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

In the Matter of:
FREEPORT LNG EXPANSION, L.P.
FLNG LIQUEFACTION, LLC

Docket No. 11-161 LNG

ANSWER OF FREEPORT LNG EXPANSION, L.P. AND FLNG LIQUEFACTION, LLC IN OPPOSITION TO LATE FILED MOTIONS OF AMERICAN'S ENERGY ADVANTAGE, INC. TO COMMENT AND INTERVENE

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Pursuant the Department of Energy's ("DOE") regulations,[1] Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC (collectively, "FLEX") hereby submit this Answer to the America's Energy Advantage, Inc. ("AEA") Late Filed Motions to Comment and Intervene[2] ("AEA's Late Filed Motion") filed on September 18, 2013 in the above-captioned proceeding. In the first of its two motions, AEA, which purportedly takes no position on the merits of FLEX application for authorization to export LNG ("FLEX Application"), demands that the DOE immediately: (1) adjourn its review of the FLEX Application and all other pending LNG exports

[1] 10 C.F.R. § 590.303(e) and 590.304(f) (2010).
[2] America's Energy Advantage, Inc., Consolidated Motions to Comment and Intervene Out of Time; FE Docket No. 11-161-LNG (September 18, 2013).

applications; and (2) commence a protracted general review and potential revision of DOE's regulations. In its second motion, AEA requests the privilege of being granted late filed intervener status in this docket. The AEA motions are untimely, deeply flawed, inappropriate, and prejudicial and should be rejected.

I. PROCEDURAL BACKGROUND AND INTRODUCTION

Approximately two years ago, on December 19, 2011, FLEX filed the FLEX Application with the DOE Office of Fossil Energy ("FE"), for a long-term, multi-contract authorization to export 1.4 billion cubic feet per day, or 511 Bcf per year,[3] of liquefied natural gas ("LNG") over 25 years to any country with which the United States does not have a free trade agreement ("FTA") requiring national treatment for trade in natural gas and LNG, which has or in the future develops the capacity to import LNG via ocean-going carrier, and with which trade is not prohibited by U.S. law or policy. The FLEX Application was submitted pursuant to Section 3 of the Natural Gas Act ("NGA"),[4] Part 590 of the Regulations of the DOE,[5] and Section 201 of the Energy Policy Act of 1992.[6]

Notice of the FLEX Application was published in the Federal Register on February 13, 2012 and provided, among other things, that comments, protests, motions to intervene, and requests for additional procedures must be filed with DOE/FE no later than April 13, 2012. Member companies forming AEA are highly sophisticated international companies. They have closely followed and participated in the LNG export proceedings for years. However, during this

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[3] FE Docket No. 11-161-LNG.
[4] 15 U.S.C. § 717b (2010).
[5] 10 C.F.R. § 590 (2010).
[6] Pub. L. No. 102-486, § 201, 106 Stat. 2776. 2866 (1992) (codified as amended at 15 U.S.C. § 717b(c) (2010)).

prescribed time for filing intervention, comments and motions in the FLEX Application FE Docket No. 11-161-LNG, AEA did not submit any comments or motions nor did it seek to intervene.

Subsequently, the DOE/FE commissioned an exhaustive economic and macroeconomic analysis of the cumulative impact of the proposed LNG exports. That study had two parts. The first was completed by the Energy Information Agency ("EIA"). The second and final part was completed by NERA Economic Consulting (NERA"). On December 5, 2012 the NERA macroeconomic study was published ("NERA Study"). DOE/FE invited public comments from all interested persons whether they were a party to any pending dockets or not. Both Initial Comments and Reply Comments were accepted until January 29, 2013. In the Notice, DOE stated that all comments and reply comments would be posted in all pending LNG export dockets, including the FLEX Application docket. Thus a second opportunity to lodge comments in the FLEX Application docket was provided. Almost 200,000 comments were filed. All of these were in fact lodged in all pending LNG export dockets, including the FLEX Application docket. AEA apparently chose to ignore this opportunity and de clined to file either Initial Comments or Reply Comments.

II.
ANSWER TO THE LATE FILED MOTIONS

Pursuant to the provisions of 10 C. F. R. 590.302(b), FLEX provides its answer in opposition to the AEA's Late Filed Motions including its late motion to intervene in this proceeding. AEA is not a party to this docket. For the reasons set forth herein, AEA should be denied intervener and party status and its comments and motions rejected.

A. AEA Has Failed to Provide Good Cause for Its Late Filed Motions.

At the time FLEX filed its application in this docket almost two year ago, there were already several other pending applications seeking approval for the export of LNG. The FLEX Application was noticed in the Federal Register on February 13, 2012.[7] The notice provided a generous period for comments and interventions allowing until April 13, 2012. In so doing, the notice stated that:

> "Due to the complexity of the issues raised by the Applicants, interested persons will be provided 60 days from the date of the publication of this Notice in which to submit additional procedures." (Emphasis added.)[8]

Numerous entities filed comments or interventions during the allowed time. However, in spite of the ample time provided in the notice, AEA did not intervene, comment, protest or make a motion for additional procedures within the time permitted. AEA offers no explanation for its failure to file an intervention, comments or a motion for additional procedures on our before the April 13, 2012 deadline.

After issuance of the DOE/FE Order No. 2961 in the Sabine Pass LNG matter (FE Docket No. 10-111-LNG), the processing of all other pending LNG export applications were held in abeyance by DOE pending the results of the EIA analysis and the NERA Study. During the many months that preceded the release of the NERA Study, the news media and trade journals carried innumerable stories on the pros and cons of LNG exports, including the potential of unlimited exports. In addition numerous Congressional hearings were held. The NERA Study was noticed in the Federal Register on December 5, 2012. The DOE/FE requested comments

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[7] *Ibid.*, 77 FR Notice 7568)
[8] *Ibid*, 77 FR Notice, p. 7571).

from any and all interested persons through January 29, 2013. It also provided that all comments and reply comments would be lodged in all LNG export dockets including this one. This provided all persons, including AEA, an additional and ample opportunity to file comments. Approximately 200,000 comments were filed and all were lodged in this and all other pending LNG export dockets. AEA apparently did not file comments. AEA has not provided any explanation for its failure.

Now, almost two years after the FLEX Application was filed, a year and half after the intervention period in this docket closed and eight months after the NERA general public comment period closed, AEA has suddenly chosen to seek to suspend and delay the processing of the FLEX Application through AEA's Late Filed Motions.

DOE regulations explicitly require that motions to intervene must be filed "…no later than the date fixed for filing such motions or notices in the applicable FE notice…."[9] In the instant case that was April 13, 2012. AEA failed to comply with that requirement. Likewise, requests for additional procedures must be filed within the applicable FE notice period and failure to do so constitutes a waiver of the right to make such a request. [10] Under very unusual and compelling circumstances, FE has occasionally permitted late filed motions and interventions provided at least the following two conditions are met by the movant: (1) the movant must show that "a good faith effort was made to file in a timely manner" and (2) "(n)o party is likely to have been prejudiced."[11] In this case, AEA has not even suggested it made "a good faith effort" to file its motions in this docket by the required April 13, 2012 deadline. (Although at least one of its members did intervene within the required time, AEA does not

[9] 10 C.F.R. 590.303(d)
[10] 10. C. F. R. 590.310.
[11] *Procedural Order in Sabine Pass Liquefaction, LLC,* FE Docket No. 10-111-LNG, p. 4 (March 25, 2011)

mention that in its filings here.) Furthermore, as will be discussed below, granting AEA's motion to suspend review of LNG export applications would certainly and seriously prejudice not only FLEX, but also prejudice all applicants in all other pending proceedings. That is contrary to the public interest and would deny the United States the benefits of LNG exports.

By way of attempted explanation for its past failures to file its motion for "comments", i.e. (1) adjournment of preceding and (2) the commencement of public hearing and a rule making, AEA offers the excuse that "(o)nly upon DOE's issuance of the FLEX Order, Lake Charles Order, and Dominion Cove Order, which were entered on May 17, 2013, August 7, 2013, and September 11, 2013, respectively, did it become apparent that AEA's comments would be required in this proceeding."[12] The meaning of this proffered excuse is elusive at best. It certainly does not demonstrate a good faith effort to file within the prescribed time. Perhaps it is intended to only concede that AEA did not anticipate DOE/FE would approve LNG export applications. Perhaps it is intended to mean that AEA did not understand the conclusion of the NERA Study that there are positive benefits to all LNG export scenarios and the higher the volumes exported the greater the benefits to the United States.[13] But no matter what AEA intended to convey, it is not relevant to the question of whether AEA made a good faith effort to file in time. However, the answer to that question is simple.

AEA is a Delaw are corporation that was only recently put together with a primary purpose of preventing the export of natural gas from the United States. AEA was not incorporated until October 5, 2012. (Please see Attachment A, the Delaware Corporation Report.) It is understandable why AEA would not try to use its formation date of almost a year

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[12] AEA's Late Filed Motions, p. 4-5

[13] NERA Study, p. 6.

after the FLEX Application was filed as "good cause" for AEA's late filing. If that were a valid basis for permitting late filed motions and interventions, DOE would surely be flooded with such last minute incorporation vehicles seeking to file motions out of time for delay and other purposes. However, the fact that AEA members chose not to form AEA prior to the end of the FE noticed filing date, does not explain why AEA did not file its so called comments during the open period for public comments on the NERA Study. It was in existence then. It could have done so and had those comments lodged in the FLEX docket.

In the case of its second late motion, the motion to intervene, AEA offers a similar purported "good cause" basis for its exceptionally late filing: "Given that DOE only recently indicated that it would consider … changing conditions with respect to the FLEX Order, Lake Charles Order, and Dominion Cove Order, there is good cause to allow AEA to intervene out of time on this basis alone.")[14] That statement is simply not correct, either procedurally or factually. When the DOE/FE issued Sabine Pass FE Order No. 2961 on May 20, 2011, two years before the date May 17, 2013 date of FLEX FE Order No. 3282 referenced by AEA, the DOE explicitly and extensively discussed its intent to consider changing conditions, mentioning potential changes in market conditions and many other factors.[15]

Simply stated, the "good cause" rationale that is presented by AEA in its motions does not demonstrate a scintilla of the required "good cause." To accept these extremely late filed motions would undermine the integrity of the regulatory process. It would make meaningless the requirements of filing dates, obliterate any semblance of a requirement of "good cause", and inflict undue prejudice to applicants. It would undermining the public interest. AEA's claim of

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[14] AEA's Late Filed Motions, p.10
[15] Sabine Pass Liquefaction, LLC, FE Order No. 2961, p. 31-34 (May 20, 2011)

"good cause" is so barren of legitimacy it should not be necessary for DOE/FE to precede further in its analysis before denying all of the AEA's Late Filed Motions.

B. AEA is Simply a Reformulated Vehicle for Other Prior Interveners

AEA presents itself as a trade association. On the AEA webpage, a copy of which is attached hereto as Attachment B, it states that its members "include" Alcoa, Dow, American Public Gas Association ("APGA"), Celenese, Eastman, Huntsman and Nucor. Several of these entities have been very active participants throughout these LNG export proceedings, participating as interveners in many of the individual dockets and vigorously protesting and opposing LNG exports in the media, regulatory proceedings, and policy arenas. Comments opposing LNG exports have already been made through other "trade organizations." In addition, AEA members filed extensive comments during the NERA Study open comment process. These comments have already been lodged in this docket. AEA is nothing more than a newly initiated front organization for these long time opponents to LNG exports. They should not be given yet another "bite at the apple" The public interest deserves better.

The AEA motions would add nothing new to the record in this proceeding. In fact, in the recent DOE/FE decision matter of the application of Dominion Cove Point, DOE took specific notice that:

> "Similarly, … Alcoa… argue(s) that DOE/FE should articulate, in the context of a separate rulemaking proceeding…., Dow makes a related comment, stating that … DOE/FE is required to conduct a notice and comment rulemaking before it decides on any of the pending LNG export applications. Dow… and other commenters contend that DOE/FE should conduct a public hearing regarding the

applicable public interest standard in light of the cumulative impacts of LNG exports." (Emphasis added.)[16]

In their redundant demands to adjourn proceedings and hold a new general rule making proceedings, movants are actually seeking to frustrate or eliminate the Nation's opportunity to export U.S. domestic sourced LNG. Furthermore, DOE/FE has already rejected these demands finding that:

> "Fundamentally, all of the above requests for procedural relief challenge the adequacy of the opportunity that we have given to the public to participate in this proceeding and the adequacy of the record developed to support our decision in this proceeding.
>
> With respect to opportunity for public participation, we find that the public has been given ample opportunity to participate in this proceeding, as well as the other pending LNG export proceedings. Within this proceeding,… Notice of Application, published in the Federal Register …, contained a detailed description of … Application, and invited the public to submit protests, motions to intervene, notices of intervention, and comments. As required by DOE regulations, similar notices of application have been published in the Federal Register in each of the other non-FTA export application proceedings.
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> Additionally, in December 2012, DOE/FE published the NOA in the Federal Register. As explained above, the NOA described the content and purpose of the EIA and NERA studies, invited the public to submit initial and reply comments,

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[16] *Dominion Cover Point, LNG, LP*, Order No. 3331, p. 131-132 (September 11, 2013)

and stated that these comments will be part of the record in each individual docket proceeding. DOE/FE thus has taken appropriate and necessary steps by offering the public multiple opportunities to participate in the non-FTA LNG export proceedings.

....Consequently, we do not find it is necessary or appropriate to delay issuance of this Order to augment the record, neither through a rulemaking or public hearing."[17]

DOE correctly decided these issues in the above referenced proceeding. The relevant factual and legal matters of the above referenced proceeding are identical to the circumstances in this proceeding. DOE/FE, as in the Dominion Cove Point FE Order No. 3331, should not be diverted from its responsibilities by redundant requests to delay pending proceedings, jettison its regulations, suspend its responsibilities under the Natural Gas Act and embark on a new and unnecessary rulemaking proceeding. Such a protracted and inappropriate disruption of this proceeding is not in the public interest and would certainly be unduly prejudicial to FLEX. On the other hand, rejecting AEA's Late Filed Motions would not be prejudicial to its members, many of whom have previously made the same arguments in various ways in various forms including LNG export dockets pending before DOE/FE. In addition, one of the primary members, APGA, has long been a party to this FLEX Application proceeding where it has strongly opposed LNG exports.

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[17] *Supra*, Order 3331, p. 134-135

C. Granting the AEA's Late Filed Motions Would be Highly Prejudicial

1. Motion to Intervene

At the end of the late filed AEA motions to suspend proceeding and commence public hearings, AEA has included a short late filed motion to intervene in this FLEX Application docket. Of course, this should be the first motion presented. Since AEA is not a party to this docket, it is in no position now to file a motion for additional procedures, etc. AEA's claim that it deserves party status to challenge any DOE/FE order that may be issued in this docket is neither "good cause" nor even appropriate for AEA to allege. As noted above, members of AEA have in fact previously filed comments and requests, and have intervened in various LNG export proceedings. They have also filed comments to the NERA Study directly and through their various other "trade" groups. In fact, as noted above, at least one AEA member is a party to this docket, having timely filed an intervention and protest. But the newly formed AEA is not a party [18] to this proceeding, nor should it be.

DOE's regulations governing intervention require AEA to state clearly and concisely the facts on which its claim of interest is based.[19] As an entity seeking the privilege of late intervener status pursuant to DOE/FE regulations, AEA must provide factual and legal support for its position.[20] It has not done so. It must demonstrate "good cause." It has not. It must demonstrate that it made a good faith effort to file an intervention in a timely manner.[21] It has not.

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[18] AEA Late Filed Motion, p. 10
[19] 10 C.F.R. § 590.303(b).
[20] 10 C.F.R. § 590.303(c).
[21] 10 C.F.R. 590.310; see also Procedural Order on Late-Filed Pleadings, *ibid.*

For legal authority for its late filed motion to intervene, AEA relies upon various FERC decisions.[22] (Seemingly AEA implies, without a legal basis, that FERC procedural decisions are precedential for DOE/FE.) However, the FERC decisions do not support AEA's position. For instance, in the *Tumalo* case cited by AEA, the late intervention was granted only upon a showing that it would not "delay, disrupt, or unfairly prejudice any party to the proceeding."[23] As discussed above, AEA's Late Filed Motions do in fact seek to delay and disrupt these FLEX proceedings. AEA expressly seeks to misuse the regulatory process to indefinitely suspend a determination of the FLEX Application. The nature of the purpose behind the AEA Late Filed Motions is transparent. In a recent UPI news article titled "*AEA's tactic: If you can't win, delay*" made the following observation:

> "In an attempt to cause further delay to the LNG export-license approval process, America's Energy Advantage last week filed a motion to intervene in the U.S. Energy Department's review of the Freeport LNG Expansion export license application.
>
> Never mind that the license approval proceeding began in December 2011 and the deadline for filing comments was in April 2012. AEA, a coalition that includes The Dow Chemical Company, isn't just belatedly asking the Energy Department to intervene as a party to the case but is actually asking the agency to rewrite the rules under which it grants LNG export licenses.

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[22] AEA Late Motions, p. 10

[23]: Tumalo Irrigation District, 36 FERC 61, 342 (1986)

The AEA's motion is nothing more than a thinly veiled dilatory tactic, imposed upon an export license application that has been languishing for almost two years."[24]

AEA seeks to unfairly prejudice FLEX. It is hard to image something more prejudicial to an applicant and fundamentally unfair than to abort the pending regulatory proceedings at this late stage shortly before DOE/FE is scheduled to issue its decision in the FLEX Application docket. FLEX has negotiated a number of long-term contracts with customers. FLEX strategic planning is well advanced. Negotiations are underway with lenders, investors and other project participants. Granting party status to AEA at this late time would seriously threaten delicate ongoing investment opportunities and the creation of badly needed jobs. The benefits identified in the NERA Study would be delayed and potentially lost. The costs of such a delay in this case will be a significant burden to FLEX and to the many other people and entities supporting the project.

Section 590.303(d) of the DOE regulations is designed to protect the rights of persons who have demonstrated good cause; but it is also intended to protect applicants and other existing parties to proceedings from the disruption and burdens that would be caused by unjustified and disruptive late interventions. In the instant case, AEA has not met its burden to justify its proposed late intervention. It has not shown good cause. Clearly its intervention would be unduly disruptive to the proceeding. It would be unduly prejudicial to FLEX. The AEA motion to intervene must be denied.

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[24] UPI.com, Outside View AEA's Tactic: If you can't win, delay. Published Oct. 3, 201.3

2. Motion to Suspend DOE Proceeding and Commence Public Hearings and Rule Making

In the first part of its late filing, AEA labels its motion as a "Comment", although it is in substance a two part motion to: (1) suspend proceedings in this and all other pending LNG export dockets; and (2) hold public hearings and commence new rulemaking proceedings. To describe the AEA motion as a "comment" is unduly benign. Seeking to justify its very late presentation of this motion, AEA explains that its out-of-time motions were filed on September 18, 2013 "in response to market developments *since April 2012* and recent DOE orders…."[25] (Emphasis added.) Admittedly time does not stand still. B ut it was public knowledge that DOE/FE would return to consideration of the pending export applications after it had received the comments to the NERA Study and that was certainly known to the members of the newly formed AEA. To grant a late filed motion to intervene on the grounds that DOE/FE has performed its responsibilities under the Natural Gas Act and issued orders in pending proceedings is simply nonsensical. Furthermore, it would totally eviscerate DOE's regulations on the prescribed time for filing interventions, motions and comments. Simply put, AEA has failed to satisfy the mandatory legal requirements. The fact that AEA and its members are displeased with DOE's decisions in the "FLEX Order, Lake Charles Order, and Dominion Cove Order"[26] is not a valid basis to grant AEA the privilege of a late filed intervention here or elsewhere. It certainly is not a valid reason to suspend the review of the FLEX Application.

The shallow nature of the alleged basis of AEA's position is particularly transparent in light of the fact that major companies forming AEA, including DOW, Alcoa and APGA have

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[25] AEA's Late Filed Motions, p. 3
[26] AEA's Late Filed Motions, p. 4

been exceptionally active in several of the LNG export dockets, including applicants' docket, in their quest to prevent LNG exports. They have also been very active previously filing comments in all the DOE dockets through their comments on the NERA Study. Obviously the substance of AEA's Late Filed Motions has already been presented to DOE via many different avenues on several different occasions. Furthermore, all comments filed in response to the NERA Study have already been lodged in this docket. Clearly there is no prejudice to AEA or its membership in denying a further reiteration in this docket. On the other hand, as discussed above, FLEX would certainly be unduly prejudiced by the disruption and extreme delays proposed by the AEA motions. Remarkably, AEA claims that "no party in this proceeding will be prejudiced by DOE accepting AEA's comments."[27] AEA asserts that there is no prejudice to any party because AEA "do(es) not take any position with respect to whether FLEX's application should be granted."[28] First, that statement is disingenuous. AEA and its members, in seeking to indefinitely delay review of the FLEX Application, are in fact seeking to prevent DOE/FE from granting the authority requested in FLEX Application. This is precisely what AEA's major members have consistently sought to achieve through many other avenues. Secondly, AEA's alleged lack of a position on the merits of the FLEX Application might demonstrate a lack of a genuine interest in the FLEX Application. That may be an additional reason not to grant intervener status to AEA. But, it does not eliminate the undue prejudice that would befall FLEX if the AEA's Late Filed Motions were granted. The claim that such a disruptive action would not prejudice FLEX is specious.

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[27] AEA's Late Filed Motions, p. 5
[28] AEA's Late Filed Motions, p. 5

The NERA Study found that the macroeconomic benefits of LNG exports are positive, in other words that those public interest benefits increase as the volume of exports increases. That public interest will not be served if review of the FLEX Application (and others) is suspended. The global market place will not suspend its search to satisfy its needs for reliable supplies of clean burning natural gas. Instead it will turn away from the United States, having concluded that the United States is not a reliable participant in that global market.

Dow, Alcoa, APGA and other opponents to LNG exports have previously made similar demands in several different forums, trying to prevent exports by delaying export proceedings indefinitely. If the DOE/FE export process is delayed, as AEA members have long advocated, the window of opportunity currently open for the United States and these projects is very likely to close. Undoubtedly this is precisely the goal of those seeking to unduly delay LNG exports. An English pundit once described a "committee" as a cul-de-sac down which good ideas are poured and kept until they are quietly strangled to death. The same can be said of the redundant attempts by AEA and its members to indefinitely suspect DOE's review of the export pending dockets and instead commence a protracted process of public hearings and rulemaking. Such a result is not in the public interest. It would be unduly prejudicial to FLEX. It would certainly be contrary to the public interest. The FLEX Application has been pending since December 2011. It is time for a decision.

D. AEA's Challenge of the Natural Gas Act and DOE/FE Regulations is Misplaced

AEA criticizes various provisions of the Natural Gas Act and the DOE's procedural regulations pursuant to the Natural Gas Act.[29] However, AEA completely ignores the single

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[29] AEA's Late Filed Motion, p.5-9

most important provision of the Natural Gas Act controlling this proceeding, namely the mandated presumption that the proposed FLEX LNG export must be approved unless it is demonstrated that such export is not in the public interest. As the DOE/FE stated in the Sabine Pass FE Order No. 2961: "Section 3(a) creates a rebuttable presumption that a proposed export of natural gas is in the public interest, and DOE must grant such an application unless those who oppose the application overcome that presumption."[30] Instead, AEA has presented claims that DOE's existing regulations are outdated and should be replaced by unspecified alternative regulations to be developed at some indefinite time in the future after protracted public hearings and rule making. The fact is that DOE/FE has been exceptionally diligent and meticulous in carrying out its regulatory responsibilities. The arguments to the contrary by AEA members are not new. It has been presented by AEA members and others on several previous occasions. It has properly been rejected by DOE/FE as recently as the Dominion Cove Point FE Order No. 3331. It should be rejected again in this proceeding.

E. AEA Late Filed Motions Mischaracterized the NERA Report and NGA

AEA alleges it is surprised that DOE has authorized a volume of LNG exports that "moderately exceeds" the "low" volume export scenario used by NERA. This is presented by AEA as unexpected and surprising. However, the NERA Study made it very clear that it had used several different scenarios in its analysis, including both "low" and "high" cases.[31] In fact, over a year and half ago, when the period for intervention in this FLEX do cket was still permitted, Andrew Liveris, the CEO of Dow Chemical Company, an orchestrating member of

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[30] Sabine Pass, DOE/Fe Order No. 2961, p. 28. See also, 15 U.S.C. §717b. (This authority is delegated to the Assistant Secretary for FE pursuant to Redelegation Order No. 00.002.04D (November 6, 2007)).
[31] NERA Study, p. 3

AEA, expressed support for LNG exports of up to 15% of U.S. natural gas production.[32] Furthermore, the NERA Study's exhaustive analysis also concluded that the benefits from LNG exports will increase with the level of the exports and the higher the volume of exports the greater the benefits.[33]

The NERA Study had been requested by DOE to evaluate both the low level of export scenario (6 Bcf/d) and the high scenario (12 Bcf/d). But in fact NERA evaluated a much larger number of scenarios.[34] However, the ultimate finding of the NERA Study is that:

> "In all of the scenarios analyzed in this study, NERA found that the U.S. would experience net economic benefits from increased LNG exports. Only three of the cases analyzed with the global model had U.S. exports greater than the 12Bcf/d maximum exports allowed in the cases analyzed by EIA. These were the USREF_SD, the HEUR_D and the HEUR_SD cases. NERA estimated economic impacts for these three cases with no constraint on exports, and found that even with exports reaching levels greater than 12 Bcf/d and associated higher prices than in the constrained cases, there were net economic benefits from allowing unlimited exports in all cases. Across the scenarios, U.S. economic welfare consistently increases as the volume of natural gas exports increased. This includes scenarios in which there are unlimited exports."[35]

There is nothing in the NERA Study indicating that a low volume export scenario was advocated or probable. In addition, DOE has never indicated it would "cap" the level of

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[32] Bloomberg, Finally, Jack Kaskey, April 26, 2012, www.bloomberg.com/news/u.s. gas export limit.
[33] NERA Report, p. 6
[34] NERA Study, p. 3, 21, 23
[35] NERA Study, p. 6.

authorized exports at the NERA "low" scenario. So AEA's assertion that it (its members such as Dow, Alcoa & AGPA?) had not anticipated exports above the "low" scenario is simply not credible. Furthermore, AEA's claimed surprise is irrelevant. It is neither a basis to grant AEA late intervener or party status nor a basis to grant AEA's other Late Filed Motions to suspend all export proceedings and commence a new rulemaking process. In summary, there is no legally justifiable basis to grant any of AEA's Late Filed Motions. The Late Filed Motions must be denied.

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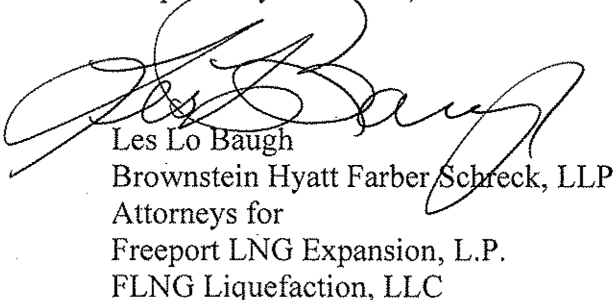
III.
CONCLUSION

Nothing in the AEA pleading provides a scintilla of legitimate support for the AEA motion to intervene. Since AEA is not a party to this docket, it is in no position to file other motions, requesting further procedures or otherwise. Certainly it is not in a position to file a let late filed motion to suspend these proceeding. AEA's request to suspend processing this application, and other applications, is both out of time and out of place in this docket. It is improper and without merit. To grant any of the AEA's Late Filed Motions would be inconsistent with long standing DOE regulations and procedures. It would undermine the integrity of the regulatory process. Equally important, it would significantly prejudice not only FLEX, but others as well. Therefore, DOE should reject both AEA's the Late Filed Motion to intervene and reject AEA's Late Filed Motion(s) to comment, suspend proceedings, conduct public hearings and institute a new rulemaking proceeding.

Respectfully submitted,



Les Lo Baugh
Brownstein Hyatt Farber Schreck, LLP
Attorneys for
Freeport LNG Expansion, L.P.
FLNG Liquefaction, LLC

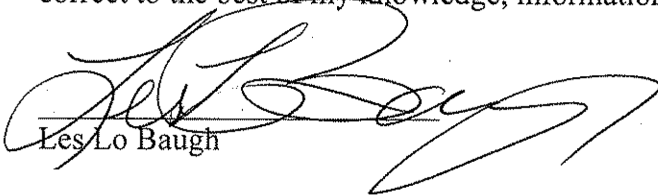
October 3, 2013

VERIFICATION
and
CERTIFIED STATEMENT

County of Los Angeles

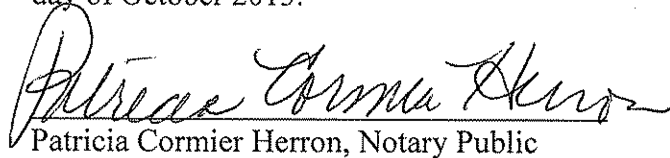
State of California

I, Les Lo Baugh, being duly sworn on his oath, do hereby affirm that I am a duly authorized representative of Freeport LNG Expansion, L.P. and FLNG Liquefaction LLC; that I am familiar with the contents of this answer; and that the matters set forth therein are true and correct to the best of my knowledge, information and belief.



Les Lo Baugh

Sworn to and subscribed before me, a Notary Public, in and for the State of California, this 3rd day of October 2013.



Patricia Cormier Herron, Notary Public

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon the parties on listed below in Docket No. 11-161-LNG and DOE/FE for inclusion in the FE dockets in the above-referenced proceedings in accordance with 10 C.F.R. § 590.107(b)(2011).

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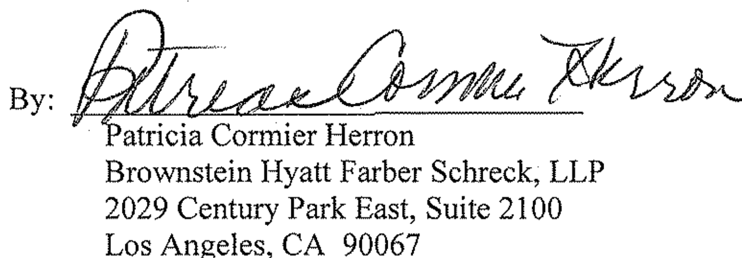
1155 15th Street, N.W., Suite 500
Washington, DC 20005

Dated at Los Angeles, California, this 3rd day of October, 2013.

By: 

Patricia Cormier Herron
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ATTACHMENT A

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Your DPPA Permissible Use: Civil, Criminal, Administrative, or Arbitral Proceedings
Your GLBA Permissible Use: Legal Compliance

Delaware Corporation Report

Delaware Corporation Report

General Information

Company Name:	AMERICA'S ENERGY ADVANTAGE, INC.	**Stock Company:**	
File Number:	5223981	**Corporation Type:**	Exempt Corporation
Date Incorporated:	10/05/2012	**Incorporation State:**	DE
Status:	Good Standing	**Status Date:**	10/05/2012
Type:	Domestic A/R Filing Required	**Federal ID:**	
Proclamation Date:		**Renewal Date:**	
Expiration Date:		**Last Annual Report Date:**	2012

Registered Agent: CORPORATION SERVICE COMPANY 2711 CENTERVILLE RD STE 400, WILMINGTON DE (9000014)
Registered Agent Phone: 302-636-5401 **Registered Agent Fax:** 302-636-5454

Filing History (Last 5 filings)

Filing Year:	2012	**Document Number:**	0102
Filing Date:	10/05/2012	**Description:**	Incorp Delaware Non-Stock
Number Pages:	4	**Effective Date:**	10/05/2012
Former Name:		**Merger Type:**	

Stock Information

Amendment:	000	**Effective Date:**	10/05/2012
Total Authorized Shares:	0	**Total Value:**	00

Tax Information

Tax Balance as of 09/24/2013 : $0 M

Tax Year: 2013	
Filing Amount:	0.00
Tax Amount:	0.00
Penalty Amount:	0.00
Interest Amount:	0.00
Other Amount:	0.00
Paid Amount:	(0.00)
Balance:	$0 M

Tax Year: 2012	
Filing Amount:	25.00
Tax Amount:	0.00
Penalty Amount:	0.00
Interest Amount:	0.00
Other Amount:	0.00
Paid Amount:	(25.00)
Balance:	$0 M

ATTACHMENT B

America's Energy Advantage

Powering Manufacturing.
Fueling Jobs.
Igniting Growth.

ABOUT US

America's Energy Advantage (AEA) is a group of businesses and organizations dedicated to raising awareness of the emerging renaissance in American manufacturing made possible by our country's new abundant and affordable supplies of natural gas.

America's Energy Advantage believes in:

- Supporting the natural gas advantage that has made the U.S. manufacturing sector more competitive, which has created jobs, spurred capital investment and increased exports of value-added products.
- Carefully considering the economic consequences before allowing unfettered natural gas exports.
- Extending the benefits of America's natural gas abundance to domestic consumers by keeping utility bills low.
- Maintaining national energy security by developing multiple domestic energy sources.
- Rules-based free trade and living up to trade commitments made under the World Trade Organization.

America's Energy Advantage aims to:

- Encourage the federal government to move cautiously on permitting natural gas exports in order to measure impact on price, security and jobs.
- Educate policymakers on the potential risks to the U.S. economy of unfettered natural gas exports.

A broad alliance of policymakers, business leaders, and independent analysts have spoken out in support of using our natural gas reserves domestically. See what they said » (http://www.americasenergyadvantage.org/pages/endorsements)

America's Energy Advantage members include:

(http://www.alcoa.com/)

American Public Gas Association

(http://www.apga.org/)

(http://www.celanese.com/)

(http://www.dow.com/)