

ORIGINAL

UNITED STATES OF AMERICA
BEFORE THE
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY



Cameron LNG, LLC

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FE Docket No. 11-162-LNG

**ANSWER OF CAMERON LNG, LLC
TO MOTIONS TO INTERVENE, PROTESTS, AND COMMENTS**

Pursuant to Section 590.303(e) of the Department of Energy’s (“DOE”) regulations¹ and the Notice of Application published in the *Federal Register* on February 23, 2012,² Cameron LNG, LLC (“Cameron LNG”) submits this answer (“Answer”) to motions to intervene, comments and protests submitted in this proceeding on April 23, 2012 by: (i) the Sierra Club,³ and (ii) the American Public Gas Association (“APGA”) (collectively, “Protestors”).⁴ Both Protesters challenge Cameron LNG’s proposal to export domestically produced natural gas as liquefied natural gas (“LNG”) from the existing Cameron LNG terminal in Cameron Parish, Louisiana (“Cameron Terminal”) to any country (i) with which the United States does not have a Free Trade Agreement (“FTA”) requiring national treatment for trade in natural gas, (ii) which has or will develop the capacity to import LNG delivered by ocean-going carrier, and (iii) with which trade is not prohibited by United States law or policy (“Project”).

Cameron LNG opposes both motions to intervene. Neither the Sierra Club nor APGA has specified an interest in the Cameron LNG Project sufficient to warrant status as an intervenor.

¹ 10 C.F.R. § 590.303(e) (2011).

² 77 Fed. Reg. 10732 (2012).

³ Sierra Club’s Motion to Intervene, Protest, and Comments, *Cameron LNG, LLC*, FE Docket No. 11-162-LNG (filed Apr. 23, 2012) (“Sierra Club’s Protest”).

⁴ Motion for Leave to Intervene and Protest of the American Public Gas Assoc., *Cameron LNG, LLC*, FE Docket No. 11-162-LNG (filed Apr. 23, 2012) (“APGA’s Protest”).

Even if they are granted intervenor status pursuant to 10 C.F.R. § 303(f) (2011), their arguments fail to rebut the presumption that the export authority Cameron LNG seeks in this case is in the public interest.

For the most part, the matters raised in the protests are wholly irrelevant to this proceeding. Most of the Sierra Club's protest asserts generalized environmental and other concerns focusing on the exploration and production of shale gas – arguments that could be germane to local permitting proceedings, related to the permitting of natural gas exploration and production facilities located upstream of the Cameron Terminal, but which are not relevant here in this proceeding regarding the export of LNG. For its part, APGA's protest is at best internally inconsistent – arguing that granting Cameron LNG's application “will increase domestic natural gas and electricity prices and will limit natural gas supply,” while also claiming that “Cameron's export plans likely will prove uneconomical.”⁵ The first contention is incorrect. If the second contention proves correct, the first alleged harm is unlikely to become manifest.

I. PROCEDURAL BACKGROUND

On December 21, 2011, pursuant to Section 3 of the Natural Gas Act (“NGA”) and Part 590 of DOE's regulations, Cameron LNG submitted its Application for a long-term, multi-contract authorization to export up to 12 million metric tons per annum (“MTPA”) of LNG (equivalent to approximately 620 billion cubic feet (“Bcf”) per year produced from domestic sources. In its Application, Cameron LNG sought authorization to export LNG from the Cameron Terminal to non-FTA countries. Cameron LNG sought this authorization for a 20-year period commencing on the earlier of the date of first export or seven years from the date the requested authorization is granted.

⁵ AGPA's Protest at 5, 13.

Cameron LNG explained in its Application that its request was the second part of a two-part export authorization request. Previously (on November 10, 2011), Cameron LNG filed a separate application with the DOE Office of Fossil Energy (“DOE/FE”) for long-term authorization to export LNG to those countries with which the United States has an FTA. That authorization was granted on January 17, 2012.⁶

Cameron LNG explained in both applications that it was requesting approval to export LNG on its own behalf and by acting as an agent for others. In the first instance, Cameron LNG would either take title to gas at a point upstream of the Cameron Terminal or purchase LNG from a customer of the Cameron Terminal prior to export. In the second instance, Cameron LNG would act as an agent for customers of the Cameron Terminal without taking title to facilitate the export of the customer’s LNG. The Project provides potential customers with access to a broad range of traditional and unconventional supplies. The Project’s customers will be able to deliver natural gas from five interstate pipelines, and can access market centers at the Henry Hub and 11 other locations in Texas and Louisiana.⁷

Cameron LNG further explained that in January 2011, the Federal Energy Regulatory Commission (“FERC”) authorized Cameron LNG to operate the Cameron Terminal for the purpose of exporting previously imported (*i.e.*, foreign sourced) LNG on behalf of its customers.⁸ In so doing, FERC conducted an environmental analysis pursuant to the National Environmental Policy Act of 1969 (“NEPA”), concluding that approval of Cameron LNG’s request to export previously imported natural gas would not constitute a major federal action

⁶ *Cameron LNG, LLC*, DOE/FE Order No. 3059, FE Docket No. 11-145-LNG (Jan. 17, 2012).

⁷ Application at 9-11.

⁸ *Cameron LNG, LLC*, 134 FERC ¶ 61,049 (2011).

significantly affecting the quality of the human environment.⁹ Cameron LNG stated in its Application to DOE/FE that any modification to the Cameron Terminal proposed in connection with its request to export domestically produced LNG would be subject to review and approval by FERC. In that regard, Cameron LNG stated that upon completion of initial facility planning and design, Cameron LNG would request that FERC initiate a mandatory pre-filing review process with respect to Cameron LNG's proposal to modify and operate the Cameron Terminal to export LNG.¹⁰ For that reason, Cameron LNG sought DOE/FE approval to export LNG from the Cameron Terminal, with such approval conditioned upon completion by FERC of a satisfactory environmental review of the Project.

II. PROTESTORS HAVE NOT DEMONSTRATED A SUFFICIENT INTEREST TO INTERVENE

DOE's regulations require any person seeking to become a party to a proceeding to file a motion to intervene, setting out "clearly and concisely the facts upon which the petitioner's claim of interest is based."¹¹ In the instant proceeding, neither Sierra Club nor APGA set forth their interests with the degree of particularity required by DOE's regulations.

To support intervention, the Sierra Club states that its members will be impacted by increased domestic gas prices that it alleges will occur, that it has over 2,800 members in Louisiana and over 22,000 members in Texas, and that many of its members live near or around shale gas formations or other natural gas drilling locations that may produce gas that might ultimately be exported by Cameron LNG from the Cameron Terminal. APGA supports its

⁹ *Id.* at P 12.

¹⁰ On April 30, 2012, Cameron LNG filed its request to initiate the NEPA pre-filing process with FERC in Docket No. PF12-12-000. Cameron Interstate Pipeline Company submitted a related filing in FERC Docket No. PF12-13-000.

¹¹ 10 C.F.R. § 590.303(e) (2011).

request for intervention by explaining that its members purchase interstate natural gas transportation services and are active participants in domestic natural gas markets.

Nothing in either the Sierra Club's or APGA's motions for leave to intervene specifically relate to the Project. Similarly, the matters raised in the protests are irrelevant to this proceeding, instead relating to policy issues surrounding LNG exports and shale gas development as a general matter.

Neither the Sierra Club nor APGA has sufficiently set forth the facts upon which their claims of interest are based. As such, Cameron LNG requests that DOE deny their requests to intervene in the above-caption proceeding. In the event that DOE allows either the Sierra Club or APGA to intervene, Cameron LNG provides the following response to the issues raised in the protests in order to facilitate the development of a complete and accurate record in this docket.

III. ARGUMENT

A. Protestors Have Failed to Overcome the Presumption that the Export Authority Requested is in the Public Interest

1. Legal Standard

Applications to export LNG are governed by Section 3 of the Natural Gas Act.¹² Applications such as that presented here for export to non-FTA countries are governed by Section 3(a), which provides as follows:

[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] authorizing it to do so. *The [Secretary] shall issue such order upon application, unless, after opportunity for hearing, it finds that the proposed exportation or importation will not be consistent with the public interest.* The [Secretary] may by its order grant such application, in whole or in part, with such modification and upon such terms and conditions as the [Secretary] may find necessary or

¹² 15 U.S.C. § 717b. This authority is delegated to the Assistant Secretary for FE pursuant to Redlegation Order No. 00.002.04D (Nov. 6, 2007).

appropriate, and may from time to time, after opportunity for hearing, and for good cause shown, make such supplemental order in the premises as it may find necessary or appropriate.¹³

DOE/FE consistently has held that Section 3(a) creates a rebuttable presumption that proposed exports of natural gas are in the public interest.¹⁴ Accordingly, such an application must be granted unless opponents of the authorization make an affirmative showing based on evidence in the record that the export would be inconsistent with the public interest.¹⁵

DOE has issued a set of Policy Guidelines setting forth the criteria employed in evaluating applications for natural gas imports.¹⁶ DOE has found that the same policies apply to natural gas export applications.¹⁷ The Policy Guidelines aim to minimize federal control and involvement in energy markets and to promote a balanced and diverse energy resource system. The Guidelines provide that:

The market, not government, should determine the price and other contract terms of imported [or exported] natural gas. The federal government's primary responsibility in authorizing imports [or exports] will be to evaluate the need for the gas and whether the import [or export] arrangement will provide the gas on a competitively priced basis for the duration of the contract while minimizing regulatory impediments to a freely operating market.¹⁸

Historically, DOE has also been guided by DOE Delegation Order No. 0204-111 ("Delegation Order"), which states that exports of natural gas are to be regulated primarily

¹³ *Id.* (emphasis added).

¹⁴ *E.g.*, *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 2961 at 28, FE Docket No. 10-111-LNG (May 20, 2011); *Conoco Phillips Alaska Natural Gas Corp. and Marathon Oil Co.*, DOE/FE Order No. 2500 at 43, FE Docket No. 07-02-LNG (Jun. 3, 2008); *Conoco Phillips Alaska Natural Gas Corp. and Marathon Oil Co.*, DOE/FE Order No. 1473 at 13, FE Docket No. 96-99-LNG (Apr. 2, 1999).

¹⁵ Order No. 1473 at 13 n.42 (citing *Panhandle Producers and Royalty Owners Ass'n v. ERA*, 822 F.2d 1105, 1111 (D.C. Cir. 1987)); *see also Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 2961, FE Docket No. 10-111-LNG (May 20, 2011).

¹⁶ *Policy Guidelines and Delegation Orders Relating to the Regulation of Imported Natural Gas*, 49 Fed. Reg. 6684 (Feb. 22, 1984) ("Policy Guidelines").

¹⁷ *Phillips Alaska Natural Gas Corp. and Marathon Oil Co.*, DOE Order No. 1473 (1999).

¹⁸ *Id.*

“based on a consideration of the domestic need for the gas to be exported and such other matters [found] in the circumstances of a particular case to be appropriate.”¹⁹

Both the Policy Guidelines and the principles underlying the Delegation Order presume that competitive markets largely free of governmentally-imposed restrictions will benefit the public:

The government, while ensuring that the public interest is adequately protected, should not interfere with buyers’ and sellers’ negotiation of the commercial aspects of import [and export] arrangements. The thrust of this policy is to allow the commercial parties to structure more freely their trade arrangements, tailoring them to the markets served.²⁰

Although the Delegation Order is no longer in effect, DOE has noted in recent orders that its “review of export applications in decisions under current delegated authority has continued to focus on the domestic need for the natural gas proposed to be exported; whether the proposed exports pose a threat to the security of domestic natural gas supplies; and any other issue determined to be appropriate, including whether the arrangement is consistent with DOE’s policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements.”²¹

In granting recent authorizations, DOE has indicated that the following additional considerations are relevant in determining whether proposed exports are in the public interest: whether the exports will be beneficial for regional economies, the extent to which the exports will foster competition and mitigate trade imbalances with the foreign recipient nations, and the degree to which the exports would encourage efficient management of United States domestic

¹⁹ *Department of Energy*, Delegation Order No. 0204-111 (Feb. 22, 1982).

²⁰ Policy Guidelines at 6685.

²¹ *Sabine Pass Liquefaction, LLC*, Order No. 2961 (2011).

natural resources.²² As demonstrated in its Application, the export of domestically produced LNG proposed by Cameron LNG satisfies each of these considerations.

DOE/FE is not required to consider the environmental impacts of a proposed project in determining whether the public interest warrants approval of the proposal. Rather, any environmental impacts that the Project will create are to be properly analyzed during the course of a NEPA analysis. The Sierra Club implies otherwise, suggesting that DOE/FE is required to consider environmental impacts while analyzing whether the public interest supports the Project.²³ However, the Sierra Club is mistaken.

The NEPA process for this Project is now pending at FERC, which will act as the lead agency for purposes of environmental review. Issues properly associated with this Project can and will be considered in the FERC proceedings relating to this Project. The authorization sought here is conditioned on the outcome of that process. The Sierra Club would have DOE/FE transform the public interest standard into a generalized review of, *inter alia*, drilling and production techniques affecting a portion of some natural gas supplies that might in the future be delivered to the Project. In so doing, the Sierra Club expands the precedent in *NAACP v. FPC* beyond its limits.²⁴ As FERC has explained:

The words “public interest” in a regulatory statute is not a broad license to promote the general public welfare, but the words take meaning from the purposes of the regulatory legislation. . . . [I]n the case of the NGA, the purpose is to encourage the orderly development of plentiful supplies of natural gas at reasonable prices.²⁵

²² See, e.g., *Sabine Pass Liquefaction, LLC*, Order No. 2961, at 34-38 (2011).

²³ Sierra Club’s Protest at 55 (“DOE/FE is determining whether or not gas exports are in the “public interest,” a term which the Supreme Court has repeatedly held includes consideration of environmental impacts.”).

²⁴ 425 U.S. 662 (1976).

²⁵ See *North Baja Pipeline, LLC*, 123 FERC ¶ 61,073 at P 81 (2008) (citing *Office of Consumers’ Counsel v. FERC*, 655 F.2d 1132 (D.C. Cir. 1980)).

Cameron LNG has demonstrated that the authorization sought here is in the public interest. As further detailed below, the protests submitted in this proceeding are insufficient to overcome the presumption in favor of granting Cameron LNG's Application for export authorization to non-FTA countries.

2. Delaying Any Action Until Resolution of DOE Studies is Unwarranted

The Sierra Club argues that DOE/FE should not take any action on Cameron LNG's Application until the agency's studies of LNG exports are concluded. This argument is misplaced.

DOE/FE unquestionably has the authority to grant a conditional authorization, as discussed further herein. It is that precise authority on which Cameron LNG, like other prior LNG export applicants, rely in requesting DOE to grant a conditional export authorization in circumstances where FERC is conducting a NEPA analysis as the lead federal agency. Accordingly, there is no basis to call a halt to this proceeding.

3. Approval of Cameron LNG's Project Will have Minimal Impact on Domestic Gas Prices

Both the Sierra Club and APGA argue that approval of the Project will have adverse effects on domestic natural gas prices by creating a significant price spike in contravention of the public interest. In so arguing, the Sierra Club and APGA each rely on the following two sources: (i) the "Effect of Increased Natural Gas Exports on Domestic Energy Markets" issued in January 2012 by EIA at the request of DOE/FE (the "Jan. 2012 EIA Study") and (2) EIA's Early Release Overview of its Annual Energy Outlook 2012 (the "AEO2012 Overview" or "AEO2012"). Sierra Club selectively extracts information from each source to develop a narrative that the United States possesses far less domestic natural gas than previously estimated and the export of

LNG will cause an immediate and substantial price spike for the limited supply of domestic natural gas. A review of all of the facts demonstrates otherwise.

In preparing its Application for DOE export approval, Cameron LNG commissioned the independent consulting firm of Black & Veatch to assess the impact of the proposed LNG exports on United States delivered natural gas prices. Black & Veatch analyzed the underlying long-run supply and demand curves used in EIA's *Annual Energy Outlook 2011*²⁶ as the basis for evaluating the impact of Cameron LNG's proposed LNG exports on U.S. delivered natural gas prices. In a report attached as Appendix C to Cameron LNG's Application, Black & Veatch estimated the EIA's *Annual Energy Outlook 2011* natural gas supply and demand curves at five-year intervals using reference and sensitivity case results as reflected in the *Annual Energy Outlook 2011*. The 48 case study results were sorted into three groups, one in which the natural gas demand curve is held constant (10 cases), one in which the natural gas supply curve is held constant (29 cases), and a third group in which both the supply and demand curves are concurrently shifted (9 cases). After constructing the demand and supply curves, Black & Veatch calculated the reference price and quantity at the intersection of the supply and demand curves.

Black & Veatch found that an incremental 1.0 Bcfd increase in demand would increase United States average delivered natural gas prices by \$0.085/Mcf in 2020, \$0.088/Mcf in 2025, \$0.078/Mcf in 2030, and \$0.064/Mcf in 2035. Based on the range of EIA's *Annual Energy Outlook 2011* sensitivity cases, Black & Veatch indicated that this analysis is accurate up to approximately 2.0 Bcfd of incremental demand in 2020 and approximately 7.0 Bcfd of incremental demand in 2035, although there are indications that the supply curve begins to

²⁶ Energy Information Administration, *AEO 2011 with Projections to 2035* (Apr. 2011).

flatten out at a level well below 7.0 Bcfd (*i.e.*, lower price impacts per Bcfd at higher volumes). A 12 MTPA LNG export operation (approximately equivalent to 620 Bcf per year) would create 1.9 Bcfd of incremental natural gas demand (consisting of 1.7 Bcfd of exports and 0.2 Bcfd of fuel consumption). Consequently, the effect on average delivered United States natural gas prices (in 2009 dollars) of a 12 MTPA LNG export facility as implied by the *Annual Energy Outlook 2011* model is \$0.161/Mcf in 2020, \$0.167/Mcf in 2025, \$0.148/Mcf in 2030 and \$0.122/Mcf in 2035.

a. The EIA Price Study is Consistent with Cameron LNG's Conclusions

The study commissioned by DOE that EIA issued in January 2012 also studied the impact of LNG exports on the price of natural gas. In doing so, the EIA study provided four scenarios of LNG-export increases in gas demand: 6 Bcf per day phased in over 6 or 2 years and 12 Bcf per day phased in over 12 or 4 years. Under such scenarios, the United States is assumed to become either the largest or second largest LNG exporting country in the world in as little as four years.

Cameron LNG believes that EIA's "low/slow" scenario of adding 6 Bcfd over six years is a more realistic scenario modeled, although still aggressive. As they have in other proceedings pending before DOE, the Sierra Club and APGA attempt to bolster their arguments by seizing on the EIA's "high/rapid" scenario. This scenario assumes that every export project seeking approval will receive it, that all will be built and rapidly put into operation, that all will be fully subscribed, that all of these new facilities will operate at 100% utilization rates for 365 days a year, and that in no more than four years the United States will be the world's leading exporter of LNG. APGA itself in its motion to intervene questions the core assumptions underlying the scenario by declaring that "foreign alternatives will one day remove the price arbitrage

opportunity that Cameron seeks to take advantage of, as natural gas reserves and export capacity expand around the world.”²⁷ The economic risk APGA identified and predicts is not addressed in any detail in the EIA study.

Nor does the EIA study consider natural gas producer responses to increased natural gas demand. For example, a report prepared by the Deloitte Center for Energy Solutions and Deloitte MarketPoint (“Deloitte”) uses a dynamic model that accounts for such producer reaction.

Deloitte explains:

If exports can be anticipated, and clearly they can with the public application process and long lead time required to construct a LNG liquefaction plant, then producers, midstream players, and consumers can act to mitigate the price impact. Producers will bring more supplies online, flows will be adjusted, and consumers will react to price changes from LNG exports.²⁸

Deloitte further projected:

[A] weighted-average price impact of \$0.12 per million British thermal units (MMBtu) on U.S. prices from 2016 to 2035 as a result of the 6 Bcfd of LNG exports. The \$0.12/MMBtu increase represents a 1.7% increase in the projected average U.S. citygate gas price.²⁹

Such estimates by Deloitte as well as those contained within EIA’s own report are consistent with Cameron LNG’s assertion that approval of its Project will not significantly impact domestic natural gas prices.

²⁷ APGA’s Protest at 3-4.

²⁸ Deloitte MarketPoint, *Made in America: The Economic Impact of LNG Exports from the United States* (2011), available at http://www.deloitte.com/assets/Dcom-UnitedStates/Local%20Assets/Documents/Energy_us_er/us_er_MadeinAmerica_LNGPaper_122011.pdf.

²⁹ *Id.* at 2.

b. The AEO2012 Early Release Does Not Negate Cameron LNG's Pricing Estimates

The Sierra Club and APGA each argue that the AEO2012 released by EIA implies that domestic natural gas prices will increase because the United States possesses fewer natural gas reserves than previously thought. Their argument turns on EIA's decrease in its estimate of the technically recoverable resource for the Marcellus Shale.

The AEO2012 Overview continues to acknowledge increasing production, driven by shale development, and falling prices, along with recognition of future exports of LNG. Cumulative gas production from 2010 through 2035 in the AEO2012 reference case is 7 percent higher than estimated in the AEO2011, largely due to increased shale gas production.³⁰ Further, the share of total production related to shale plays is projected in the AEO2012 to increase from 23 percent in 2010 to 49 percent in 2035.³¹ Further, Acting EIA Administrator Howard Gruenspecht has testified that EIA's reduction in the resource base is not material to its 25 year projections, explaining "Whether the US has 100 years of total recoverable resources at current rates or 90 years of total recoverable resources estimated at current rates, I just don't think it has much of an effect."³²

c. The Sierra Club and APGA Do Not Convincingly Argue that LNG Exports will Significantly Increase Domestic Gas Prices

As described above, EIA's January 2012 study demonstrates that LNG exports will have a minimal impact on domestic gas pricing (*i.e.*, 3.2 percent between 2015-2035, based on the "low/slow" scenario). Similarly, Deloitte estimated the expected price impact of LNG exports of

³⁰ AEO2012 Overview at 9.

³¹ *Id.* at 1 & Figure 2.

³² Conway Irwin, *EIA Downplays Marcellus Reserve Revision*, Interfax Energy (Feb. 1, 2012), available at <http://interfaxenergy.com/natural-gas-news-analysis/energy-news-analysis/marcellus-reserve-revision-not-the-issue-for-us-gas/>.

6 Bcf per day and concluded that those exports would increase average city-gate prices by 1.7 percent. These estimates are consistent with Cameron LNG's conclusion that approval of its Project will not cause significant gas price increases. Further, even though EIA has decreased its estimates for recoverable resources from the Marcellus Shale, EIA has recognized that the decrease is immaterial.

Further, a Brookings Institute report released on May 2, 2012 confirmed that exports of natural gas will not have any major effect on domestic gas prices.³³ The study finds that a better public policy would be to let markets determine the volume of exports of LNG. Notable observations from the Brookings Institute report include:

- The domestic U.S. natural gas resource base is large enough to accommodate the potential increased demand from the electricity sector, the industrial sector, the residential and commercial sectors, *and* exporters of LNG;³⁴
- While it is clear that domestic natural gas prices will increase if natural gas is exported, most existing analyses indicate that the implications of this price increase are likely to be modest;³⁵
- Natural gas producers will likely anticipate future demand from LNG exports and will increase production accordingly, limiting price spikes;³⁶
- Exports may serve as an important source of incremental demand to support necessary volumes to stabilize prices;³⁷
- U.S. foreign policy interests are served through a better-supplied global LNG market;³⁸ and

³³ Energy Security Initiative at Brookings, *Liquid Markets: Assessing the Case for U.S. Exports of Liquefied Natural Gas* (May 2, 2012) available at http://www.brookings.edu/~media/Files/rc/reports/2012/0502_lng_exports_ebinger/0502_lng_exports_ebinger.pdf ("Brookings Report").

³⁴ *Id.* at 46.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.* at 47.

- History suggests that government intervention in the allocation of rents can lead to inefficient outcomes and unintended outcomes.³⁹

The observations of the Brookings Institute are consistent with Cameron LNG's position. Further, neither the Sierra Club's nor APGA's protests contemplate the potential for price volatility if the Project is not approved, thereby precluding the need for increased production. Cameron LNG's Application explained that supplemental natural gas production will likely reduce price volatility in the domestic market by sustaining robust levels of domestic exploration and production and providing an additional source of supply during period of high domestic demand.⁴⁰ Currently, many producers have stopped drilling gas wells and some have curtailed or even shut-in production from existing wells. In the long-run, unless drilling and development resume, this sets the stage for price spikes and volatility. Increased production necessitated by approval of the Project will serve to reduce the likelihood and magnitude of sudden and significant increases in domestic gas prices.

When coupled with the information gathered from Deloitte as well as a view of all information contained within EIA's January 2012 report and the AEO2012 Overview, it becomes apparent that neither the Sierra Club nor APGA have presented sufficient information that the Project will significantly impact domestic gas prices. As such, the Sierra Club and APGA have not rebutted a presumption that approval of the Project is in the public interest.

4. Economic Benefits of Cameron LNG's Project Are Material and Measurable

As a general matter, natural gas exports benefit the United States economically. Secretary Chu directly acknowledged this point as recently as February 2012. Secretary Chu was quoted as stating,

³⁹ *Id.*

⁴⁰ Application at 21-22.

[e]xporting natural gas means wealth comes into the country. . . . We have a choice. When all these things become cost-competitive, do you want to buy or do you want to sell? If we are buying, that is wealth out of the country. If we are selling, that's wealth into the country.⁴¹

Consistent with Secretary Chu's comments, Cameron LNG's Application demonstrated that approval of its Project would result in measurable economic benefits. Those benefits are reflected through job growth as a result of the Project as well as economic stimulus, both of which are in the public interest. For example, Cameron LNG's Application explained that approval of its Project would result in:

- Creation of an average of 1,300 engineering and construction jobs over a four year period;
- Creation of 63,000 job-years during the peak twelve month construction period;
- Creation of approximately 53,000 jobs during the twenty year operations period;
- Reduction of the United States trade deficit, which was \$646 billion in 2010, through increased exports and displaced imports. United States balance of trade benefits over the Project's life will range from \$166 to \$265 billion, depending on the LNG sales price;
- U.S. national output will increase in the range of \$25 billion to \$403 billion over the Project's life; and
- Wage gains are expected to average \$717 million during construction and \$2.1 billion per year during the Project's operation, for a total wage gain of \$45 billion over the Project's life.

In support of these identified benefits, Cameron LNG provided an Economic Impact Assessment explaining how such benefits were identified and why such benefits were measurable and valid. Cameron LNG employed an input-output model to conduct the Economic

⁴¹ Simone Sebastian, *Energy Secretary Backs Natural Gas Exports*, HOUSTON CHRONICLE, Feb. 2, 2012, available at <http://www.chron.com/business/article/Energy-secretary-backs-natural-gas-exports-2973215.php>.

Impact Assessment, which is a widely-used method of quantitative economics that considers macroeconomic activity as a system of interrelated goods and services.

The purpose of the Economic Impact Assessment is to assess and quantify the economic impact, at the local regional, and national level, of constructing an LNG export facility in Louisiana, with average exports equivalent to 1.7 Bcfd of natural gas. The assessment, an approach described as being “widely used in both public and private sector,”⁴² is to make use of regional input-output multipliers prepared by the Bureau of Economic Analysis (“BEA”) of the U.S. Commerce Department through a system known as “RIMS II.” Analyses using RIMS II are available from the BEA at the county level for 406 detailed industries. RIMS II multipliers are reported for final-demand output (dollars), final-demand earnings (dollars), final demand employment (jobs), final demand value-added (dollars), direct-effect earnings (dollars), and direct effect employment (jobs).

In undertaking its assessment, Cameron LNG ordered a customized input-output analysis from the BEA for the combined Louisiana parishes of Cameron (*i.e.* Calcasieu, Jefferson Davis, Beauregard and Allen). From that analysis, Cameron LNG made use of the multipliers for the Oil and Gas Extraction (NAICS code 211), gas pipelines (NAICS code 4862) and Construction industries. The use of multipliers for parishes in the vicinity of the Project helped assure that the results reflected the economic characteristics of the region in which the Cameron Terminal will operate. Cameron LNG estimated Project construction costs and LNG sales prices and applied the appropriate multipliers to these values to arrive at the economic impact.

Notwithstanding the detailed Economic Impact Assessment that Cameron LNG conducted, the Sierra Club argues that approval of the Project would neither benefit the United

⁴² U.S. Department of Commerce, “Regional Multipliers – A User Handbook for the Regional Input-Output Modeling System (RIMS II),” Pg. 1, March 1997.

States economically nor produce new jobs. Sierra Club's unsupported arguments fail to rebut the presumption that LNG exports are in the public interest for several reasons.

First, the Sierra Club's argument with respect to economic benefits is premised on an erroneous assumption. The Sierra Club assumes that Cameron LNG used an IMPLAN input-output model in conducting its Economic Impact Statement, arguing that "[i]nput-output models like the one used here suffer numerous significant limitations."⁴³ However, Cameron LNG did not use an IMPLAN model. Rather, Cameron LNG's economic analysis is based on employment multipliers that were provided by the U.S. Census Bureau in a custom analysis of 2007 economic census data for the Lake Charles, Louisiana region. Thus, to the extent that the Sierra Club's arguments rely on use of an IMPLAN model, such arguments are without merit.

Second, the Sierra Club suggests that an input-output model fails to consider counterfactuals and foregone opportunities, such as how the economy would be impacted if investors made choices different from those accounted for in an input-output model. That assertion should also be rejected. An economic analysis need not consider every hypothetical possibility. Moreover, the Sierra Club did not present analysis or data to support an assertion that the Project is inconsistent with the public interest due to hypothetical counterfactuals or foregone opportunities. Although the Sierra Club cited to several studies that purport to analyze the impact that natural gas production has on employment in a producing region, the Sierra Club concludes that "[t]he jobs effect, in either direction, turns out to be too small to be statistically significant."⁴⁴ That conclusion does not amount to analysis or data that supports either a proposition: (i) that the Project would decrease jobs; or (ii) that approval of the Project would be inconsistent with the public interest. Such analysis or data, rather than conclusory assertions, is a

⁴³ Sierra Club's Protest at 47.

⁴⁴ *Id.* at 50.

necessary prerequisite for an entity seeking to rebut a presumption that a proposed LNG export project is in the public interest.⁴⁵

Third, Sierra Club's emphasis on a boom-bust cycle in connection with natural gas production is also insufficient to rebut a presumption that the Project is in the public interest. The Sierra Club argues that the studies to which it cites support a proposition that a boom-bust cycle inherent in gas production makes long-term employment predictions tenuous. In that respect, the Sierra Club cites to a study that concluded jobs created in connection with natural gas production are temporary in nature and, therefore, a region in which natural gas production occurs does not benefit perpetually. However, such a conclusion is not surprising. More importantly, such a conclusion does not rebut a presumption that the Project is in the public interest. The considerations of the studies on which the Sierra Club relies do not relate specifically to the Project, but are instead general and theoretical in nature. To rebut a public interest presumption, the Sierra Club must provide analysis or data to rebut the benefits asserted by Cameron LNG. Thus, the Sierra Club's analysis or data must relate to the subject LNG export activity.⁴⁶

Putting aside the Sierra Club's lack of Cameron LNG-specific analysis or data, the Sierra Club's arguments regarding job creation and economic benefits directly contradict established government policies and assertions. In his 2012 State of the Union President Obama stated: "We have a supply of natural gas that can last America nearly 100 years. And my administration will take every possible action to safely develop this energy. Experts believe this will support more than 600,000 jobs by the end of the decade. . . . The development of natural gas will create jobs and power trucks and factories that are cleaner and cheaper, proving that we don't have to

⁴⁵ See, e.g., *Sabine Pass Liquefaction, LLC*, Order No. 2961 at 38 (2011).

⁴⁶ *Id.* ("With respect to other public interest considerations, such a showing could be based, among other evidence, upon demonstration of a causal connection between the subject LNG export activity and the ability of consumers to obtain natural gas at a reasonable price in sufficient quantities to meet their needs.") (emphasis added).

choose between our environment and our economy.”⁴⁷ Secretary Chu has concurred with those remarks, requesting development of the United States’ natural gas resources so as to create new jobs for American workers.⁴⁸ In support of those comments, including President Obama’s job creation estimates, IHS Global has estimated that shale gas production alone supported more than 650,000 jobs in 2010 and may support nearly 870,000 by 2015. Cameron LNG’s Project will ensure that a demand for natural gas exists to support the production efforts that generate new employment opportunities across the country.⁴⁹ Such an effort is in the public interest, and the Sierra Club’s suggestion that any jobs created may be temporary does not support a determination otherwise.

B. NEPA Analysis and Consideration of Environmental Impacts is Not Warranted At This Time

The Sierra Club devotes a considerable amount of its protest to describing the origin of and potential concerns raised by emissions of greenhouse gases, possible environmental effects created by hydraulic fracturing, and the impact that shale gas development and/or additional natural gas production will have on the environment. The Sierra Club’s purpose in such efforts is to urge DOE to conduct a detailed NEPA analysis with respect to the Project, including an analysis that accounts for the environmental impact of each hypothetical or potential gas production site that might be developed to produce gas that could one day possibly be delivered to the Project for export.

⁴⁷ Jan. 24, 2012 State of the Union Address, President Barack Obama, available at <http://www.whitehouse.gov/the-press-office/2011/01/25/remarks-president-state-union-address>.

⁴⁸ DOE news release, *Chu in Pittsburgh: ‘We Need an All-Out, All-of-the-Above Strategy that Develops Every Available Source of American Energy’* available at http://www.fossil.energy.gov/news/techlines/2012/12005-Secretary_Chu_Visits_NETL.html.

⁴⁹ IHS Global Insight, *The Economic and Employment Contributions of Shale Gas in the United States* (Dec. 6, 2011), available at <http://www.ihs.com/info/ecc/a/shale-gas-jobs-report.aspx>.

Although Cameron LNG respectfully disagrees with the Sierra Club's position in connection with the environmental effects of its Project, such a debate is purely academic at this time. As discussed below, DOE need not conduct a NEPA analysis in order to grant the relief requested by Cameron LNG. Further, when a NEPA analysis relating to the Project is conducted, such analysis need not include consideration of gas production sites that may be developed in the future.

1. DOE Need Not Conduct a NEPA Analysis to Grant Relief

NEPA regulations encourage overall efficiency by promoting cooperation between agencies. Regulations implementing NEPA state that as early as possible, a lead agency should be designated while other agencies involved function as cooperating agencies.⁵⁰ As the U.S. Court of Appeals for the 11th Circuit explained, “[a]gencies are not required to duplicate the work done by another federal agency which also has jurisdiction over a project. [NEPA] regulations encourage agencies to coordinate on such efforts.”⁵¹

Pursuant to Chapter 15B of the NGA, FERC has the exclusive authority to approve or deny an application for the siting, construction, expansion, or operation of a LNG terminal⁵² such as that at issue in connection with the Project. In that role, the NGA provides that FERC “shall act as the lead agency for the purposes of coordinating all applicable Federal authorizations and for the purposes of complying with the NEPA.”⁵³ In such cases, DOE/FE will presumably participate in the NEPA process as a “cooperating agency.”⁵⁴ Given that paradigm, Cameron

⁵⁰ 40 C.F.R. § 1501.6.

⁵¹ *Sierra Club v. U.S. Army Corp of Eng'rs*, 395 F.3d 1209 (11th Cir. 2005).

⁵² 15 U.S.C. § 717(e).

⁵³ 15 U.S.C. § 717(n)(b)(1) citing 42 U.S.C. § 4321 *et seq.*

⁵⁴ 40 C.F.R. § 1501.6

LNG has requested conditional authorization, subject to the outcome of a subsequent NEPA analysis to be conducted by FERC.

DOE/FE is not required to conduct its own independent NEPA analysis at this time and instead has the authority to issue a conditional order subject to a favorable NEPA analysis from FERC. Such a conditional order is entirely consistent with DOE/FE's own regulations.⁵⁵ That is, the Assistant Secretary has the express authority to "issue a conditional order at any time during a proceeding prior to issuance of a final opinion and order."⁵⁶ Issuance of a conditional order is consistent with DOE/FE precedent as that was the approach recently taken with its non-FTA authorization issued for the Sabine Pass LNG Terminal.⁵⁷ In that order, DOE/FE acknowledged it was a cooperating agency in the NEPA review process and that FERC's Office of Energy Projects was conducting the environmental impact analysis.⁵⁸ DOE/FE should thus follow its own precedent and issue a conditional order in this proceeding subject to FERC's completion of a favorable NEPA review.

2. Environmental Issues Raised by Sierra Club are Outside the Scope of this Proceeding

As mentioned *supra*, the Sierra Club raises concerns over the environmental impacts of hydraulic fracturing and harm from increased natural gas production from the potential development of new production facilities. This proceeding, however, is only about the exportation of LNG from the Cameron Terminal in Cameron Parish, Louisiana. Conducting a detailed NEPA analysis of the issues associated with Marcellus Shale production is thus not appropriate in the environmental review of Project.

⁵⁵ 10 C.F.R. § 590.402 (2011).

⁵⁶ *Id.*

⁵⁷ *Sabine Pass Liquefaction, LLC*, Order No. 2961 (2011).

⁵⁸ *Id.*

FERC recently considered similar issues regarding a pipeline project to transport Marcellus natural gas supplies and rejected the argument that the NEPA analysis should consider the environmental impacts of ongoing and future Marcellus Shale development activities.⁵⁹ In *Central New York Oil and Gas Company, LLC*, environmental protestors raised concerns similar to those raised by the Sierra Club regarding the environmental impacts of natural gas development in the Marcellus Shale formation and the need for an extensive NEPA review prior to approving the MARC I Project.

FERC rejected the request for a more comprehensive NEPA analysis, because it held that Marcellus Shale development and its associated effects were not sufficiently causally-related to the pipeline.⁶⁰ FERC determined it need not consider the cumulative impacts of Marcellus Shale development in determining whether approval of the MARC I Project would be a major federal action significantly affecting the quality of the human environment.⁶¹ FERC reasoned that the development of Marcellus Shale could occur regardless of whether the Marc I Project went forward.⁶² In addition, the expansion of Marcellus drilling activity was not “an essential predicate for the MARC I Project, as it was not merely a gathering system for delivery of gas from Marcellus Shale wells to interstate pipelines.”⁶³ Further, FERC reasoned that even if it had found sufficient causal connection between the MARC I Project and Marcellus Shale development, any potential impacts from such development would not be reasonably foreseeable as required by the Council on Environmental Quality (“CEQ”) regulations implementing

⁵⁹ *Central New York Oil and Gas Company, LLC*, 137 FERC ¶ 61,121 at PP 92-95 (2011) (“CNYOG Order”), *reh’g*, 138 FERC ¶ 61,104 (2012) (“CNYOG Rehearing Order”).

⁶⁰ CNYOG Order at PP 92, 94.

⁶¹ CNYOG Rehearing Order at P 8.

⁶² CNYOG Order at P 91.

⁶³ *Id.*

NEPA.⁶⁴ That is, an impact is “reasonably foreseeable” if it is “sufficiently likely to occur that a person of ordinary prudence would take into account in reaching a decision.”⁶⁵ FERC, therefore, held that Marcellus Shale development, with the correlative potential impacts, is not an “effect” of the MARC I Project.⁶⁶

These considerations are similarly applicable to the Project as it is not dependent on the development of Marcellus Shale production, and thus not causally connected to warrant consideration of such impacts in a NEPA analysis. Even assuming a causal connection did exist, any potential impacts would not be reasonably foreseeable as the CEQ regulations require. Cameron LNG is unaware of how many production wells might be drilled, when the production wells would be drilled, or where the production wells would be drilled. Those issues are dictated by the degree to which existing wells can increase production from known reserves. It is for that reason that an environmental analysis of production wells is within the purview of state regulatory bodies to consider if and when a producer seeks approval to drill, as discussed below. Thus, a more detailed and overbroad NEPA analysis is not appropriate and the Sierra Club’s concerns are beyond the scope of this proceeding.

In determining there was no causal connection, FERC noted that the states (the Commonwealth of Pennsylvania in *CNYOG*’s case) regulate the siting, permitting, construction and operation of Marcellus Shale wells, and that FERC had no jurisdiction or regulatory authority over those wells.⁶⁷ FERC “plays no role, or retains any control over [the wells]” and thus, this activity is solely within the purview of the state authorities.⁶⁸ FERC further reasoned

⁶⁴ 40 C.F.R. § 1508.9(a)(1) (2011).

⁶⁵ *CNYOG* Order at P 95 citing *City of Shoreacres v. Waterworth*, 420 F.3d 440, 453 (5th Cir. 2005).

⁶⁶ *CNYOG* Order at P 89.

⁶⁷ *CNYOG* Order at P 93; *CNYOG* Rehearing Order at P 8.

⁶⁸ *Id.*

that the Supreme Court has held that “where an agency has no ability to prevent a certain effect due to its limited statutory authority over the relevant actions, the agency cannot be considered a legally relevant ‘cause’ of the effect.”⁶⁹ Therefore, FERC held that it was not required to consider the wells’ correlative environmental impacts in the NEPA analysis.

This consideration is equally applicable to the Project because the states again individually regulate natural gas production and the impacts of production facilities must be addressed in individual state proceedings. To consider the cumulative impacts of natural gas production in this particular NEPA review process is outside the scope of this proceeding.

The Sierra Club essentially is using this proceeding to voice its concerns over the ongoing development of shale gas and its belief that there is insufficient regulation of this activity. This issue, however, is entirely within the purview of the state regulatory regimes. If the Sierra Club believes the states’ handling is inadequate, then it should voice those concerns in the appropriate state proceedings. It is inappropriate to use the federal NEPA process for a specific LNG project as a forum for those concerns.

IV. CONCLUSION

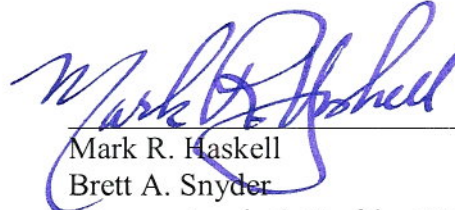
Cameron LNG opposes the motions for leave to intervene of APGA and the Sierra Club. If DOE/FE grants the interventions of Sierra Club and APGA and considers their views in this proceeding, Cameron LNG respectfully requests that the agency also consider this Answer.

Furthermore, for the reasons set forth in its Application and above, Cameron LNG respectfully requests that DOE issue an order granting Cameron LNG authorization to export for a period of 20 years (commencing on the earlier of the date of first export or seven years from the date the requested authorization is granted) 12 MTPA (equivalent to approximately 620 Bcf

⁶⁹ *Id.*

per year) of domestically produced LNG to any country with which the United States does not have an FTA and with which trade is not prohibited by United States law or policy.

Respectfully submitted,



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Dated: May 8, 2012

VERIFICATION

County of San Diego)
)
State of California)

BEFORE ME, the undersigned authority, on this day personally appeared William O. Rapp, who, having been by me first duly sworn, on oath says that he is counsel for Cameron LNG, LLC, and is duly authorized to make this Verification on behalf of such company; 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.

William D Rapp
William D. Rapp

SWORN TO AND SUBSCRIBED before me on the 8th day of May, 2012.

Emma Castillo
Notary Public

My Commission expires:



CERTIFICATE OF SERVICE

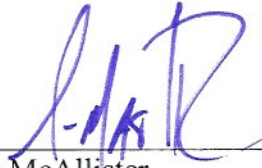
I hereby certify that, in accordance with 10 C.F.R. § 590.107 (2011), I caused a copy of the foregoing to be served on the following this 8th day of May, 2012:

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