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Ms. Amy Sweeney
Director, Division of Natural Gas Regulation
Office of Regulation, Analysis and Engagement
Office of Fossil Energy, FE-34
1000 Independence Ave., S.W.
Washington, DC 20585

Re: Freeport LNG Development, L.P., FE Docket Nos. 10-160-LNG, 10-161-LNG, 11-161-LNG, 12-06-LNG, and 16-108-LNG Statement of Change in Control

Dear Ms. Sweeney:

We write on behalf of Freeport LNG Development, L.P. (“Freeport” or “FLNG”) to notify the Department of Energy, Office of Fossil Energy (“DOE/FE”), of a proposed transaction through which a change in control of FLNG’s upstream ownership will be effectuated (“Proposed Transaction”). This notice is submitted in accordance with authorizations issued by DOE/FE in the above-captioned proceeding and the *Procedures for Changes in Control Affecting Applications and Authorizations to Import or Export Natural Gas* (“CIC Procedures”).¹

Background

FLNG owns and operates a liquefied natural gas (“LNG”) export facility on Quintana Island, near Freeport, Texas. The facility includes three LNG liquefaction trains which began commercial operations between December 2019 and May 2020. FLNG Liquefaction, LLC, FLNG Liquefaction 2, LLC and FLNG Liquefaction 3, LLC (collectively “FLEX”) have filed five applications with DOE/FE for long-term export of domestically sourced LNG from the Freeport LNG Terminal at Quintana Island, Texas.

Two of the five applications, DOE/FE Docket Nos. 10-160-LNG and 12-06-LNG, are for LNG exports to countries with which the United States has a Free Trade Agreement (“FTA”) for national treatment trade in natural gas. The two FTA applications were approved in DOE/FE Order Nos. 2913 and 3066.²

¹ 79 Fed. Reg. 65541 (Nov. 5, 2014) [hereinafter CIC Procedures].

² *Order Granting Long-Term Authorization to Export Liquefied Natural Gas from Freeport LNG Terminal to Free Trade Nations*, DOE/FE Order No. 2913 (FE Docket No. 10-160-LNG), February 10, 2011; DOE/FE Order No. 2913-A, February 7, 2014; *Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Freeport LNG Terminal to Free Trade Agreement Nations*, DOE/FE Order No. 3066 (FE Docket No. 12-06-LNG), February 10, 2012; DOE/FE Order No. 3066-A, February 7, 2014.

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The other three applications, in DOE/FE Docket Nos. 10-161-LNG, 11-161-LNG, and 16-108-LNG are for exports to countries with which the United States does not have a FTA (“non-FTA”). The three non-FTA applications were granted on November 14, 2014, in DOE/FE Order No. 3282-C, on November 14, 2014, in DOE/FE Order No. 3357-B, and on December 19, 2016 in DOE/FE Order No. 3957.³

Communications should be address to:

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Description of Proposed Transaction

On November 14, 2021, JERA entered into a Securities Purchase Agreement whereby JERA Americas Inc. (“JERA”) agreed to acquire a 25.7% equity interest in FLNG through a wholly-owned subsidiary to be created for the purposes of this transaction. JERA is wholly-owned by JERA Co., Inc., which, in turn, is an equal joint venture of TEPCO Fuel & Power, Incorporated (“TEPCO”) and Chubu Electric Power Company (“Chubu”). The Government of Japan indirectly owns a 27.37% interest in TEPCO.⁴ On January 12, 2022, the Proposed Transaction received approval from the Committee on Foreign Investment in the United States (“CFIUS”), and accordingly the Proposed Transaction will close not later than seven (7) business days following that CFIUS approval. Upon such closing, FLNG will provide notice to the DOE/FE that the transaction has been consummated.

After consummation of the Proposed Transaction, Freeport LNG Investments, LLLP will retain its 63.5% indirect ownership interest and Osaka Gas will retain its 10.8% indirect ownership interest in FLNG, which will continue to be the holder of the FTA and non-FTA authorizations.

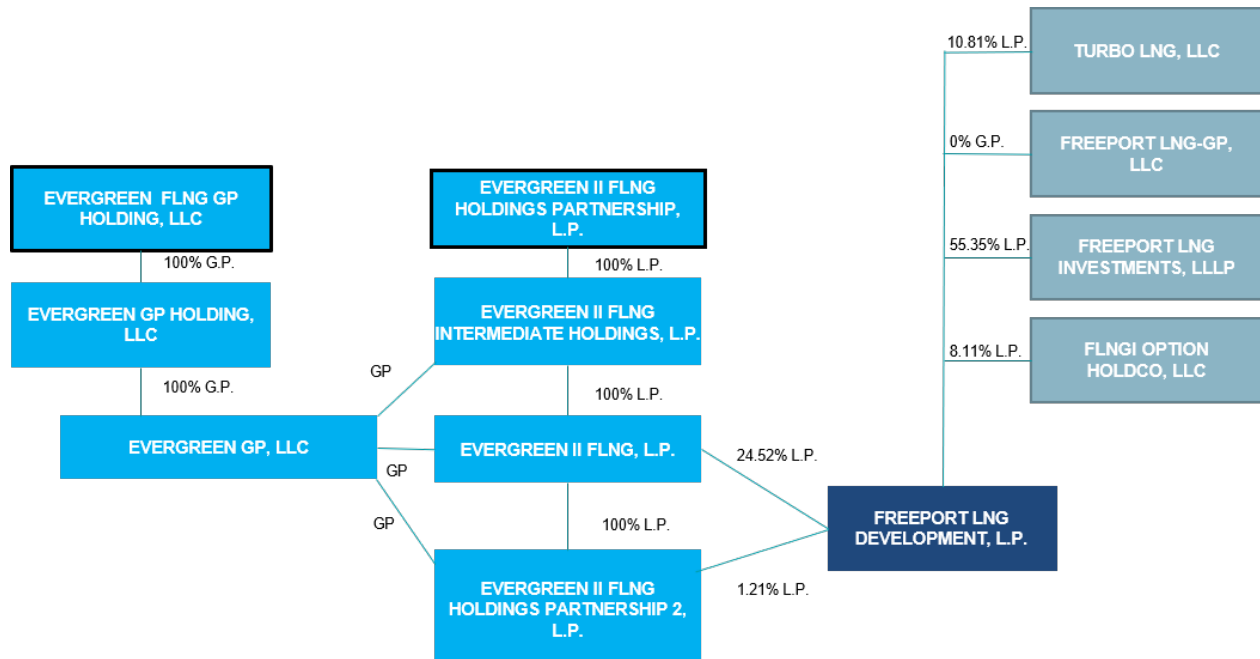
³ *Order Granting Long-Term Authorization to Export Liquefied Natural Gas from Freeport LNG Terminal to Non-Free Trade Nations*, DOE/FE Order No. 3282-C (FE Docket No. 10-161-LNG), November 14, 2014; *Order Granting Long-Term Authorization to Export Liquefied Natural Gas from Freeport LNG Terminal to Non-Free Trade Nations*, DOE/FE Order No. 3357-B (FE Docket No. 11-161-LNG), November 14, 2014; *Order Granting Long-Term Authorization to Export Liquefied Natural Gas from Freeport LNG Terminal to Non-Free Trade Nations*, DOE/FE Order No. 3957 (FE Docket No. 16-108-LNG), December 19, 2016.

⁴ The Government of Japan holds a 50% interest in the Nuclear Damage Compensation and Decommissioning Facilitation Corporation (“NDCDF”). In turn, the NDCDF owns 54.74% of Tokyo Electric Power Company Holdings, Inc. which owns 100% of the interest in TEPCO.

Other than the change in upstream ownership in FLNG, no aspects of the FTA or non-FTA authorizations or the operations of the terminals will change as a result of the Proposed Transaction. Freeport LNG-GP, LLC will continue to be the sole general partner of FLNG, with no change in ownership with respect thereto.

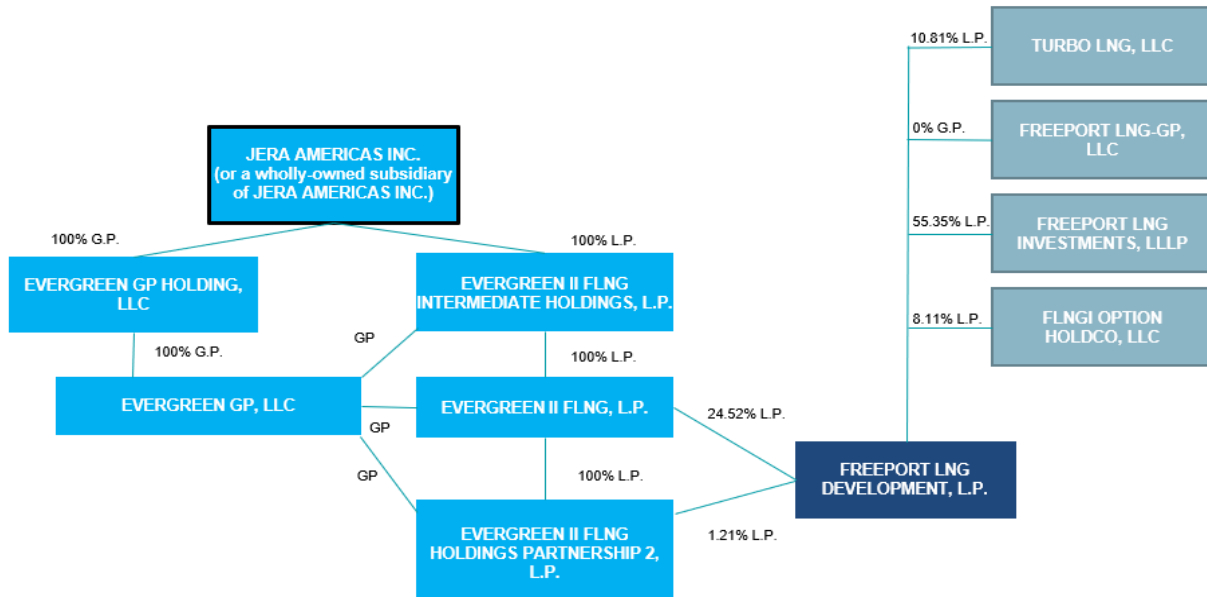
Description of Current Control Structure of Authorization Holders

The following structure chart illustrates the current ownership of control of FLNG.



Description of Post-Proposed Transaction Control Structure of Authorization Holders

The following structure chart illustrates the Post-Proposed Transaction control structure of FLNG. There will be no change with respect to the ownership of the individual liquefaction trains or export facilities.



FLNG hereby requests that DOE/FE authorize the proposed change in control discussed herein to the extent necessary and in conformance with DOE/FE’s rules, including the CIC Procedures. The proposed change in control has not yet occurred and is subject to the closing of the Proposed Transaction. If requested, FLNG would make a filing informing DOE/FE when the Proposed Transaction consummates.

Change in Control Procedures

DOE/FE export authorizations for FLNG require FLNG to obtain prior approval for any change in control.⁵ While policies detailed in the CIC Procedures after the DOE/FE authorizations to FLNG allow that FLNG may provide DOE/FE with notification within thirty days after any change in control of the holder of an export or import authorization is effectuated,⁶ FLNG is nevertheless providing this application in advance of consummating the Proposed Transaction.

⁵ See *supra* fn. 2-3.

⁶ CIC Procedures at 65,542.

DOE regulations and Orders state that import or export authorizations are not transferable, unless specifically authorized at the Assistant Secretary level.⁷ CIC Procedures define a change of control as:

[A] change, directly or indirectly, of the power to direct the management or policies of an entity whether such power is exercised through one or more intermediary companies or pursuant to an agreement, written or oral, and whether such power is established through ownership or voting of securities, or common directors, officers, or stockholders, or voting trusts, holding trusts, or debt holdings, or contract, or any other direct or indirect means.⁸

A rebuttable presumption that control exists will also arise from the ownership or the power to vote, directly or indirectly, 10% or more of the voting securities of an entity.⁹

FTA Authorization

For existing FTA long-term export and import authorizations, DOE will give immediate effect to a change in control upon receipt of the notification and take no further action.¹⁰

JERA's proposed acquisition of approximately 25.7% ownership interest in FLNG will likely trigger the DOE/FE threshold for a rebuttable presumption that a change in control has occurred. With respect to the FTA Authorization, FLNG respectfully requests that DOE/FE give effect to the change in control described herein, in accordance with the CIC Procedures.

Non-FTA Authorization

With respect to previously issued non-FTA long-term export authorizations, DOE will first publish notice of the change in the Federal Register and allow fifteen days for interventions, comments or answers. Thereafter, if no protests are filed and DOE/FE takes no action of its own, authorization is deemed granted thirty days after publication of the notice in the Federal Register. If protests are submitted, DOE/FE will issue a determination whether a change in control has been demonstrated by the protestor(s) to render the underlying authorization inconsistent with the public interest.¹¹

DOE/FE reviews applications to transfer control of a non-FTA authorization using the public interest standard under section 3 of the Natural Gas Act.¹² However, this does not, signify

⁷ 10 C.F.R. § 590.405 (2020); *See also* DOE/FE Order No. 4317 at Ordering Para. K; DOE/FE Order No. 4364 at Ordering Para. M.

⁸ CIC Procedures at 65542. *See also* DOE/FE Order No. 4364 at 48-94.

⁹ CIC Procedures at 65542. *See also* DOE/FE Order No. 4364 at 49.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Nw. Pipeline Corp.*, DOE Opinion & Order No. 664, 1 FE 4J 70,683, at 3-4 (1992), reh'g denied, DOE/FE Opinion & Order No. 664-A, 1 FE 170,656, Order Terminating Long-Term Authorization, DOE/FE Order No. 664-B, I

that the public interest finding in the underlying orders is subject to re-evaluation. Where, “the transfer does not effect [sic] the terms and condition of the underlying...arrangement, DOE can rely on its previous determinations regarding that arrangement when considering the transfer application.”¹³ DOE/FE has approved transfers of control that involve no changes to the scope of a project, total volumes of gas, date of commencement or completion, source and security of gas supply, price and other transactional terms, or proven need for the supply.¹⁴

There are no facts presented in this change in control application that would give cause DOE/FE to alter its determination that the non-FTA exports are not inconsistent with the public interest. The proposed change in control will have no effect on the scope of the project, the amount of gas exported, the commencement or completion date of the project, the source of the gas supply, or the price or other transactional terms. Operation and maintenance of the FLEX terminals will continue to be under the control of FLNG. FLNG will continue to hold the export authorizations described herein and will remain the point of contact with DOE/FE with respect to reporting and administration under the authorizations.

Based on the foregoing, FLNG submits that the Proposed Transaction and resulting changes in upstream ownership will have no effect on the grounds underlying the public interest determination previously made by DOE/FE in issuing the non-FTA authorization.

FE71,047 (1994), *Order Amending Authorization*, DOE/FE Order No. 664-C (1999); *Consumer Power Co.*, DOE Opinion & Order No. 390, 1 FE 70,310 (1990) *Order Terminating Authorization*, DOE/FE Order no. 390-B (1995).

¹³ See, e.g., *Brooklyn Union Gas Co.*, DOE Opinion & Order No. 561, 1 FE70,515, at 7 (1991), reh’g denied, DOE/FE Opinion & Order No. 561-A (1992).

¹⁴ See *Brooklyn Union Gas Co.*, DOE Opinion & Order No. 561, at 2-3, 7; *Nw. Pipeline Corp.*, DOE Opinion & Order No. 664; *Great Lakes Gas Transmission Co.*, DOE Opinion & Order No. 416 (1990); *Consumer Power Co.*, DOE Opinion & Order No. 390; *Great Lakes Gas Transmission Co.*, DOE/ERA Opinion & Order No. 207 (1987); *Great Lakes Gas Transmission Co.*, DOE/ERA Opinion & Order No. 157 (1987).

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Conclusion

Consistent with the CIC Procedures, on the facts and circumstances set forth herein, FLNG respectfully requests that DOE/FE (1) give effect to this filing and amend the FTA Authorizations issued in DOE/FE Order Nos. 2913 and 3066 with no need for further action; and (2) give effect to the change in ownership with respect to the Non-FTA Authorization issued in Order Nos. 3282-C, 3357-B, and 3957, publish notice of the proposed change in control in the Federal Register and, assuming no contrary determination, take no further action.

Thank you for your attention to this matter. Please contact the undersigned with any questions regarding the issues described above.

Respectfully submitted,



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Freeport LNG Development, L.P.

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