Corpus Christi Liquefaction Stage III, LLC; Application for Long-Term Authorization To Export Liquefied Natural Gas to Non-Free Trade Agreement Nations	)))))	FE Docket No. 18-78-LNG

NOTICE OF INTERVENTION, PROTEST AND COMMENT

The application seeks to increase the volume of LNG for which Corpus Christi Liquefaction Stage III, LLC (Corpus Christi) requests export authorization from the equivalent of 582.14 billion cubic feet per year (Bcf/y) of natural gas. The U.S. Department of Energy (DOE) has not yet issued a final order on the pending application.

The application is not in the public interest and should therefore be denied. IECA is not against LNG exports. DOE approval of volumes that connect low U.S. natural gas prices to high global LNG prices is not in the public interest and not consistent with the Natural Gas Act. IECA is against LNG export volumes that would increase the low U.S. price of natural gas to the high global LNG price, thereby directly impacting manufacturing competitiveness and jobs.

I. The Natural Gas Act (NGA) requires that shipments to NFTA countries must be in the public interest. A U.S. Government Accountability Office (GAO) report[1] says that neither Congress, nor the DOE, has ever defined the "public interest." DOE is using guidelines developed in 1984 for LNG imports to inform LNG export public interest decisions. An indefensible legal position.

The GAO report entitled, "Federal Approval Process for Liquefied Natural Gas Exports," dated September 2014 includes the following statement on page 11.

> In passing the NGA, Congress did not define "public interest;" however, in 1984, DOE developed policy guidelines establishing criteria that the agency uses to evaluate applications for natural gas imports. The guidelines stipulate that, among other things, the market, not the government, should determine the price and other contract terms of imported natural gas. In 1999, DOE began applying these guidelines to natural gas exports.

In 1984, LNG imports were needed and they reduced risks for domestic consumers and manufacturers. Imports of LNG were in the public interest. LNG exports do the reverse and especially market-determined LNG export levels by increasing consumer supply, price, and reliability risks. Therefore, criteria used for decision-making in 1984 on LNG imports <u>cannot</u> be used to inform decision-making on LNG exports.

There is no legal defense to use the LNG import-based guidance as a guidance or definition when compared to the explicit intent of Congress in their asserting the requirement that LNG exports to non-free trade agreement (NFTA) countries must not be

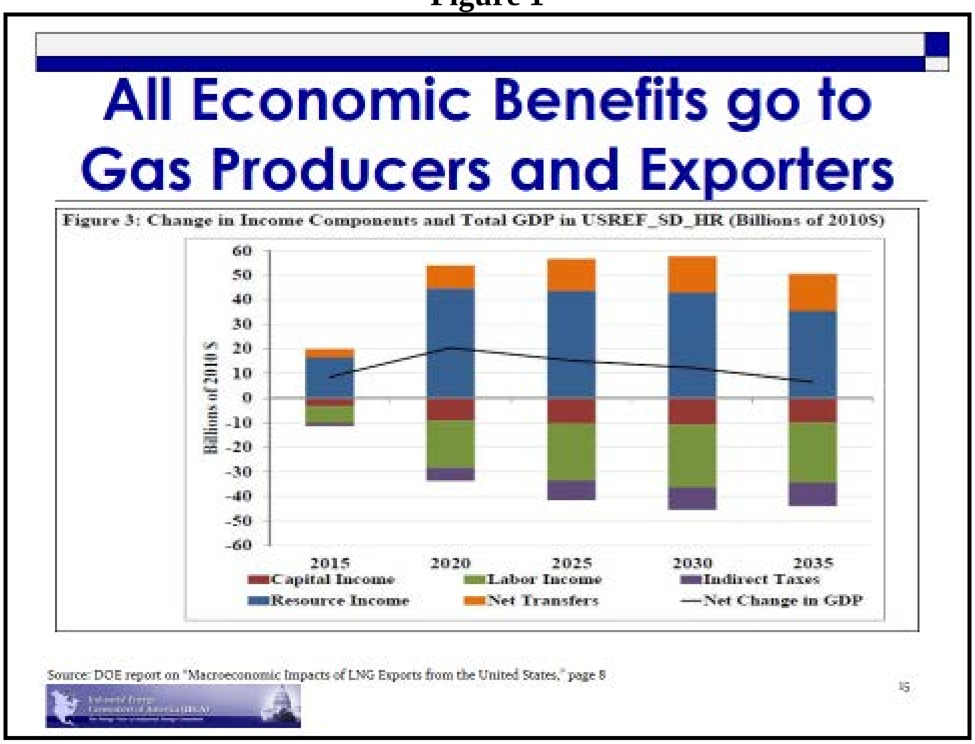
[1] "Federal Approval Process for Liquefied Natural Gas Exports," U.S. Government Accountability Office (GAO), September 2014.

inconsistent with the public interest. And importantly, one can only assume they were referring to cumulative LNG export volumes because incremental volumes are too small to measure impact to the domestic price of natural gas. This is a reasonable assumption. When Congress passed the NGA and included the above-mentioned public interest provision, there is no mention of markets as a predicate for determining levels of exports.

The purpose of the NGA's public interest determination is to protect consumers. The U.S. Supreme Court has stated that "in order to give content and meaning to the words 'public interest' as used in the Federal Power and Natural Gas Acts, it is necessary to look to the purposes for which the Acts were adopted. In the case of the Power and Gas Acts it is clear that the principal purpose of those Acts was to encourage the orderly development of plentiful supplies of electricity and natural gas at reasonable prices."[2] Furthermore, the Court also stated that the "primary aim" of the NGA is "to protect consumers against exploitation at the hands of natural gas companies."[3] LNG exports exploit U.S. consumers if low domestic prices rise to high global LNG prices due to global demand.

To this point, the DOE report, "Microeconomic Impacts of LNG Exports from the United States" illustrates how natural gas companies exploit U.S. consumers by exporting LNG. You will note from Figure 1 below that the only entities that benefit from LNG exports are producers and exporters of natural gas. Everyone else is negatively impacted. The public loses. Natural gas costs increase, wages decrease, capital investment especially in manufacturing decreases, and there is a reduction in indirect taxes.

Figure 1



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[2] NAACP v. Fed. Power Comm'n, 425 U.S. 662, 669-70 (1976).
[3] FPC v. Hope Gas Co., 320 U. S. 591, 610 (1944).

Why markets cannot be used to justify levels of specific LNG export applications volumes like this one or cumulative volumes of LNG exports is illustrated today with U.S. crude oil and gasoline prices. Because the U.S. crude oil price is connected to the global market, U.S. gasoline prices are at the highest levels in over four years. Global demand from other countries are dictating demand and price versus the U.S. supply and demand. The net result is that the U.S. consumer is NOT benefiting from our vast crude oil resources. This can and will happen to natural gas if our low natural gas prices are connected to the high price of global LNG markets. It is it for this reason that connecting the low U.S. price of natural gas to the high global market price is NOT in the public interest.

What happened to Australia is another real time example that using markets to determine levels of LNG exports is not in the public interest. Australia has vast natural gas resources. Historically the consumer prices have been around $3.00 MMBtu. Now, because of LNG exports, the Australian consumer pays the Asian LNG net back price. This means that the Australian consumer pays the high Asian LNG price less transportation and liquefaction costs, which has resulted in Australian domestic consumer prices at $8, $9 and $10 MMBtu.

In fact, the Australian Competition and Consumer Commission started publication of LNG netback prices in order to boost price transparency.[4] The story highlights that the Australian consumer net back prices have increased from 7.27 Gj in 2017 to 10.69 Gj YTD 2018, a 47 percent increase. In approving LNG export terminals, the Australian government let markets determine the volume of exports. A disastrous impact to their consumers and manufacturing sector as jobs continue in a free fall.

The DOE study entitled, "Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports"[5] illustrates that LNG exports would substantially increase U.S. natural prices. Page 54 of the reports states that "for all the reference supply scenarios in the more likely range, natural gas prices could be from $5.00 to $6.50 per MMBtu in 2040. These mid-range scenarios have a combined probability of 47%." This is the highest probability the study gave any scenario. Since today's Henry Hub price is roughly $3.00 MMBtu, the study confirms that natural gas prices could more than double. Causing domestic natural gas prices to rise to a level which would harm energy-dependent manufacturers and this cannot be in the public interest.

There is all pain and no gain for consumers. The DOE report confirms that market determined U.S. LNG exports will connect U.S. prices to higher global LNG prices. The DOE report says that LNG exports will reduce the price that Asian countries pay and

[4] Australian Competition and Consumer Commission started publication of LNG netback prices in order to boost transparency. October, 2018. LNG World News https://www.lngworldnews.com/australian-watchdog-starts-lng-netback-price-publication/?utm_source=emark&utm_medium=email&utm_campaign=daily-update-lng-world-news-2018-10-05&uid=55872

[5] "Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Export," U.S. Department of Energy (DOE), June 7, 2018, https://www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf.

increase U.S. prices and eventually, our prices will reach parity with Asia. At that point, the U.S. will have lost its competitive advantage. The report is explicit in highlighting the economic damage to especially manufacturing companies who are large users of natural gas. Importantly, manufacturers will have lost their competitive advantage, with very serious long-term implications for a viable manufacturing sector, jobs, and investment.

The DOE must conduct a rulemaking to define the public interest for LNG exports to NFTA countries before giving final approval to any application. The DOE and FERC should not give final approval to any LNG export application without having established the definition and evaluated the cumulative impact to the public interest. LNG volumes that connect low U.S. natural gas prices to high global LNG prices cannot possibly be in the public interest.

Finally, evaluations of public interest must not violate the Data Quality Act (DQA). Other than the first EIA report, all DOE LNG study reports have used proprietary economic modeling whose results cannot be duplicated by others, a violation of the DQA.

IECA wishes to intervene and be made a party to this proceeding, with all of the rights attendant to such status pursuant to 10 C.F.R. 590.303(b).

Sincerely,

Paul N. Cicio
President

Dated: October 15, 2018

The Industrial Energy Consumers of America is a nonpartisan association of leading manufacturing companies with $1.0 trillion in annual sales, over 3,700 facilities nationwide, and with more than 1.7 million employees worldwide. It is an organization created to promote the interests of manufacturing companies through advocacy and collaboration for which the availability, use and cost of energy, power or feedstock play a significant role in their ability to compete in domestic and world markets. IECA membership represents a diverse set of industries including: chemicals, plastics, steel, iron ore, aluminum, paper, food processing, fertilizer, insulation, glass, industrial gases, pharmaceutical, building products, automotive, brewing, independent oil refining, and cement.