

RECEIVED

By Docket Room at 1/6/2020

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

IN THE MATTER OF:

**CORPUS CHRISTI LIQUEFACTION, LLC)
CHENIERE MARKETING, LLC)** **FE DOCKET NO. 19-124-LNG**
)

**ANSWER OF CORPUS CHRISTI LIQUEFACTION, LLC &
CHENIERE MARKETING, LLC IN OPPOSITION TO
DEFICIENT NOTICE OF INTERVENTION, PROTEST, AND COMMENT**

Pursuant to Sections 590.303(e) and 590.304(f) of the regulations of the Department of Energy (“DOE”),¹ Corpus Christi Liquefaction, LLC and Cheniere Marketing, LLC (together, “CMI”) submit this answer (“Answer”) in opposition to the Industrial Energy Consumers of America’s (“IECA”) Notice of Intervention, Protest and Comment (“IECA Filing”) submitted to DOE’s Office of Fossil Energy (“DOE/FE”) in the above-captioned docket on December 20, 2019. CMI requests that DOE/FE deny IECA’s intervention request and reject its protest and comments because: (1) IECA’s “Notice of Intervention” is comprised of generalized arguments which fail to state any particularized interest in this proceeding; (2) IECA’s “Protest and Comment” concerns are not applicable to this proceeding, as no additional pipeline capacity above what was previously considered in the permitting process is required for the export of the quantities requested by CMI and (3) IECA’s “Protest and Comment” concerns, even if somehow deemed applicable to this proceeding, are not persuasive and have already been considered and rejected in prior DOE/FE orders.

In support of this Answer, CMI states the following:

¹ 10 C.F.R. §§ 590.303(e) and 590.304(f) (2019).

I.
INTRODUCTION AND BACKGROUND

To date, DOE/FE has authorized long-term exports from the Corpus Christi Liquefaction Terminal to NFTA Nations in an amount up to the equivalent of 767 bcf/y.² On September 27, 2019, CMI filed an application in FE Docket No. 19-124-LNG requesting long-term, multi-contract authorization to export domestically produced liquefied natural gas (“LNG”) in an amount up to the equivalent of 108.16 bcf/y to FTA Nations for a 25-year period and to NFTA Nations for a 20 year period (“Application”). The authorization requested therein is not associated with any new infrastructure or facilities, and does not require CMI to obtain additional pipeline capacity beyond what was previously considered in the permitting process associated with review and approval of the Corpus Christi LNG Terminal. Rather, certain enhancements identified during the engineering, design, and construction process, as well as operational experience to date, have enabled CMI to further optimize the production capacity of the Corpus Christi LNG Terminal. Accordingly, the Application merely proposes to align the volumes authorized for export to FTA and NFTA Nations with the optimized liquefaction production capacity of the Corpus Christi LNG Terminal.

CMI’s Application was noticed in the Federal Register on November 26, 2019 (“Notice”).³ The Notice invited interested persons to submit protests, motions to intervene, and notices of intervention no later than December 26, 2019, provided an internet link to CMI’s Application, and required all responsive filings to “meet the requirements specified by the regulations in 10 CFR part 590.” On December 20, 2019, IECA submitted the IECA Filing in

² *Cheniere Marketing, LLC*, DOE/FE Order No. 3164, FE Docket No. 12-99-LNG (Oct. 16, 2012; *Cheniere Marketing, LLC*, DOE/FE Order Nos. 3538 and 3164-A, FE Docket Nos. 12-97-LNG and 12-99-LNG (Oct. 29, 2014; *Cheniere Marketing, LLC & Corpus Christi Liquefaction, LLC*, DOE/FE Order No. 3638, FE Docket No. 12-97-LNG (May 12, 2015).

³ 84 Fed. Reg. 65,146 (Nov. 26, 2019).

FE Docket No. 19-124-LNG.⁴ Notably, IECA submitted identical filings in three other proceedings on the same day.⁵

II. **ANSWER IN OPPOSITION**

A. IECA SHOULD NOT BE GRANTED PARTY STATUS

As an initial matter, IECA failed to identify any concerns specific to this proceeding and therefore fails to meet the threshold requirements for intervention in Sections 590.303 (b) and (c) of DOE’s regulations, which require that:

[a]ny ... person who seeks to become a party to the proceeding shall file a motion to intervene, which sets out *clearly and concisely the facts upon which the petitioner’s claim of interest is based*...[and]...state, to the extent known, the position taken by the movant and the factual and legal basis for such positions in order to advise the parties and the Assistant Secretary as to the *specific issues of policy, fact, or law to be raised or controverted*.⁶

IECA provides no issues of policy, fact, law or otherwise specific to CMI’s Application. In fact, IECA’s only reference to the Application in its 11-page filing, is in the first paragraph on page 1, which states:

The application seeks to increase the volume of LNG for which Cheniere Marketing, LLC and Corpus Christi Liquefaction, LLC (Cheniere) requests export authorization for the equivalent of 108.16 billion cubic feet (Bcf/year) of

⁴ Notably, IECA filed a “Notice of Intervention” as opposed to a “Motion” to intervene. However, pursuant to 10 C.F.R. § 590.303(a), only a *state commission* may intervene in a proceeding by filing a “notice” of intervention. Section 590.303(b) requires any other person who seeks to become a party to a proceeding to file a *motion* to intervene. IECA is not a state commission, and further, its membership is limited to manufacturing companies (see <https://www.ieca-us.com/membership-info/>). Thus, for purposes of this Answer, CMI considers IECA’s filing a motion to intervene. This treatment is consistent with DOE’s treatment of nearly identical IECA filings in prior proceedings.

⁵ *Sabine Pass Liquefaction, LLC*, IECA Notice of Intervention, Protest and Comment, FE Docket No. 19-133-LNG (Nov. 20, 2019); *Sabine Pass Liquefaction, LLC*, IECA Notice of Intervention, Protest and Comment, FE Docket No. 19-125-LNG (Nov. 20, 2019); *Commonwealth LNG, LLC*, IECA Notice of Intervention, Protest and Comment, FE Docket No. 19-134-LNG (Nov. 20, 2019).

⁶ 10 C.F.R. §§ 590.303(b), (c) (*emphasis added*).

natural gas. The U.S. Department of Energy (DOE) has not yet issued a final order on the pending application.⁷

The remainder of the IECA Filing contains generalized concerns that do not relate to the facts in CMI's Application, and instead consist of boilerplate, cookie-cutter arguments, which cannot be properly addressed in in this proceeding. In this regard and as discussed above, IECA's request for party status should be denied.

B. IECA'S ARGUMENTS REGARDING THE PUBLIC INTEREST ARE MISPLACED AND SHOULD BE REJECTED

Throughout the "Protest and Comment" section of the IECA Filing, IECA makes numerous critiques of DOE/FE's handling of export applications generally, none of which are persuasive or particular to the instant proceeding. In fact, many of these arguments have been considered and rejected in prior DOE/FE orders, including multiple times in the last year.⁸

First, IECA questions the public interest of LNG exports in general, stating that it is "inconsistent with the public interest under the NGA to not retain a competitive advantage for U.S. manufacturing,"⁹ claiming that additional LNG exports will take pipeline capacity away from U.S. manufacturers and expressing concerns about the linking of U.S natural gas prices to the global market. It is not clear that any such harm would accrue to U.S. manufacturing from LNG exports, as such potential harms are wholly speculative.

⁷ *IECA Filing* at 1.

⁸ *Port Arthur LNG, LLC*, Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations, DOE/FE Order No. 4372, FE Docket No. 15-96-LNG (May 2, 2019) [hereinafter *Port Arthur 2019 Order*]; *Driftwood LNG LLC*, Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations, DOE/FE Order No. 4373, FE Docket No. 16-144-LNG (May 2, 2019) [hereinafter *Driftwood 2019 Order*].

⁹ *IECA Filing* at 2.

Regardless, IECA's concerns are inapplicable to CMI's Application. As noted above, the increase in export volumes requested in the Application is proposed to align authorized export volumes with the liquefaction production capacity of the Corpus Christi LNG Terminal. As further noted above, the increased liquefaction production capacity at the Corpus Christi LNG Terminal can be achieved through certain enhancements identified during the engineering, design, and construction process, as well as operational experience to date. As reflected above, no additional natural gas pipeline capacity above what was previously considered in the permitting process is required for the export of the requested quantities, and therefore DOE/FE granting the Application will have no impact on available capacity in the U.S. pipeline network.

With respect to price impacts, DOE/FE has directly refuted IECA's claims, stating:

IECA alleges that higher volumes of LNG exports...will lead to large increases in domestic prices of natural gas. We disagree... IECA and other commenters raised this issue in the 2018 LNG Export Study proceeding, and DOE/FE examined it thoroughly—concluding that “the 2018 Study shows that U.S. natural gas prices will not rise to the same levels as global natural gas prices as a result of increased LNG exports.”¹⁰

Regardless, it is not the role of DOE/FE to protect one U.S. industry at the expense of another, or to restrict the operation of free markets. And perhaps more significantly, DOE/FE has instead found, repeatedly, that LNG exports will benefit the U.S. economy—a fact IECA failed to disclose in its December 20 filing.¹¹

Second, IECA claims that there “is great uncertainty about future adequate domestic supply at reasonable prices and available pipeline capacity”¹² and expresses concerns about the

¹⁰ See, e.g., *Port Arthur 2019 Order* at 51-52.

¹¹ *Id.* at 51. (“On review, DOE/FE finds that the record evidence showing that the proposed exports will be in the public interest outweighs IECA's concerns. DOE/FE has considered and rejected IECA's economic arguments in earlier proceedings based on the 2012, 2014, and 2015 LNG Export Studies and, more recently, in the 2018 LNG Export Study proceeding.”); see also *Driftwood 2019 Order* at 47-50.

¹² *IECA Filing* at 2.

impact of long-term contracts for gas supply on pipeline facilities upstream of the dedicated pipelines connected to LNG facilities. IECA further argues that:

[t]he DOE, nor this application, has determined that there is adequate natural gas pipeline capacity for the domestic market at normal demand or at peak demand, for the volume of this application and/or for the cumulative NFTA volumes that the DOE has already approved.”¹³

As an initial matter, this argument is wholly inapplicable to the instant proceeding. As noted above, no additional pipeline capacity is required above what was previously considered in the permitting process, for the export of the quantities requested in the Application. Regardless, this argument is not appropriate for this venue. Evaluation of pipeline capacity constraints, impacts on competing pipelines or pipeline capacity holders (including marketers, industrial facilities, LNG interests and many others), or the general functioning of interstate pipeline transportation capacity markets, is the purview of the Federal Energy Regulatory Commission (“FERC”), not DOE/FE. DOE/FE has no role in the construction, approval and oversight of the interstate pipeline network.

Furthermore, FERC recognizes that allocation of pipeline capacity is market driven, and fuel-use neutral. IECA’s members have the same opportunity today to bid on and secure pipeline capacity as that afforded to any other plant operator in U.S. markets. CMI’s Application does nothing to change that.

Regarding adequate supply, the most recent data presented in the Energy Information Administration’s (“EIA”) Annual Energy Outlook (“AEO”) 2019 shows that the forecast for future increases in domestic natural gas supply capacity is robust.¹⁴ The AEO 2019 found that

¹³ *Id.*

¹⁴ *EIA*, Annual Energy Outlook 2019 with Projections to 2050, (Jan. 24, 2019), available at <https://www.eia.gov/outlooks/aeo/pdf/aeo2019.pdf> [hereinafter *AEO 2019*]. The EIA provides the most objective, non-partisan data, because its sole function is to provide facts, not to push a particular agenda—by

“[n]atural gas experiences the largest production increase of all fossil fuels during the projection period across all cases.”¹⁵ Notably, “[t]he growth in natural gas production *supports increasing domestic consumption*, particularly in the industrial and electric power sectors, *and higher levels of natural gas exports*.”¹⁶ Total U.S. dry gas production is projected to be 43.41 trillion cubic feet by 2050 in the Reference Case, with a 1.2% annual growth rate between 2018 and 2050.¹⁷

Finally, IECA objects to DOE/FE’s reliance on its 1984 Policy Guidelines, because they were originally authored in relation to LNG imports rather than LNG exports. DOE/FE has applied its Policy Guidelines to export authorizations for over thirty years¹⁸ and has continually rejected similar arguments from IECA and others. In a previous proceeding involving a CMI affiliate, DOE summarized comments filed by the American Petroleum Institute, stating “the 1984 Policy Guidelines and DOE/FE’s regulations are intended to provide room *for market forces to shape domestic natural gas markets*, including energy production, consumption, and

law, “its data, analyses, and forecasts are independent of approval by any other officer or employee of the U.S. government.” *EIA, Mission and Overview*, available at https://www.eia.gov/about/mission_overview.php. The EIA “provides policy-independent data, forecasts, and analyses to promote sound policymaking, efficient markets, and public understanding regarding energy and its interaction with the economy and the environment.” EIA, Information Quality Guidelines, available at https://www.eia.gov/about/information_quality_guidelines.php. EIA’s performance standards “ensure the quality (i.e., objectivity, utility, and integrity) of information it disseminates to the public,” and the organization “strives for transparency about information and methods in order to improve understanding and to facilitate reproducibility of the information.” *Id.*

¹⁵ *AEO 2019*.

¹⁶ *AEO 2019 (emphasis added)*.

¹⁷ *AEO 2019*, Appendix A, pg. 27.

¹⁸ See *Phillips Alaska Nat. Gas Corp., Order Extending Authorization to Export Liquefied Natural Gas from Alaska*, DOE/FE Order No. 1473 14, FE Docket No. 96-99-LNG (Apr. 2, 1999) (citing *Yukon Pac. Corp., Order Granting Authorization to Export Liquefied Natural Gas from Alaska*, 1 FE ¶ 70,259, 71,128, ERA Order No. 350, ERA Docket No. 87-68-LNG (1989)).

pricing.”¹⁹ Recently, DOE/FE directly rejected arguments from IECA grading the Policy Guidelines, stating:

Contrary to IECA’s comments, DOE/FE previously determined that the goals of the 1984 Policy Guidelines—to minimize federal control and involvement in energy markets and to promote a balanced and mixed energy resource system—apply to exports of natural gas, as well as to imports. Additionally, although we disagree with IECA’s “assumption” as to Congress’s intent in NGA section 3(a), we note that DOE/FE does, in fact, consider both the cumulative export volumes approved to date and the incremental volume requested in each long-term export proceeding. In *Sierra Club I and II*, the D.C. Circuit upheld DOE/FE’s decision-making on the basis of this statutory and regulatory framework. IECA does not acknowledge the numerous issues and potential impacts that DOE/FE considers in LNG export proceedings under NGA section 3(a).²⁰

III. CONCLUSION

For the foregoing reasons, IECA should be denied party status in this proceeding, and its protests and comments should be rejected.

Respectfully submitted,

Janna Romaine Chesno
Senior Counsel
Cheniere Energy, Inc.

/s/Lisa M. Toner
Lisa M. Toner
Mariah T. Johnston
Attorneys for
Corpus Christi Liquefaction, LLC &
Cheniere Marketing, LLC

Dated: January 6, 2020

¹⁹ *Sabine Pass Liquefaction, LLC*, Final Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Sabine Pass LNG Terminal Located in Cameron Parish, Louisiana, to Non-Free Trade Agreement Nations, DOE/FE Order No. 3669, FE Docket Nos. 13-30-LNG, 13-42-LNG & 13-121-LNG (June 26, 2015) (*emphasis added*).

²⁰ *Driftwood 2019 Order* at 40-41 (*internal citations omitted*); *see also, Port Arthur 2019 Order* at 43-47.

VERIFICATION

State of Texas)

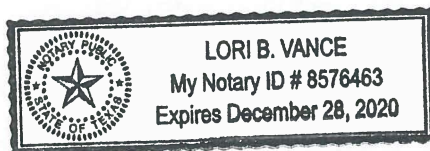
County of Harris)

BEFORE ME, the undersigned authority, on this day personally appeared Florian Pintgen, who, having been by me first duly sworn, on oath says: that he is duly authorized to make this Verification; 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.

Florian Pintgen

SWORN TO AND SUBSCRIBED before me on the 6th day of January, 2020.

Name: *Lori B. Vance*
Title: Notary Public



My Commission expires:

12-28-2020

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 these proceedings.

Dated at New York, N.Y., this 6th day of January, 2020.

/s/ Dionne McCallum-George
Dionne McCallum-George
*Executive Assistant on behalf of
Corpus Christi Liquefaction, LLC &
Cheniere Marketing, LLC*