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

**IN THE MATTER OF:**

<b>SABINE PASS LIQUEFACTION, LLC</b>	)	
	)	<b>FE DOCKET NO. 19-133-LNG</b>
	)	

**ANSWER OF SABINE PASS LIQUEFACTION, 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”),<sup>1</sup> Sabine Pass Liquefaction, LLC (“SPL”) submits 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. SPL requests that DOE/FE deny IECA’s intervention request and reject its protest because: (1) IECA’s “Notice of Intervention” violates DOE’s regulations regarding proper intervention and service; (2) the generalized arguments in IECA’s filing fail to state any particularized interest in this proceeding warranting grant of party status to IECA; 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, SPL states the following:

**I.  
INTRODUCTION AND BACKGROUND**

This proceeding involves SPL’s October 11, 2019 application requesting short-term, blanket authorization to export LNG up to the equivalent of 600 Billion cubic feet (“Bcf”) of

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<sup>1</sup> 10 C.F.R. §§ 590.303(e) and 590.304(f) (2019).

natural gas, on a cumulative basis, to Non-Free Trade Agreement (“NFTA”) nations over a two-year period, effective January 16, 2020 (“Application”). SPL’s requested effective date is consistent with the expiration of its existing short-term blanket authorization authorized in DOE/FE Order No. 4150.<sup>2</sup> SPL’s Application was noticed in the *Federal Register* on November 20, 2019 (“Notice”). The Notice invited interested persons to submit protests, motions to intervene, and notices of intervention no later than December 20, 2019,<sup>3</sup> provided an internet link to SPL’s Application, and required all responsive filings to “meet the requirements specified by the regulations in 10 CFR part 590.”<sup>4</sup>

The Application identifies SPL’s authorized representatives for service as follows:

All correspondence and communications concerning this application, including all service of pleadings and notices, should be directed to the following persons:

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The IECA Filing was filed in the above-captioned docket on December 20, 2019.<sup>5</sup> IECA

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<sup>2</sup> See Application, at n.16 (“Sabine Pass requests ... to end the authorization granted under DOE/FE Order No. 4150 commensurate with the effective date of the new authorizations requested herein.”).

<sup>3</sup> 84 Fed. Reg. 64054 (Nov. 20, 2019).

<sup>4</sup> *Id.* at 64055. The Notice explains that the Application is available for review on DOE/FE’s website at <https://www.energy.gov/fe/downloads/sabine-pass-liquefaction-llc-fe-dkt-no-19-133-lng>.

<sup>5</sup> 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

submitted identical filings in three other proceedings on December 20, 2019.<sup>6</sup>

## II. ANSWER IN OPPOSITION

### A. IECA SHOULD NOT BE GRANTED PARTY STATUS

#### *a. IECA Failed to Identify Any Concerns Specific to This Proceeding*

As an initial matter, IECA fails to meet the threshold requirements for intervention set forth 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***.<sup>7</sup>

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

The application seeks to increase the volume of LNG for which Sabine Pass Liquefaction, LLC (Sabine Pass) requests export authorization for the equivalent of 600 [Bcf] of natural gas on a cumulative basis over a two-year period commencing on January 16, 2020.<sup>8</sup>

The remainder of the IECA Filing contains generalized concerns that do not relate to the facts in SPL's Application, and cannot be properly addressed in this proceeding. For example,

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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 in Opposition, SPL considers IECA's filing a motion to intervene. This treatment is consistent with DOE's treatment of nearly identical IECA filings in prior proceedings.

<sup>6</sup> *Sabine Pass Liquefaction, LLC*, IECA Notice of Intervention, Protest and Comment, FE Docket No. 19-133-LNG (Nov. 20, 2019); *Corpus Christi Liquefaction, LLC*, IECA Notice of Intervention, Protest and Comment, FE Docket No. 19-124-LNG (Nov. 20, 2019); *Commonwealth LNG, LLC*, IECA Notice of Intervention, Protest and Comment, FE Docket No. 19-134-LNG (Nov. 20, 2019).

<sup>7</sup> 10 C.F.R. §§ 590.303(b), (c) (*emphasis added*).

<sup>8</sup> *IECA Filing*, at 1.

IECA expresses general concern that LNG plants and IECA member company plants<sup>9</sup> will compete for pipeline capacity as new LNG projects come online, but IECA does not explain how that concern is relevant here – in a proceeding involving the renewal of an *existing authorization for an LNG plant that is already in operation*. SPL’s Application for short-term exports will not result in the use of additional pipeline capacity or otherwise impact available feed gas supplies. As noted above, SPL currently has blanket authorization to export the same 600 Bcf of natural gas on a cumulative basis over a two-year period.

Furthermore, consistent with DOE/FE’s past precedent, the volume of LNG authorized for export under the short-term blanket authorization, when combined with the volume of LNG approved for export in SPL’s long-term NFTA export authorizations, “shall not exceed the maximum production capacity... of the Sabine Pass LNG Terminal,” as approved by the Federal Energy Regulatory Commission.<sup>10</sup> Therefore, the export quantities requested in the Application will not be additive to any long term exports authorized from the Sabine Pass LNG Terminal.

Because SPL is left guessing as to what IECA’s particularized interests may be, in violation of DOE regulations, SPL is unduly prejudiced in its ability to effectively respond. In this regard, and as set forth above, IECA’s request for party status should be denied.

***b. IECA’s Pattern of Ignoring DOE Service Requirements Warrants Denial***

IECA’s request to intervene should also be denied on the basis of its consistent pattern of disregarding DOE’s regulations requiring service of filings on applicants. DOE’s regulations require service of motions to intervene and any protests on the applicant, if parties to the proceeding are not yet known.<sup>11</sup> Yet IECA failed to serve its filing on any of the individuals identified in SPL’s Application – despite the fact that the last page of the IECA Filing contains a

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<sup>9</sup> See *id.* at 1-8.

<sup>10</sup> *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 4150, FE Docket No. 17-161-LNG (Jan. 30, 2018).

certification pursuant to 10 C.F.R. § 590.103(b) that IECA “served the foregoing document upon on the applicant ... in accordance with 10 C.F.R. § 590.107(b)...”<sup>12</sup>

As IECA’s President signed the last page of the filing certifying service, IECA was well aware of its obligation to serve SPL. IECA was undoubtedly aware of the names of the individuals designated for service in SPL’s Application because the Application was properly noticed in the *Federal Register*, made publicly available by DOE/FE, and presumably read by IECA because it is referenced in the first sentence of the IECA Filing.

This conduct is of particular concern because it is part of a persistent pattern of behavior. SPL is aware of at least two other *recent* proceedings in which IECA’s intervention motions contained similar deficiencies: Driftwood LNG, LLC in FE Docket No. 16-144-LNG, and Corpus Christi Liquefaction Stage III, LLC in FE Docket No 18-78-LNG, each of which resulted in *denial* of party status in those proceedings.<sup>13</sup> The same outcome is appropriate here.

## **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 Application. In fact, many of these arguments have been considered and rejected in prior DOE/FE orders, including as recently as eight months ago.<sup>14</sup>

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<sup>11</sup> 10 C.F.R. § 590.107(b).

<sup>12</sup> While certain of SPL’s duly authorized representatives obtained forwarded copies from others not identified in SPL’s application on December 20, 2019, this fact does not excuse IECA’s failure to effect service.

<sup>13</sup> *Corpus Christi Liquefaction Stage III, LLC*, Order Dismissing Industrial Energy Consumers of America’s Notice of Intervention, Protest and Comments, FE Docket No. 18-78-LNG (April 10, 2019); *Driftwood LNG LLC*, Order Dismissing Industrial Energy Consumers of America’s Motion to Intervene and Protest and Accepting Late-filed Comments, FE Docket No. 16-144-LNG (April 10, 2019).

<sup>14</sup> *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

For example, 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,”<sup>15</sup> 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 global markets. Even assuming these arguments were relevant in this renewal proceeding, it is not clear that any such harm would accrue to U.S. manufacturing from LNG exports, as such potential harms are wholly speculative.

With regard to price impacts, as DOE/FE has noted,

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.”<sup>16</sup>

Nonetheless, 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 consistently rejected identical arguments in prior proceedings, finding instead that LNG exports will benefit the U.S. economy --- a fact IECA failed to disclose in its December 20 filing.<sup>17</sup>

Second, IECA claims that there “is great uncertainty about future adequate domestic supply at reasonable prices and available pipeline capacity”<sup>18</sup> and expresses concerns about the

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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*].

<sup>15</sup> *IECA Filings* at 2.

<sup>16</sup> *Port Arthur 2019 Order* at 51-52.

<sup>17</sup> *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.

<sup>18</sup> *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 stated:

The 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.<sup>19</sup>

As noted above, this proceeding does not involve new export capacity, or use of pipeline capacity in excess of what has been previously authorized. Regardless, this argument is not appropriate for this venue. Evaluation of pipeline capacity constraints, impacts on competing pipelines or pipeline capacity holders (including marketers, industrials, 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. Notably, FERC recognizes that allocation of pipeline capacity is market driven, and fuel-use neutral. IECA’s members have the same opportunity to bid on and secure pipeline capacity as that afforded to any other plant operator in U.S. markets. SPL’s Application does nothing to change that.

Nevertheless, the most recent data presented in the Energy Information Administration’s (“EIA”) Annual Energy Outlook (“AEO”) 2019 shows that the outlook for future increases in domestic natural gas supply capacity is robust.<sup>20</sup> The AEO 2019 found that “[n]atural gas

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<sup>19</sup> *Id.*

<sup>20</sup> 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 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](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](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

experiences the largest production increase of all fossil fuels during the projection period across all cases.”<sup>21</sup> 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*.”<sup>22</sup> 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.<sup>23</sup>

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 years<sup>24</sup> and has continually rejected similar arguments from IECA and others. Recently doing so in the Driftwood LNG, LLC proceeding, 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).<sup>25</sup>

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“strives for transparency about information and methods in order to improve understanding and to facilitate reproducibility of the information.” *Id.*

<sup>21</sup> *AEO 2019*.

<sup>22</sup> *AEO 2019 (emphasis added)*.

<sup>23</sup> *AEO 2019*, Appendix A, pg. 27.

<sup>24</sup> 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)).

<sup>25</sup> *Driftwood 2019 Order* at 40-41 (*internal citations omitted*); see also, *Port Arthur 2019 Order* at 43-47.



## CONCLUSION

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

Respectfully submitted,

/s/Janna Romaine Chesno  
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Dated: January 6, 2020

VERIFICATION

State of Texas )

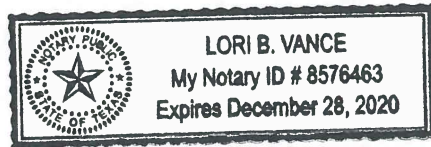
County of Harris )

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.



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

Name:   
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 6<sup>th</sup> day of January, 2020.

/s/ Dionne McCallum-George  
Dionne McCallum-George  
*Executive Assistant on behalf of*  
*Sabine Pass Liquefaction, LLC*