

October 27, 2022

The Honorable Secretary Jennifer Granholm  
United States Department of Energy  
1000 Independence Ave, SW  
Washington, DC 20585

**RE: Natural Gas Export Policy Comment Period**

Dear Secretary Granholm:

We, the undersigned public interest, community, environmental justice, and climate groups, urge the United States Department of Energy (DOE) to (1) update its guidelines on export of liquefied natural gas (LNG) and (2) open a comment period to allow the public to weigh in on what new regulations or guidance should include.

DOE's current guidelines on LNG date to 1984<sup>1</sup>—the same year that the Detroit Tigers won the World Series,<sup>2</sup> *Three's Company* left airwaves after an eight-season run,<sup>3</sup> and *Tetris* was created by Soviet software engineer Alexey Pajitnov.<sup>4</sup> These guidelines were designed chiefly to implement the Reagan administration's energy policy on natural gas *imports*. Much has changed since the introduction of the 1984 guidelines: the United States has engaged in record volumes of exportation of LNG,<sup>5</sup> there is acknowledgement across the federal government of the scientific reality that is climate change,<sup>6</sup> and there is a sharply increasing recognition of the need for federal agencies to focus on environmental justice and equity.<sup>7</sup>

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<sup>1</sup> 49 Fed. Reg. 6,684, 6,685 (Feb. 22, 1984).

<sup>2</sup> *1984 World Series*, Baseball Almanac. Available at <https://www.baseballalmanac.com/ws/yr1984ws.shtml> (last visited Oct. 16, 2022).

<sup>3</sup> *Three's Company*, Internet Movie Database. Available at <https://www.imdb.com/title/tt0075596/> (last visited Oct. 16, 2022).

<sup>4</sup> *About Tetris*®, The Tetris Company. Available at <https://tetris.com/about-us> (last visited Oct. 16, 2022).

<sup>5</sup> EIA, *U.S. exported record amounts of liquefied natural gas in 2021*. Available at <https://www.eia.gov/todayinenergy/detail.php?id=51818> (last visited Oct. 16, 2022).

<sup>6</sup> E.g., Executive Order on Tackling the Climate Crisis at Home and Abroad, Executive Order 14008, 86 Fed. Reg. 7619 (Jan. 27, 2021). Available at <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/executive-order-on-tackling-the-climate-crisis-at-home-and-abroad/>.

<sup>7</sup> See e.g., Certification of New Interstate Natural Gas Facilities, 178 FERC ¶ 61,107, at P 16. (2022) (Hereinafter, Updated FERC Pipeline Policy Statement). Available at <https://www.ferc.gov/media/p118-1-000>.

The nearly 40-year-old guidance is not merely outdated; it is also ill-suited to ensure that DOE adequately considers the serious climate,<sup>8</sup> equity,<sup>9</sup> safety,<sup>10</sup> and market pricing issues<sup>11</sup> resulting from large-scale LNG exports. The guidelines entirely fail to lay out any factors, mode of analysis, or weight with which DOE can ensure the exports it authorizes are consistent with the public interest and the Natural Gas Act.

Historically, DOE officials have acknowledged that LNG export raises critical policy questions beyond the import guidelines, but no coherent policy framework has been initiated by the agency. Instead, when issuing its export authorizations, the agency engages in a limited articulation and assessment of a changing collection of factors related to exportation. This approach has offered *no one* – neither the gas industry nor impacted communities, climate advocates, and the public writ large – regulatory certainty or confidence in DOE’s process for approving LNG exports.

DOE’s current export guidelines must be revised in an open and fair public process. In identifying an example of an agency recognizing and acting on the need to update outdated policy, DOE need look no further than the Federal Energy Regulatory Commission (FERC), which has taken steps<sup>12</sup> to update its 1999 Natural Gas Pipeline Policy Statement,<sup>13</sup> which is outdated (while still being 15 years more recent than DOE’s guidelines) and ill-suited to ensure the agency’s actions survive legal scrutiny. Just as it makes little sense for “a man to wear still the coat which fitted him when a boy,”<sup>14</sup> it makes little sense for DOE to continue to utilize meager and outdated guidance.

This letter is certainly not the first time DOE has been asked to update its guidelines or to provide a forum for the public to weigh in on the issues raised by LNG export and the process by

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<sup>8</sup> Corey Paul, *Rapid expansion of US LNG comes with climate costs: environmental group*, S&P Global Commodity Insights (June 10, 2022), <https://www.spglobal.com/commodityinsights/en/market-insights/latest-news/natural-gas/061022-rapid-expansion-of-us-lng-comes-with-climate-costs-environmental-group> (last visited Oct. 16, 2022).

<sup>9</sup> Amanda Drane, *Gulf Coast residents fear they live in 'sacrifice zone' for booming natural gas industry*, Houston Chronicle (Sept. 22, 2022), <https://www.houstonchronicle.com/business/energy/article/Gulf-Coast-residents-fear-they-live-in-sacrifice-17443457.php> (last visited Oct. 16, 2022).

<sup>10</sup> Stephanie Herwack, *Straight Talk, Not Sales Pitch, About LNG Dangers*, Sierra Club, <https://www.sierraclub.org/texas/blog/2016/08/straight-talk-not-sales-pitch-about-lng-dangers> (last visited Oct. 16, 2022).

<sup>11</sup> Amanda Drane, *The reason why your electricity bills are so high and other things to know about LNG*, Houston Chronicle (Oct. 10, 2022), <https://www.houstonchronicle.com/business/energy/article/The-reason-why-your-electricity-bills-are-so-high-17493038.php> (last visited Oct. 16, 2022).

<sup>12</sup> Updated FERC Pipeline Policy Statement, *supra* note 7.

<sup>13</sup> Certification of New Interstate Natural Gas Pipeline Facilities, 88 FERC ¶ 61,227 (1999), clarified, 90 FERC ¶ 61,128 (2000), further clarified, 92 FERC ¶ 61,094 (2000).

<sup>14</sup> National Parks Service, *Thomas Jefferson Memorial Inscriptions*, quoting Thomas Jefferson, Excerpted letter to Samuel Kercheval (July 12, 1816), <https://www.nps.gov/thje/learn/photosmultimedia/quotations.htm> (last visited Oct. 16, 2022).

which DOE authorizes or denies (which it has never done) proposed exports. On April 8, 2013, the Sierra Club and several other public interest organizations submitted to the agency a Petition for Rulemaking (Petition) on its natural gas export policy.<sup>15</sup> Our understanding is that the Petition remains unanswered.

As raised in the Sierra Club Petition, LNG exports pose pressing public questions for climate, health and communities, and regarding pricing impacts<sup>16</sup> for domestic consumers and ratepayers. LNG exportation represents a key component of the U.S. response to the war in Ukraine,<sup>17</sup> and the impacts of exportation are poised to further magnify. The need for the agency to articulate the factors it considers when evaluating the public interest could not be clearer. DOE owes the public a forum to engage and comment on the complex issues affecting LNG policy, and to inform them of the process through which LNG exports are reviewed.

We respectfully urge DOE to open a comment period on its export policy guidelines and initiate the process of providing updated, clear guidance on natural gas exportation.

Thank you for your attention to this matter.

Sincerely,

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<sup>15</sup> Sierra Club et al., Petition for Rulemaking (2013). Available at <https://www.energy.gov/sites/default/files/2016/02/f30/Ex.02-LNG-rulemaking-petition.pdf>.

<sup>16</sup> Kyra Buckley, *U.S. natural gas prices fell and those in Europe soared after this week's blast at Freeport LNG*, Houston Chronicle (June 13, 2022), <https://www.houstonchronicle.com/business/energy/article/Natural-gas-prices-fall-after-Freeport-LNG-17230241.php> (last visited Oct. 26, 2022).

<sup>17</sup> The White House, *FACT SHEET: United States and European Commission Announce Task Force to Reduce Europe's Dependence on Russian Fossil Fuels* (Mar. 25, 2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/25/fact-sheet-united-states-and-european-commission-announce-task-force-to-reduce-europes-dependence-on-russian-fossil-fuels/>.

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