC*, DOE/FE Order No. 4799 at 23-24 (Mar. 16, 2022). The referenced report -- DOE, DOE/NETL-2014/1649, *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States* (May 14, 2014), (hereinafter, the “2014 GHG Study”) is available at: <http://www.energy.gov/sites/prod/files/2014/05/f16/Life%20Cycle%20GHG%20Perspective%20Report.pdf>.

Act and NEPA require analysis of reasonably foreseeable upstream and downstream effects,” citing *Sierra Club v. FERC*, 867 F.3d 1357, 1373 (D.C. Cir. 2017) (“*Sabal Trail*”) and *Food & Water Watch v. FERC*, 28 F.4th 277, 288-89 (D.C. Cir. 2022).⁷⁸ The holdings in neither case focus on upstream production impacts⁷⁹ and, contrary to Sierra Club’s suggestion, the D.C. Circuit has repeatedly held that upstream production impacts are *not* “reasonably foreseeable” if FERC does not know the number and location of any additional wells that would be drilled as a result of production demand created by the project.⁸⁰ In an apparent effort to bring specificity to alleged upstream effects, Sierra Club asserts that Sabine Pass is “focused heavily on securing supplies from the Permian, Haynesville, and Eagle Ford regions.”⁸¹ Yet, immediately after the reference in the Stage 5 Application to those obvious nearby major production areas, Sabine Pass explained:

The particular natural gas supplies that will be exported pursuant to the requested authorization cannot be known at this time and undoubtedly will change over time. The Stage 5 Project by design is not dependent upon any particular natural gas supply. Sabine Pass currently has the ability to access natural gas from every supply source in the continental U.S. as well as Canada and works with dozens of natural gas producers and infrastructure companies to purchase natural gas supply and reliably transport the supply to the terminal through the integrated pipeline grid. In the same way, feed gas supplies for the Stage 5 Project could be produced from any of a wide variety of production areas.⁸²

In any event, in its most recent discussion of this issue the D.C. Circuit explained that showings that the gas to supply a project will be sourced “somewhere in the Northeast” or along a particular

⁷⁸ Sierra Club Protest at 47.

⁷⁹ In the second case cited by Sierra Club, the Court did suggest in dicta that it was “troubled” by FERC’s failure to seek information about the sources of gas for the project, but held that it lacked jurisdiction to consider the related claims. *Food & Water Watch v. FERC*, 28 F.4th 277, 286.

⁸⁰ *Food & Water Watch v. FERC*, Case No. 22-1214, slip op. at 7 (issued June 14, 2024); *Del. Riverkeeper Network v. FERC*, 45 F.3d 104, 109 (D.C. Cir. 2022); *Birkhead v. FERC*, 925 F.3d 510, 517 (D.C. Cir. 2019).

⁸¹ Sierra Club Protest at 49-50, and 53.

⁸² Stage 5 Application at 11.

pipeline system are insufficient to warrant consideration of upstream impacts:⁸³ so too with a theory that much of the gas is likely to come from somewhere in Louisiana or Texas. The Court there also squarely rejected the argument that upstream GHG emissions should be analyzed because they are not dependent on where they occur.⁸⁴

The D.C. Circuit cases relied upon by Sierra Club do conclude that downstream impacts of certain FERC-regulated pipeline projects may be reasonably foreseeable in certain factual circumstances. The leading case on that point, *Sabal Trail*, involved a pipeline built expressly to serve Florida power plants where all the gas would be consumed.⁸⁵ In the second case cited by Sierra Club, the Court held that the same conclusion might apply where much of the gas would be used in a particular region of Massachusetts and remanded to FERC for further consideration of the issue.⁸⁶ Attempting to apply these FERC pipeline cases to the Stage 5 Project (and thus somehow distinguish the Court's cases squarely addressing the LNG export context), Sierra Club asserts that "DOE has the benefit of Sabine Pass's statements about [sic] the Stage 5 exports will go: namely, China, Europe, and South Korea."⁸⁷ This creative re-interpretation of the Stage 5 Application apparently is based on the home location of the counter-parties to the initial SPAs associated with the Project referenced in the Application.⁸⁸ As previously mentioned, however, an important aspect of LNG sourced from Sabine Pass is that the gas supply may go to anywhere

⁸³ *Food & Water Watch v. FERC*, Case No. 22-1214, slip op. at 7-8 (issued June 14, 2024).

⁸⁴ *Id.* at 9.

⁸⁵ *See Sabal Trail*, 867 F.3d 1357, 1371-72 ("What are the 'reasonably foreseeable' effects of authorizing a pipeline that will transport natural gas to Florida power plants? First, that gas will be burned in those power plants. This is not just 'reasonably foreseeable,' it is the project's entire purpose, as the pipeline developers themselves explain.").

⁸⁶ *Food & Water Watch v. FERC*, 28 F.4th 277, 288-89.

⁸⁷ Sierra Club Protest at 50.

⁸⁸ *See id.* at n. 240, citing the Stage 5 Application at 12 (listing SPAs) and Sierra Club's Attachment 82 which includes a column "Presumed Destination based on Cheniere CEO Quote in Announcement."

permitted by the DOE export authorizations. Even if exports were to be devoted solely to the home market of a counter-party (which they are NOT), focus on the vast regions of China, Europe and South Korea is hardly the type of specificity allowing for NEPA analysis comparable to Florida power plants or a town in Massachusetts, as in the cases cited by Sierra Club.

The inherent difficulty in considering downstream impacts of LNG exports that could go almost anywhere in the world led DOE to develop its 2014 GHG Study. In the Stage 5 Application at 40-42, Sabine Pass discussed the 2014 GHG Report and related subsequent developments, in particular DOE's GHG update in 2019,⁸⁹ and how they support the conclusion that LNG exports are consistent with the public interest. The Sierra Club criticized DOE's 2019 GHG Update when it was released, very much as it does in its Protest here, and DOE/FECM considered and rejected that criticism.⁹⁰ Among other things, in responding to comments on the 2019 Study, DOE/FECM rejected Sierra Club's claims that the methane leakage rate of 0.7% utilized in the study was too low, explaining that it was based on NETL's analyses and relevant scientific literature.⁹¹ The Sierra Club Protest again claims that the leakage rate utilized by DOE/FECM is too low, pointing to a 2020 study finding a leak rate of 3.5% or 3.7% in the Permian, and apparent evidence of even higher levels in some cases.⁹² Contrary to these claims, however, the most recent EIA estimate of natural gas vented or flared in 2023 is 0.5% both for the United States on a whole and for Texas in particular.⁹³ That is, methane leakage rates have

⁸⁹ 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>.

⁹⁰ 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).

⁹¹ *Id.* at 83-84.

⁹² See Sierra Club Protest at 53.

⁹³ EIA, Today in Energy, *Our estimated rate of U.S. natural gas vented or flared declined in 2023, June 20, 2024*, available at: <https://www.eia.gov/todayinenergy/detail.php?id=62383#>.

decreased since the 2019 GHG study, which is unsurprising given that “U.S. federal and state regulators have introduced many initiatives over the last 10 years to reduce greenhouse gas emissions.”⁹⁴

Furthermore, DOE/FECM has repeatedly considered this debate in each of its recent export authorizations, and reaffirmed the approach and conclusions of its prior GHG studies.⁹⁵ The bottom-line is that DOE/FECM has consistently concluded in numerous orders over many years that an increase in exports of U.S. LNG has not been shown to increase GHG emissions in any material or predictable way.⁹⁶ Nothing submitted by the Sierra Club here provides any basis to alter that conclusion.

Sabine Pass recognizes, of course, that DOE is revisiting this issue as part of the new studies being developed during the “pause” and that the issue is of keen interest to the Administration. For that reason, Sabine Pass explained in the Stage 5 Application Cheniere’s own peer-reviewed, LNG life cycle assessment specific to the Sabine Pass supply chain, which estimated, for LNG transported to China, a GHG intensity 34-36% lower than the DOE’s 2019 GHG Study.⁹⁷ Contrary to Sierra Club’s claim,⁹⁸ providing this information for DOE’s consideration emphatically does not indicate that Sabine Pass concedes that downstream GHG emissions are reasonably foreseeable and must be evaluated under NEPA: as explained above, D.C. Circuit caselaw establishes just the opposite.

⁹⁴ *Id.*

⁹⁵ *See, e.g., Cheniere Marketing LLC & Corpus Christie Liquefaction, LLC*, DOE/FE Order No. 4799 at 20-22 (Mar. 16, 2022); *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 4800 at 20-22 (Mar. 16, 2022).

⁹⁶ *See, e.g., Cheniere Marketing LLC & Corpus Christie Liquefaction, LLC*, DOE/FE Order No. 4799 at 59 (Mar. 16, 2022); *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 4800 at 602 (Mar. 16, 2022).

⁹⁷ Stage 5 Application at 42.

⁹⁸ Sierra Club Protest at 48.

III. CONCLUSION

WHEREFORE, for all the foregoing reasons, Sabine Pass requests that DOE/FECM (1) reject Public Citizen's motion to intervene, (2) accept this answer to the filed Protests in this proceeding and (3) when acting on the Stage 5 Application, reject the arguments by the protesting parties and recognize that authorizing the increased amount of LNG exports proposed by Sabine Pass is unquestionably not inconsistent with the public interest.

Respectfully submitted,

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Harold W. Bulger III
Senior Counsel
Cheniere Energy, Inc.
601 Pennsylvania Ave. NW
Suite 1000, North Building
Washington, DC 20004
(202) 442-3073
Harold.Bulger@cheniere.com

Dated: July 3, 2024

VERIFICATION

State of)

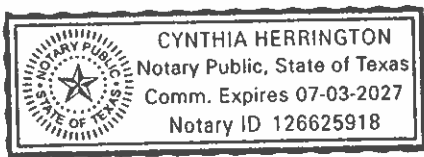
County of)


BEFORE ME, the undersigned authority, on this day personally appeared Florian Pintgen, who, having been by me first duly sworn, on oath says that he is the Vice President, Commercial Operations, for Cheniere Energy, Inc. and is duly authorized to make this Verification; that he has read the foregoing instrument and that the facts therein stated are true and correct to the best of his knowledge, information and belief.



Florian Pintgen
Vice President, Commercial Operations

SWORN TO AND SUBSCRIBED before me on the 3rd day of July, 2024.





Name: Cynthia Herrington
Title: Notary Public

My Commission expires: 07-03-2027

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 3rd day of July, 2024.

/s/ J. Patrick Nevins _____

J. Patrick Nevins

Latham & Watkins LLP

555 Eleventh Street, N.W.

Suite 1000

Washington, D.C. 20004

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