

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

Pieridae Energy (USA) Ltd.)
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)

FE Docket No. 14-179-LNG

**MOTION FOR LEAVE TO REPLY
OF
NORTHEAST ENERGY SOLUTIONS, INC.**

Pursuant to Section 590.302(b), 590.303(e) and 590.304(f) of the Administrative Procedures with Respect to the Import and Export of Natural Gas, the Northeast Energy Solutions (“NEES”), Inc. files this motion for leave to reply to Pieridae Energy (USA) Ltd.’s (“Pieridae”) Answer to its motion for leave to intervene in the above captioned proceeding. In support, NEES states the following:

I. COMMUNICATIONS

Any communications regarding this pleading or this proceeding should be addressed to:

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II. MOTION TO LEAVE TO REPLY TO PIERIDAE’S ANSWER

Pursuant to Sections 590.302(b), 590.303(e) and 590.304(f) of the Administrative Procedures with Respect to the Import and Export of Natural Gas, codified at 10 C.F.R. Part 590, NEES hereby submits this motion for leave to reply. NEES has good cause to request the grant of this motion for the following reasons:

First, to allow NEES the opportunity to rebut clear misstatements of law made by Pieridae, concerning Section 590.300 et seq, in its Consolidated Answer (“Answer”); and,

Second, to allow NEES the opportunity to correct Pieridae’s flagrant misrepresentations of NEES’ arguments and positions as to fact, law, and policy as well as requests to the Department of Energy, Office of Fossil Energy (“DOE/FE”) as stated in its prior Motion for Leave to Intervene of Northeast Energy Solutions (“Motion”).

III. PROCEDURAL CHALLENGES

On pages 4 and 5 of its Answer, Pieridae enumerates the Motions to Intervene, as submitted by the parties described in Appendix A of their Answer, that it believes to have failed to comply with the DOE/FE procedural regulations. NEES’ Motion was not specifically enumerated in any of these lists because NEES precisely complied with all DOE/FE procedural regulations and due process requirements; and, therefore, must not be rejected by DOE/FE on these grounds.

IV. WRONGFUL ACCUSATIONS AND MISSTATEMENTS OF FACT

Pieridae makes sweeping generalizations throughout its Answer that show a complete lack of understanding of NEES’ arguments as well as NEES’ requests from DOE/FE. For example, Pieridae accuses NEES of demonstrating a “fundamental misunderstanding of DOE/FE’s statutory duties,” when in fact the converse is true. *Pieridae Answer* at 5. For example, Pieridae misstates the regulations claiming that NEES “fail[ed] to define in any meaningful way” its interests in the application. *Pieridae Answer* at 8. This is a flagrant misreading of the regulations. 10 C.F.R. § 590.303(b) states “[a]ny other person who seeks to become a party to a 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.” Section (c) further states that “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.” No definition provided in the Code of Federal Regulations nor any federal or state case law expounds upon the meaning of “clearly and concisely” and provides any additional requirements. Furthermore, 10 C.F.R. § 590.102 defines “interested person” as follows:

(h) Interested person means a person, other than a decisional employee, whose interest in a proceeding goes beyond the general interest of the public as a whole and includes applicants, intervenors, competitors of applicants, and other individuals and organizations, including non-profit and public interest organizations, and state, local, and other public officials, with a proprietary, financial or other special interest in the outcome of a proceeding. The term does not include other federal agencies or foreign governments and their representatives, unless the agency, foreign government, or representative of a foreign government is a party to the proceeding.

Again, there are no further requirements equating to a “meaningful” description of NEES’, or any other person to file a Motion to Intervene, interests. In recent DOE/FE decisions, large, nonprofit corporations have been granted intervenor status, such as the Sierra Club, Riverkeeper, and the American Public Gas Association. DOE/FE Opinion and Order in Dominion Cove Point LNG, LP, FE Docket No. 11-128-LNG (Sept. 11, 2014). NEES states in its Motion the following description of its interests:

- A. In support of this motion, NEES states, as follows: The exact legal name of movant is Northeast Energy Solutions, Inc.
- B. NEES is a nonprofit corporation comprised of energy, land, environmental, end-user, and related economic interests.
- C. NEES is an educational resource and advocacy group (before state and federal government officials) in order to ensure that economically viable and environmental responsible energy projects account for its member’s collective and respective interests. [...].

G. In view of the aforementioned, NEES has interests that will be directly affected by the outcome of this proceeding. NEES' interests cannot be adequately represented or protected by any other party. NEES has a direct and substantial interest in this proceeding that cannot be adequately represented by any other party. NEES respectfully submits that good cause exists to grant its motion to intervene.

This description provides NEES' organizational structure and mission in the utmost clear and concise fashion, which in turn answers the question why NEES has an interest beyond that of the general public, since the application is directly related to its mission. There are no other statutes or requirements that need be met.

Furthermore, it is a falsehood for Pieridae to claim that "no relevant facts have been submitted upon which the DOE/FE could reach a conclusion that the proposed exports would be contrary to the public interest." *Pieridae Answer* at 5. Pieridae claims that all the filings in this proceeding "evidence a concern over the new construction or the expansion of natural gas pipeline facilities." *Pieridae Answer* at 5. This is a clear misstatement and severe misinterpretation of NEES' Motion.

15 U.S.C. § 717b(a) creates a rebuttable presumption that a proposed export of natural gas is in the public interest. Pieridae overstates its import and states that it "must" be granted. *Pieridae Answer* at 5. The regulations offer interested parties, like NEES, the opportunity to challenge the facts, law, and policies offered in Pieridae's application, which NEES discusses in its Motion. NEES' evidence directly correlates with and is supported by DOE/FE in its own opinions, showing a deeper understanding of the public interest requirement than Pieridae. DOE/FE notes in one of its recent decisions:

Several commenters [as to the LNG Export Study], including Susan Sakmar, Leny Mathews, Alcoa Energy, IECA, and Citizens Against LNG, advocate against unlimited LNG exports. These and other commenters urge DOE/FE to limit the total volume of LNG to be exported, assert that DOE/FE should issue a policy detailing its plan for granting LNG export licenses

and for monitoring cumulative impacts, and propose that DOE/FE “phase in” the approval of LNG export projects to minimize potential price impacts. [...]. Because these comments are now part of the record in each individual docket proceeding, see 77 Fed. Reg. at 73,629, DOE/FE will consider them in the course of reviewing each application and the cumulative impact of prior authorizations.

DOE/FE Opinion and Order in Dominion Cove Point LNG, LP, FE Docket No. 11-128-LNG, at 144 (Sept. 11, 2014); DOE/FE Opinion and Order in Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC, FE Docket No. 10-161-LNG, at 114 (May 17, 2013); DOE/FE Opinion and Order in Lake Charles Exports, LLC, FE Docket No. 11-59-LNG, at 127 (Aug. 7, 2013).

It is a blatant misreading and misinterpretation of NEES’ Motion that the issues raised “neither constitute foreseeable consequences nor would be causally related to a grant of the Application.” *Pieridae Answer* at 6. This statement is false. DOE/FE provides in-depth analyses in each of its orders regarding applications under section 3 of the Natural Gas Act on the same points of contention in NEES’ Motion, including, concerns over the interactions between U.S. natural gas exports in the world market, particularly concerning non-FTA nations, and the merit of the project itself. *Pieridae* further states it is a “pipeline capacity taker, not maker” and that NEES “fail[s] to point to any pipeline route or facility with sufficient specificity.” *Pieridae Answer* at 6. How can NEES detail such facts when *Pieridae* contradicts itself in its own application, as mentioned in NEES’ Motion:

On page 8 of its application, *Pieridae* states: “There are a large number of the new natural gas pipeline projects in the Northeast United States. *Pieridae* may take capacity on existing pipeline systems, and planned new pipelines or planned pipeline expansions. However, no planned new pipeline or planned pipeline expansion will be implemented as a consequence of, or will be dependent upon, *Pieridae*’s decision to take capacity on that pipeline or pipeline expansion. Instead, it is anticipated that transportation services in Maine, Massachusetts and New Hampshire will be provided to *Pieridae* US primarily by the operators of the M&N US Pipeline, which system includes pipeline facilities on the US side of the proposed export point.” That notwithstanding, *Pieridae* seemingly contradicts itself, and goes on to set forth in its application natural gas pipeline facility expansion plans, in the northeast, that potentially benefit from and support *Pieridae*’s

application. In fact, Pieridae states that its application will potentially obtain capacity needs from those proposed projects.

NEES Motion at 2.

Pieridae makes the further unsupported allegation that NEES offers “no evidence” with regard to higher New England gas prices as a result of Pieridae’s application. *Pieridae Answer* at 11.

NEES never made this claim or similar claim in its Motion. In Section III of its Motion, NEES does cite to the updated report: *Effect of Increased Levels of Liquefied Natural Gas Exports on U.S. Energy Markets*, written by the Energy Information Administration (“EIA”). NEES explains how the said report used the National Energy Modeling System (“NEMS”). NEMS, by EIA’s own admission, does not use a world energy model and does not address the interaction between the potential for additional U.S. natural gas exports and developments in world natural gas markets. As such, the report cannot and does not account for interactions between U.S. energy prices and the global economy. NEES argued that this fact provides more reason for DOE/FE to suspend any further LNG export approvals to non-FTA nations until more accurate information is available from EIA. EIA is the predominant source Pieridae uses throughout its application.

Pieridae asserts it has “expended time” and provided “comprehensive and accurate information.” *Pieridae Answer* at 13. Again, this particular assertion is wholly without merit. Pieridae’s assertions prove inaccurate, defective and in dire need of additional information. In claiming NEES has “no evidence,” Pieridae is essentially requesting DOE/FE to ignore the regulations at 10 C.F.R. § 590.303(c) and to apply an imaginary evidence standard to NEES alone, not to itself. Section § 590.303(c) requires the movant to provide the “factual and legal basis” for its position “in order to advise the parties” as to which issues it intends to raise or challenge. There is no

evidence standard, let alone requirement, provided in this section. Pieridae's request for NEES to provide evidence requires more factual support than what is generally known about the effects of long term LNG export licenses, what is required in the regulations, and what Pieridae even uses in its own application. Pieridae continually makes allegations for which there is not enough information to rely and misreads the regulations in order to burden NEES with additional, unnecessary pleadings.

Lastly, Pieridae's grossest accusation was in falsely accusing NEES of requesting an extension of the deadline to comment and intervene. *Pieridae Answer* at 12. NEES never made this request. It is a base overreach for Pieridae to misrepresent another party's position to DOE/FE.

IV. DOE/FE Should Authorize Additional Procedures or Grant NEES' Motion for Additional Procedures

As argued in NEES' Motion, DOE/FE, under 590.206, should direct additional procedures concerning Pieridae's application consisting of the filing of supplemental written comments, written interrogatories and/or other discovery procedures, a conference, verbal presentation, and/or adjudication. Alternatively, NEES, under 590.310, requests an opportunity to submit and receive answers to written interrogatories.

NEES believes that there are numerous questions raised and left unanswered in Pieridae's application. Specifically, the vagueness and non-committal verbiage peppered throughout Pieridae's application do not allow for and, if fact, hinder the viability of a thoroughly deliberative process in this matter. Further, some of the assertions in Pieridae's application must be challenged, such as: On page 11 of its application, Pieridae states that "the price impact of Pieridae US's proposed exports would not be material, and thus the proposed export would not be expected to negatively impact US consumption of natural gas to any significant degree."

However, the application does not substantiate such a claim. More so, the claim is written in such a fashion to be potentially false without Pieridae's accountability for the statement.

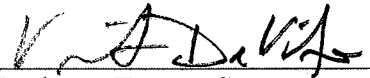
Similarly, an unsubstantiated claim that a LNG export project, like Pieridae, could have an impact on European relations should not be allowed to stand alone. NEES firmly believes that with the opportunity for additional procedures, including interrogatories, DOE/FE will be better enabled to make a determination in this matter.

This conclusion is further supported by Pieridae's blatant disregard for the accurate interpretation of both law and facts, as described in Section III, above. Because of Pieridae's numerous false claims against NEES and its flagrant misinterpretation of the law, DOE/FE should authorize additional procedures or grant NEES' motion for additional procedures.

V. CONCLUSION

WHEREFORE, based on the foregoing, NEES respectfully requests that the DOE/FE (1) grant its motion to intervene in this proceeding with all rights appurtenant to that status, and (2) provide for additional procedures in this matter; or, grant NEES' motion for additional procedures, and (3) either (a) suspend consideration of the subject application or (b) deny, as inconsistent with the public interest, Pieridae's application for export authority to non-FTA Nations.

Respectfully submitted,

By: 

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February 27, 2015

UNITED STATES OF AMERICA
BEFORE THE
DEPARTMENT OF ENERGY
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Pieridae Energy (USA) Ltd.)
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FE Docket No. 14-179-LNG

VERIFICATION

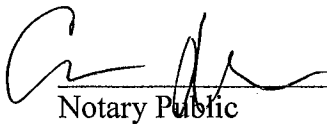
BOSTON, MASSACHUSETTS

Pursuant to 10 C.F.R. § 590. 103 (b) (2013), Vincent DeVito, being duly sworn, affirms that he is authorized to execute this verification, that he has read the foregoing document, and that all facts stated herein are true and correct to the best of his knowledge, information, and belief.



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Subscribed and sworn to before me this 27th day of February, 2015.


Notary Public

My Commission Expires September 26, 2019

(seal)



CAROLINE V. DEBARROS
Notary Public
Commonwealth of Massachusetts
My Commission Expires September 26, 2019

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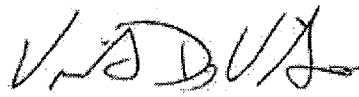
Pieridae Energy (USA) Ltd.)
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CERTIFIED STATEMENT OF AUTHORIZED REPRESENTATIVE

Pursuant to 10 C.F.R. § 590.103(b) (2013), I, Vincent DeVito, hereby certify that I am a duly authorized representative of Northeast Energy Solutions, and that I am authorized to sign and file with the Department of Energy, Office of Fossil Energy, on behalf of the Northeast Energy Solutions, the foregoing document and in the above-captioned proceeding.

Dated at Boston, MA, this 27th day of February, 2015.



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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon on the applicant and on DOE/FE for inclusion in the FE docket in the proceeding in accordance with 10 C.F.R. § 590.107(b).

Dated at Boston, MA, this 27th day of February, 2015

By:



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