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

IN THE MATTER OF:

**SABINE PASS LIQUEFACTION, LLC)
) **FE DOCKET NO. 19-125-LNG**
)**

**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”),¹ 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 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 SPL 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:

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 Sabine Pass LNG Terminal to Non Free Trade Agreement (“FTA”) Nations (“NFTA Nations”) totaling an amount up to the equivalent of 1,509.3 billion cubic feet (“bcf”) of natural gas per year (“bcf/y”).² On September 27, 2019, SPL filed an application in FE Docket No. 19-125-LNG requesting long-term, multi-contract authorization to export additional domestically produced liquefied natural gas (“LNG”) in an amount up to the equivalent of 152.64 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 SPL to obtain additional

² *Sabine Pass Liquefaction, LLC*, Opinion and Order Conditionally Granting Long-Term Authorization to Export Liquefied Natural Gas from Sabine Pass LNG Terminal to Non-Free Trade Agreement Nations, DOE/FE Order No. 2961, FE Docket No. 10-111-LNG (May 20, 2011); *Sabine Pass Liquefaction, LLC*, Order Granting Long-Term Authorization to Export Liquefied Natural Gas from Sabine Pass LNG Terminal to Free Trade Nations, DOE/FE Order No. 2833, FE Docket No. 10-85- LNG (Sept. 7, 2010); *Sabine Pass Liquefaction, LLC*, Final Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas from Sabine Pass LNG Terminal to Non-Free Trade Agreement Nations, DOE/FE Order No. 2961-A, FE Docket No. 10-111-LNG (Aug. 7, 2012), Errata (Sept 4, 2012); *Sabine Pass Liquefaction, LLC*, Opinion and Order Denying Request for Rehearing of Order Denying Motion for Late Intervention, Dismissing Request for Rehearing of Order No. 2961-A, and Dismissing Motion for Stay Pendente Lite, DOE/FE Order No. 2961-B, FE Docket No. 10-111-LNG (Jan. 25, 2013); *Sabine Pass Liquefaction, LLC*, Order Granting Authorization to Export Liquefied Natural Gas by Vessel Pursuant to Long-Term Contract with Total Gas & Power North America, Inc. from the Sabine Pass LNG Terminal to Free Trade Agreement Nations, DOE/FE Order No. 3306, FE Docket No. 13-30-LNG (July 11, 2013); *Sabine Pass Liquefaction, LLC*, Order Granting Authorization to Export Liquefied Natural Gas by Vessel Pursuant to the Long-Term Contract with Centrica plc from the Sabine Pass LNG Terminal to Free Trade Agreement Nations, DOE/FE Order No. 3307, FE Docket No. 13-42-LNG (July 12, 2013); *Sabine Pass Liquefaction, LLC*, Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Sabine Pass LNG Terminal to Free Trade Agreement Nations, DOE/FE Order No. 3384, FE Docket No. 13-121-LNG (Jan. 22, 2014); *Sabine Pass Liquefaction, LLC*, Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Sabine Pass LNG Terminal in Cameron Parish, Louisiana, to Free Trade Agreement Nations, DOE/FE Order No. 3595, FE Docket No. 14-92-LNG (Feb. 12, 2015); *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); *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. 3792, FE Docket No. 15-63-LNG (Mar. 11, 2016); *Sabine Pass Liquefaction, LLC*, Order Granting Withdrawal of Filing and Request for Clarification, DOE/FE Order Nos. 3306-A, 3307-A, 3384-A, & 3669-B, FE Docket Nos. 13-30-LNG, 13-42-LNG & 13-121- LNG (Oct. 31, 2017).

pipeline capacity beyond what was previously considered in the permitting process associated with review and approval of the Sabine Pass LNG Terminal. Rather, certain enhancements identified during the engineering, design, and construction process, as well as operational experience to date, have enabled SPL to further optimize the production capacity of the Sabine Pass 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 Sabine Pass LNG Terminal.

SPL'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 SPL'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 FE Docket No. 19-125-LNG.⁴ Notably, IECA submitted identical filings in three other proceedings on the same day.⁵

³ 84 Fed. Reg. 65,142 (Nov. 26, 2019).

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, 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.

⁵ *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).

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 SPL'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 Sabine Pass Liquefaction, LLC (Sabine Pass) requests export authorization for the equivalent of 152.64 billion cubic feet (Bcf/year) of 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 SPL'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.

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

⁷ *IECA Filing* at 1.

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.

Regardless, IECA’s concerns are inapplicable to SPL’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 Sabine Pass LNG Terminal. As further noted above, the increased liquefaction production capacity at the Sabine Pass 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

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.

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 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

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.

¹³ *Id.*

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. SPL’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 “[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*

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 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*.

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 SPL proceeding, 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 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

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)).

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*).

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,

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Dated: January 6, 2020

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

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
Legal Secretary on behalf of
Sabine Pass Liquefaction, LLC