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**By Docket Room at 11:05 am, Dec 10, 2014**

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December 10, 2014

**Via Email**

Ms. Larine A. Moore  
Docket Room Manager  
U.S. Department of Energy  
FE-34  
P.O. Box 44375  
Washington, DC 20026-4375  
fergas@hq.doe.gov

Re: Docket No. 14-29-LNG  
Answer of Louisiana LNG Energy, LLC to Protest

Dear Ms. Moore:

Please accept for filing in Docket No. 14-29-LNG, pursuant to 10 C.F.R. § 590.304(f), the enclosed Answer of Louisiana LNG Energy, LLC to the Protest of the American Public Gas Association.

If you have any questions regarding this filing, please do not hesitate to contact me at (202) 220-6915. Thank you for your assistance.

Respectfully submitted,

/s/ James F. Moriarty  
James F. Moriarty  
*Counsel to Louisiana LNG Energy, LLC*

Enclosure

**UNITED STATES OF AMERICA  
DEPARTMENT OF ENERGY  
OFFICE OF FOSSIL ENERGY**

Louisiana LNG Energy, LLC

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FE Docket No. 14-29-LNG

**ANSWER OF LOUISIANA LNG ENERGY, LLC TO  
THE PROTEST OF THE AMERICAN PUBLIC GAS ASSOCIATION**

Pursuant to Section 590.304(f) of the Department of Energy’s (“DOE”) regulations, 10 C.F.R. § 590.304(f) (2014), Louisiana LNG Energy, LLC (“LLNGE”) hereby submits this Answer to the Motion for Leave to Intervene, Motion to Suspend, and Protest filed by the American Public Gas Association (“APGA Protest”) in the above-captioned proceeding on November 25, 2014. In support of this Answer, LLNGE states the following:

**I.**  
**PROCEDURAL BACKGROUND**

On February 18, 2014, LLNGE filed an application pursuant to Section 3 of the Natural Gas Act (“NGA”), 15 U.S.C. § 717b (2006), and Part 590 of the DOE regulations, 10 C.F.R. § 590 (2014), with the DOE Office of Fossil Energy (“DOE/FE”) requesting long-term authorization to export 2 million metric tons per year of liquefied natural gas (“LNG”) (approximately 103.4 bcf of natural gas using a conversion factor of 51.7 bcf of natural gas per million metric tons of LNG) produced from domestic sources to any country with which the United States does not have a free trade agreement (“FTA”) requiring national treatment for trade in natural gas and with which trade is not prohibited by United States law or policy (“Application”).<sup>1</sup>

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<sup>1</sup> On February 5, 2014, LLNGE filed an application in DOE/FE Docket No. 14-19-LNG requesting long-term authorization to export 2 million metric tons per year of LNG (approximately 103.4 bcf of natural gas using a conversion factor of 51.7 bcf of natural gas per million metric tons of LNG) produced from domestic sources to

The Application seeks authorization to export LNG from a liquefaction facility to be constructed in Plaquemines Parish, Louisiana. Proposed construction of the liquefaction facility is being reviewed by the Federal Energy Regulatory Commission (“FERC”) as part of its pre-filing process in Docket No. PF14-17-000.

On September 26, 2014, DOE/FE gave notice in the Federal Register of LLNGE’s Application and established November 25, 2014, as the deadline for comments on and protests to LLNGE’s Application. APGA filed the sole protest in this proceeding.

## **II. ANSWER TO MOTION TO SUSPEND**

APGA requests that DOE/FE suspend the comment date for applications such as LLNGE’s in light of DOE/FE’s new procedures for processing lower 48 non-FTA export applications.<sup>2</sup> DOE/FE should deny the motion to suspend for three reasons.

First, DOE/FE’s new procedures do not contemplate suspension of the comment date. The new procedures change only the timeline on which DOE/FE will issue decisions on lower 48 non-FTA export applications. In adopting the new procedures, DOE/FE stated “DOE will suspend its practice of issuing conditional decisions on applications to export LNG to non-FTA countries from the lower-48 states.”<sup>3</sup> Nowhere in the new procedures did DOE/FE contemplate changing the notice and comment process for pending applications.

Second, DOE/FE’s regulations, which were not modified by the new procedures, state:

Upon receipt of an application, the FE shall publish a notice of application in the Federal Register. The notice shall summarize the proposal. Except in emergency circumstances, generally the notice shall provide a time limit of not less than thirty (30) days from the notice’s date of publication in the Federal Register for

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FTA countries. DOE/FE granted the requested FTA authorization in an order dated August 28, 2014. *See Louisiana LNG Energy LLC*, DOE/FE Order No. 3482 (Aug. 28, 2014).

<sup>2</sup> APGA Protest at 3-4.

<sup>3</sup> 79 Fed. Reg. 48,132 at 48,135 (Aug. 15, 2014).

persons to file protests, comments, or a motion to intervene or notice of intervention, as applicable.<sup>4</sup>

In accordance with this regulation, DOE/FE issued the federal register notice and set a 60-day comment period (ending November 25, 2014). This comment period is consistent with DOE/FE's approach in all other lower 48 non-FTA export proceedings and also consistent with both DOE/FE's regulations and its new procedures. APGA has not demonstrated good cause for changing the comment deadline, which has already passed. Indeed, to do so would be prejudicial to LLNGE when DOE/FE has not taken such action with respect to other pending applications.

Third, APGA incorrectly notes that the updated LNG export studies that DOE/FE requested on May 29, 2014 have not been published and asserts that changing the comment date "would permit APGA and other interested parties to submit comments on the Louisiana LNG application in light of those new studies."<sup>5</sup> As explained herein, the studies referenced by APGA have already been published and released for review by all interested parties.<sup>6</sup>

### **III. ANSWER TO PROTEST**

The APGA Protest consists of the repetition of earlier arguments made by APGA in opposition to nearly every application filed with DOE/FE to export LNG to non-FTA countries.<sup>7</sup>

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<sup>4</sup> 10 C.F.R. § 590.205(a) (2014).

<sup>5</sup> APGA Protest at 4.

<sup>6</sup> See U.S. Energy Information Administration, *Effect of Increased Levels of Liquefied Natural Gas Exports on U.S. Energy Markets* (Oct. 2014), available at <http://www.eia.gov/analysis/requests/fe/pdf/lng.pdf> ("2014 EIA Study"); *Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States*, 79 Fed. Reg. 48,132 (Aug. 15, 2014); *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States*, 79 Fed. Reg. 32,260 (Jun. 4, 2014).

<sup>7</sup> See e.g., *Motion for Leave to Intervene Out-of-Time and Protest of the American Public Gas Association*, FE Docket No. 10-111-LNG (Sabine Pass Liquefaction, LLC) (Mar. 4, 2011); *Motion for Leave to Intervene and Protest of the American Public Gas Association*, FE Docket No. 10-161-LNG (Freeport LNG Expansion, L.P.) (Mar. 28, 2011); *Motion for Leave to Intervene and Protest of the American Public Gas Association*, FE Docket No. 11-59-LNG (Lake Charles Exports, LLC) (Aug. 10, 2011); *Motion for Leave to Intervene and Protest of the American Public Gas Association*, FE Docket No. 11-128-LNG (Dominion Cove Point LNG, LP) (Feb. 6, 2012); *Motion for Leave to Intervene and Comments of the American Public Gas Association*, FE Docket No. 11-141-LNG (Carib Energy (USA) LLC) (Feb. 27, 2012); *Motion for Leave to Intervene and Protest of the American Public Gas Association*, FE Docket No. 11-161-LNG (Freeport LNG Expansion, L.P.) (Apr. 13, 2012); *Motion for Leave to*

As explained below, the arguments raised were rejected by the DOE/FE in its prior orders authorizing LNG exports to non-FTA countries.<sup>8</sup> Despite having its arguments consistently rejected in prior proceedings, APGA has not appealed any such orders.

APGA also repeats its opposition to the conclusions in the two-part DOE/FE-commissioned study on the cumulative economic impacts of LNG exports.<sup>9</sup> These arguments have been fully considered by DOE/FE in each non-FTA export order.

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*Intervene and Protest of the American Public Gas Association*, FE Docket No. 11-162-LNG (Cameron LNG, LLC) (Apr. 23, 2012); *Motion for Leave to Intervene and Protest of the American Public Gas Association*, FE Docket No. 12-05-LNG (Gulf Coast LNG Export, LLC) (Aug. 3, 2012); *Motion for Leave to Intervene and Protest of the American Public Gas Association*, FE Docket No. 12-32-LNG (Jordan Cove Energy Project, L.P.) (Aug. 6, 2012); *Motion for Leave to Intervene and Protest of the American Public Gas Association*, FE Docket No. 12-77-LNG (LNG Development Company, LLC) (Nov. 6, 2012); *Motion for Leave to Intervene and Protest of the American Public Gas Association*, FE Docket No. 12-97-LNG (Cheniere Marketing, LLC) (Dec. 26, 2012); *Motion for Leave to Intervene and Protest of the American Public Gas Association*, FE Docket No. 12-100-LNG (Southern LNG Company, LLC) (Dec. 17, 2012); *Motion for Leave to Intervene and Protest of the American Public Gas Association*, FE Docket No. 12-101-LNG (Gulf LNG Liquefaction Company, LLC) (Jan. 4, 2013); *Motion for Leave to Intervene and Protest of the American Public Gas Association*, FE Docket No. 12-123-LNG (CE FLNG, LLC) (Feb. 4, 2013); *Motion for Leave to Intervene and Protest of the American Public Gas Association*, FE Docket No. 12-146-LNG (Excelerate Liquefaction Solutions I, LLC) (Feb. 4, 2013); *Motion for Leave to Intervene and Protest of the American Public Gas Association*, FE Docket No. 12-156-LNG (Golden Pass Products, LLC) (Feb. 4, 2013); *Motion for Leave to Intervene and Protest of the American Public Gas Association*, FE Docket No. 12-184-LNG (Pangea LNG (North America) Holdings, LLC) (Apr. 29, 2013); *Motion for Leave to Intervene and Protest of the American Public Gas Association*, FE Docket No. 13-04-LNG (Trunkline LNG Export, LLC) (May 20, 2013); *Motion for Leave to Intervene and Protest of the American Public Gas Association*, FE Docket No. 13-26-LNG (Freeport-McMoRan Energy LLC) (Aug. 5, 2013); *Motion for Leave to Intervene and Protest of the American Public Gas Association*, FE Docket No. 13-69-LNG (Venture Global LLC) (Jun. 26, 2013); *Motion for Leave to Intervene and Protest of the American Public Gas Association*, FE Docket No. 13-121-LNG (Sabine Pass Liquefaction, LLC) (Apr. 14, 2014); *Motion for Leave to Intervene and Protest of the American Public Gas Association*, FE Docket No. 13-132-LNG (Magnolia LNG, LLC) (May 23, 2014); *Motion for Leave to Intervene and Protest of the American Public Gas Association*, FE Docket No. 13-147-LNG (Delfin LNG LLC) (May 27, 2014); *Motion for Leave to Intervene and Protest of the American Public Gas Association*, FE Docket No. 13-153-LNG (Waller LNG Services, LLC) (Sep. 15, 2014); *Motion for Leave to Intervene and Protest of the American Public Gas Association*, FE Docket No. 13-157-LNG (Emera CNG, LLC) (Sep. 2, 2014); *Motion for Leave to Intervene and Protest of the American Public Gas Association*, FE Docket No. 13-161-LNG (Gasfin Development USA, LLC) (Sep. 29, 2014).

<sup>8</sup> See, e.g., *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 3357-B at 98 (Nov. 14, 2014) (“We find that the three intervenor-protestors in this proceeding—APGA, Sierra Club, and GCELC—have failed to overcome the statutory presumption that the proposed export authorization is consistent with the public interest.”); *Cameron LNG, LLC*, DOE/FE Order No. 3391-A at 87 (Sep. 10, 2014) (“We find that opponents of the Application have failed to overcome the statutory presumption that the proposed export authorization is consistent with the public interest.”).

<sup>9</sup> U.S. Energy Information Administration, *Effect of Increased Natural Gas Exports on Domestic Energy Markets* (January 2012), available at [http://energy.gov/sites/prod/files/2013/04/f0/fe\\_eia\\_lng.pdf](http://energy.gov/sites/prod/files/2013/04/f0/fe_eia_lng.pdf) (“2012 EIA Study”); NERA Economic Consulting, *Macroeconomic Impacts of LNG Exports from the United States* (Dec. 5, 2012), available at [http://energy.gov/sites/prod/files/2013/04/f0/nera\\_lng\\_report.pdf](http://energy.gov/sites/prod/files/2013/04/f0/nera_lng_report.pdf) (“NERA Study”).

Under Section 3(a) of the NGA, a rebuttable presumption exists in favor of DOE/FE approval of applications to export LNG. APGA fails to overcome this presumption and put forth the required evidence demonstrating that the requested authorization is inconsistent with the public interest. For this reason and because of DOE/FE's prior rejection of APGA's arguments, DOE/FE should grant LLNGE's request for authorization to export LNG to non-FTA countries.

**A. APGA Fails to Meet the Legal Standard Under NGA Section 3(a)**

Pursuant to NGA Section 3(a), DOE/FE "shall issue" an order authorizing LNG exports unless it finds "that the proposed exportation . . . will not be consistent with the public interest."<sup>10</sup> As explained by DOE/FE in its most recent non-FTA order, NGA Section 3(a) "creates a rebuttable presumption that a proposed export of natural gas is in the public interest."<sup>11</sup> Accordingly, "DOE/FE must grant such an application unless opponents of the application overcome that presumption by making an affirmative showing of inconsistency with the public interest."<sup>12</sup>

APGA has failed to overcome the statutory presumption in favor of applications to export LNG. In its Application, LLNGE cited multiple publicly available studies, and put forth a complete analysis of the public interest factors weighing in favor of DOE/FE's approval of LLNGE's proposal. Just as it has done in nearly every proceeding, APGA "alleged a variety of negative consequences to the public interest from a grant of the requested authorization," but has "not challenged the applicant's claims" regarding the benefits of granting the requested export authorization.<sup>13</sup> APGA fails to support its arguments "by factual studies or analyses" and "ha[s]

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<sup>10</sup> 15 U.S.C. § 717b(a) (2006).

<sup>11</sup> *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 3357-B at 9 (Nov. 14, 2014).

<sup>12</sup> *Id.*

<sup>13</sup> *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 2961 at 30 (May 20, 2011).

not demonstrated that any potential negative impacts associated with a grant of the requested authorization are likely to outweigh the overall benefits from such an authorization.”<sup>14</sup>

APGA’s arguments are also focused on the impact that LNG exports will have on domestic natural gas prices.<sup>15</sup> APGA asks that DOE/FE “exercise restraint and either reject an LNG export application or place prudent limits and conditions on such exports to mitigate the potential domestic harm that these exports will likely inflict on the U.S. economy.”<sup>16</sup> What APGA fails to recognize is that DOE/FE, consistent with its Policy Guidelines, has consistently affirmed that, “under most circumstances, the market is the most efficient means of allocating natural gas supplies.”<sup>17</sup> APGA has provided no basis for DOE/FE to change its consistent practice or disregard its Policy Guidelines.<sup>18</sup>

While APGA makes generalized and unsupported statements about the economic viability of LLNGE’s project, it provides no information or analysis specific to LLNGE’s Application. APGA also continually asserts that DOE/FE cannot base its decision on dated information and must wait until the studies commissioned by DOE/FE are complete.<sup>19</sup> It appears APGA has failed to update its stock protest to reflect the fact that the new Energy Information Administration (“EIA”) study was released for public review on October 29, 2014, well before the deadline for comments in this proceeding.<sup>20</sup> Accordingly, APGA’s assertions that DOE/FE

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<sup>14</sup> *Id.*

<sup>15</sup> APGA Protest at 5.

<sup>16</sup> *Id.* at 9.

<sup>17</sup> *See LNG Development Company, LLC (d/b/a Oregon LNG)*, DOE/FE Order No. 3465 at 141 (Jul. 31, 2014).

<sup>18</sup> New Policy Guidelines and Delegations Order Relating to Regulation of Imported Natural Gas, 49 Fed. Reg. 6684 (Feb. 22, 1984) (“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.”).

<sup>19</sup> APGA Protest at 4, 6, 7, 27.

<sup>20</sup> *See* 2014 EIA Study.

should suspend non-FTA export approvals until the updated EIA study is complete should be given no weight.

Consistent with its prior orders, DOE/FE should find in this proceeding that the APGA arguments in opposition to the Application fail to overcome the statutory presumption in favor of granting the requested export authorization.

## **B. DOE/FE Previously Considered and Rejected APGA's Arguments**

In its Protest, APGA repeats the general theme that natural gas exports will lead to an increase in domestic natural gas and electricity prices, which is inherently inconsistent with the public interest and will overly burden domestic consumers of natural gas.<sup>21</sup> Not only does APGA fail to submit any data or studies supporting its economic claims, it also ignores the findings of prior DOE/FE orders on these issues.

The majority of APGA's Protest is a restatement of its stale criticisms of the 2012 EIA Study and the 2012 NERA Study. DOE/FE has reviewed and rejected these criticisms in every non-FTA export order issued since these studies were published.<sup>22</sup> Gaining no traction on these issues, APGA now claims that the studies use dated information and that DOE/FE should base its order on LLNGE's Application on new data.<sup>23</sup> As noted above, the updated EIA study, using

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<sup>21</sup> APGA Protest at 9.

<sup>22</sup> See *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 3282 at 5, 30, 112 (May 17, 2013) (DOE/FE held that "the best available evidence supports the conclusion that [the applicant's] proposed exports will benefit the U.S. economy overall and are consistent with the public interest." DOE/FE concluded that the proposed exports "are likely to yield net economic benefits to the United States" and "granting the requested authorization is unlikely to affect adversely the availability of natural gas supplies to domestic consumers or result in natural gas price increases or increased price volatility such as would negate the net economic benefits to the United States."); *Lake Charles Exports, LLC*, DOE/FE Order No. 3324 at 42 (Aug. 7, 2013); *Dominion Cove Point LNG, L.P.*, DOE/FE Order No. 3331 at 56 (Sep. 11, 2013); *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 3357 at 31 (Nov. 15, 2013); *Cameron LNG, LLC*, DOE/FE Order No. 3391 at 23 (Feb. 11, 2014); *Jordan Cove Energy Project, L.P.*, DOE/FE Order No. 3413 at 26 (Mar. 24, 2014); *LNG Development Company, LLC (d/b/a Oregon LNG)*, DOE/FE Order No. 3465 at 29 (Jul. 31, 2014).

<sup>23</sup> APGA Protest at 10, 12.

2014 data, has been published.<sup>24</sup> Not only does the updated information not change the conclusions reached by DOE/FE in prior orders, such information will undoubtedly be reviewed by DOE/FE extensively as part of its decision-making process in this proceeding. APGA failed to acknowledge the existence of this information, let alone provide any meaningful analysis to which LLNGE or DOE/FE could respond.

Despite the rejection of its arguments in multiple prior orders, APGA continues to advance the same arguments without providing any analysis or explanation of why DOE/FE should reach a different conclusion in this proceeding. APGA has simply not met its burden of demonstrating that the proposed export of LNG is inconsistent with the public interest.

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<sup>24</sup>See 2014 EIA Study at 5 (“This report responds to a May 29, 2014 request from the U.S. Department of Energy’s Office of Fossil Energy (DOE/FE) for an update of the Energy Information Administration’s (EIA) January 2012 study of liquefied natural gas (LNG) export scenarios. This updated study, like the prior one, is intended to serve as an input to be considered in the evaluation of applications to export LNG from the United States under Section 3 of the Natural Gas Act, which requires DOE to grant a permit to export domestically produced natural gas unless it finds that such action is not consistent with the public interest. . . . DOE/FE requested that EIA consider the specified Lower 48 states LNG export scenarios in the context of baseline cases from EIA’s 2014 Annual Energy Outlook (AEO2014) that reflect varying perspectives on the domestic natural gas supply situation, the growth rate of the U.S. economy, and natural gas use for electricity generation.”).

**III.**  
**CONCLUSION**

For the foregoing reasons, Louisiana LNG Energy, LLC respectfully requests that DOE/FE (i) reject the arguments set forth in the APGA Protest and (ii) find that granting the non-FTA authorization requested in the Application to enable LLNGE to export domestically produced LNG to any country with which trade is not prohibited by U.S. law or policy is not inconsistent with the public interest.

Respectfully submitted,

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/s/ James F. Moriarty

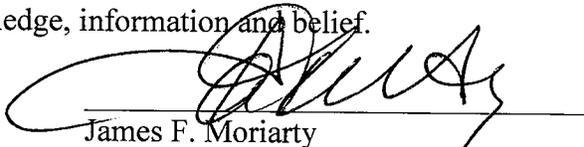
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*Attorneys for Louisiana LNG Energy,  
LLC*

Dated: December 10, 2014

**VERIFICATION**

DISTRICT OF COLUMBIA )

BEFORE ME, the undersigned authority, on this day personally appeared James F. Moriarty, who, having been by me first duly sworn, on oath says that he is an Attorney for Louisiana LNG Energy, LLC, and is duly authorized to make this Verification on behalf of Louisiana LNG Energy, LLC; 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.

  
James F. Moriarty

WAS SWORN TO AND SUBSCRIBED before me on the 9th day of December, 2014.



Valerie J Clark  
Name: Valerie J. Clark  
Title: Notary Public

VALERIE J. CLARK  
NOTARY PUBLIC DISTRICT OF COLUMBIA  
My Commission Expires November 30, 2016

**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 by the Secretary in this proceeding.

Dated at Washington, DC this 10<sup>th</sup> day of December, 2014.

*/s/ Jennifer Brough*  
Jennifer Brough