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**To:** [LNGStudy](#)  
**Cc:** [Lo Baugh, Leslie](#)  
**Subject:** 2012 LNG Export Study  
**Date:** Thursday, January 24, 2013 1:40:43 PM  
**Attachments:** [Freeport Cover letter to Comments 01242013.pdf](#)  
[Comments of Freeport LNG Expansion, LP to 2012 LNG Export Study.pdf](#)

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Please find attached a cover letter and Comments of Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC to the 2012 LNG Export Study.

Thank you

**Patricia R. Cormier Herron**  
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January 24, 2013

**VIA EMAIL: LNGStudy@hq.doe.gov**

Honorable Steven Chu  
Secretary  
U.S. Department of Energy  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585

RE: **2012 Export Study  
Comments of Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC**

Dear Secretary Chu:

Please find attached the initial comments of Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC on the 2012 LNG Export Study. These comments are filed pursuant to the DOE/FE request for comments on the study and more specifically on the macroeconomic analysis and the methodology employed in that study.

Sincerely yours,

Brownstein Hyatt Farber Schreck, LLP



Les Lo Baugh  
Attorney for Commenters

LEL:prh

Attachment

LA 51879 v1:010271.0005

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

**COMMENTS  
ON  
“2012 LNG EXPORT STUDY”  
by  
FREEPORT LNG EXPANSION, L.P. AND FLNG LIQUEFACTION, LLC**

Communications with respect to this  
Application should be addressed to:

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JANUARY 24, 2013

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

COMMENTS CONCERNING THE  
2012 LNG EXPORT STUDY

**INTRODUCTION**

Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC (collectively, "FLEX") respectfully submit these comments in respect of the Department of Energy's ("DOE") 2012 LNG Export Study. FLEX has filed four applications with the DOE Office of Fossil Energy ("FE"), requesting that it grant long-term, multi-contract authorizations for FLEX to export liquefied natural gas (LNG). Two of those applications, namely DOE Docket Nos. 10-160-LNG and 12-06-LNG have already been granted by DOE/FE. Those two decisions authorize FLEX to export LNG to countries that have Free Trade Agreements ("FTA") with the United States requiring national treatment of natural gas.

The other two applications, namely DOE Docket Nos. 10-161-LNG and 11-161-LNG seek authorization for FLEX to export LNG to countries that do not have an FTA with the United States provided trade with those countries is not prohibited by U.S. law or policy. These two applications for LNG exports to non-FTA countries are currently pending before the DOE/FE. FLEX has already commenced the process before the Federal Energy Regulatory Commission ("FERC") for all FERC approvals required to support the LNG exports proposed under the above referenced export applications.

**I.**  
**COMMUNICATIONS AND CORRESPONDENCE**

Correspondence and communications regarding this application should be addressed to the following:

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**II.**  
**FLEX BACKGROUND**

On June 18, 2004 FERC granted authority to site, construct, and operate a new LNG import, storage, and vaporization terminal on Quintana Island in Brazoria County, Texas.<sup>1</sup> The Quintana Island facility commenced operations in June 2008.

On February 10, 2011 DOE/FE granted FLEX authorization to export 1.4 Bcf/d of LNG to FTA countries.<sup>2</sup> One year later, on February 10, 2012, DOE/FE granted FLEX authorization to export an additional 1.4 Bcf/d to FTA countries for a total of 2.8 Bcf/d.<sup>3</sup> As noted in its application, the authorization for LNG export volumes requested by FLEX in DOE/FE Docket No. 12-06-LNG is “independent of the prior separate applications” volumes requested in DOE/FE Docket Nos. 10-160-LNG, 10-161-LNG, and 11-161-LNG.<sup>4</sup> FLEX has commenced the necessary regulatory process before FERC for facilities required to support the LNG exports requested by FLEX in its four DOE/FE LNG export dockets.

In the pending two FLEX export dockets, FLEX has extensively articulated why the requested LNG exports are in the public interest and should be expeditiously approved. Those comments address issues germane to and covered by the 2012 LNG Export Study. Rather than restate those matters here, FLEX hereby incorporates such comments herein by reference as part of this filing and comment.

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<sup>1</sup> *Freeport LNG Development, L.P.*, 107 FERC ¶ 61,278, (2004), *order granting rehearing and clarification*, 108 FERC ¶ 61,253 (2004), *order amending section 3 authorization*, 112 FERC ¶ 61,194 (2005), *order issuing authorization*, 116 FERC ¶ 61,290 (2006).

<sup>2</sup> DOE/FE Order No. 2913, Feb. 10, 2011.

<sup>3</sup> DOE/FE Order No. 3066, Feb. 10, 2012.

<sup>4</sup> Application Docket No. 12-06-LNG, page 2.

### III. DOE's 2012 LNG EXPORT STUDY

DOE commissioned the 2012 LNG Export Study to assist DOE in its decisional process with respect to non-FTA LNG export applications pending before DOE. There are two parts to this study. The first part of the study was performed by the Energy Information Administration ("EIA"). That portion of the study was released to the public in January 2012. As directed by DOE, the EIA confined its own analysis to the specific parameters assigned by DOE. As such, the EIA study was limited by the specific presumptions and tasks assigned by DOE, and by the model utilized by EIA. For instance, it did not address or fully evaluate macroeconomic impacts of LNG exports on the U.S. economy, which includes a large number of sensitivities and attributes, including job creation, generation of additional tax revenues, impacts on the U.S. balance of payments, etc. Nor did it consider the global nature of the LNG market place. The second part of the 2012 LNG Export Study was performed by NERA Economic Consulting ("NERA"), a private non-governmental consulting organization. NERA utilized the EIA study as input for the NERA analysis. The NERA study was released at the end of 2012.

The Federal Register Notice invited the public to make initial comments on the study on or before January 25, 2013 with replies to initial comments due no later than February 25, 2013.<sup>5</sup> The federal notice specified that all initial comments and all reply comments will be lodged in all application dockets pending before the DOE/FE for authorization to export domestic LNG.

### IV. LEGAL STANDARD UNDER THE NATURAL GAS ACT

The 2012 LNG Export Study illuminates the record, but it does not modify the legal requirement under the Natural Gas Act for the processing and approval of applications to export LNG. LNG exports to non-FTA countries are to be authorized by DOE "unless after opportunity for hearing, [DOE] finds that the proposed export will not be consistent with the public interest."<sup>6</sup> This creates a rebuttable presumption that both of the FLEX applications for export to non-FTA countries are in the public interest.<sup>7</sup> In the absence of persuasive affirmative evidence that the proposed exports are not in the public interest, the FLEX applications for LNG exports to non-FTA countries must be approved.

The well established policy of DOE is to allow the free market to operate with minimal regulatory intrusion.<sup>8</sup> DOE's policy to limit intrusion upon the operation of a free market is entirely consistent with the clear language and meaning of the Natural Gas Act. DOE has recently affirmed that it will not interfere with the operations of a free market by utilizing its regulatory powers over exports "as a price maintenance mechanism."<sup>9</sup> In reference to FLEX's pending applications, no party has provided any factual studies or analyses overcoming the

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<sup>5</sup> Federal Register, Vol. 77, No. 238, December 11, 2012.

<sup>6</sup> 15 USC 717(a).

<sup>7</sup> DOE/FE Order No. 2961, Sabine Pass Liquefaction, LLC, FE Docket No. 10-111-LNG, page 28.

<sup>8</sup> Policy Guidelines and Delegation Orders Relating to the Regulations of Imported Natural Gas, 49 Fed. Reg. 6, 684 (Feb. 22, 1984).

<sup>9</sup> Deputy Assistant Secretary, Office of Oil and Natural Gas, Christopher Smith, Letter to Congressman Edward Markey, February 24, 20112.

statutorily mandated presumption in favor of approval. Furthermore, the 2012 LNG Export Study strongly and unequivocally affirms that the FLEX proposed exports are in the public interest.

The concept of public interest is broadly defined, including the adequacy of U.S. gas supply and demand forecasts, U.S. energy security, impact on GDP, impacts on the U.S. balance of payments, national security issues, job creation, international considerations, effects on future gas exploration and development, consumer impacts, etc. While the 2012 LNG Export Study does not address all of these indicia of public interest, it does provide DOE with sufficient assistance in reviewing the cumulative macroeconomic impacts of LNG exports.

## V

### **INITIAL COMMENTS OF FREEPORT LNG ON THE 2012 LNG EXPORT STUDY**

The process established by DOE for the 2012 LNG Export Study resulted in the EIA's analysis being in essence subsumed into the NERA study. It became input for the NERA macroeconomic study of the cumulative impacts of LNG exports. The ultimate and primary conclusion of the NERA study is that:

“Across all [modeled] scenarios, the U.S. was projected to gain net economic benefits from allowing LNG exports. Moreover, for every one of the market scenarios examined, net economic benefits increased as the level of LNG exports increased. In particular, scenarios with unlimited exports always had higher net economic benefits than corresponding cases with limited exports.”<sup>10</sup>

The 2012 LNG Export Study is in some respects unduly conservative, and therefore understates the significant positive impacts that the proposed LNG exports will have for the United States. For instance, it is noted that the NERA study used EIA information based on EIA's Annual Energy Outlook for 2011 (“AEO 2011”). Subsequently the EIA has substantially increased its forecast for domestic natural gas supplies, as well as lowered its forecast of future domestic demand for natural gas. If the more current EIA forecasts had been used, the positive macroeconomic impacts of the LNG exports would have been even greater than shown in the NERA study. This does not mean that the NERA study is invalid. Nor does it mean that its conclusions are inaccurate. It only means that even the highly favorable and supportive conclusions NERA reached in its study somewhat understate the highly positive macroeconomic impacts of the LNG exports. In considering the question of alleged negative impacts on employment, as proposed by entities opposed to LNG exports or merely opposed to the development of the U.S. natural gas resources, the NERA study demonstrated that: “In no scenario is the shift in employment out of any industry projected to be larger than normal rates of turnover of employees in those industries.”<sup>11</sup> In fact, as discussed below, the NERA study, because of its input and methodology, actually understates the substantial job development that will accompany the deployment of the requested LNG exports.

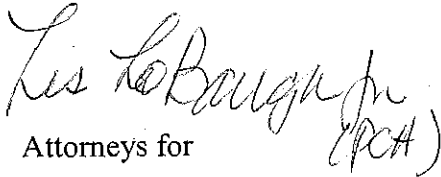
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<sup>10</sup> *Macroeconomic Impacts of LNG Export from the United States*, NERA Economic Consulting (“NERA Study”, December 3, 2012, Page 1.

**VI.**  
**CONCLUSION**

WHEREFORE, for the foregoing reasons FLEX respectfully asserts that, pursuant to Section 3 of the NGA and Section 201 of the Energy Policy Act<sup>12</sup>, that the DOE/FE should, without further delay or limitation, expeditiously grant the two pending FLEX applications for authorization for long-term, multi-contract authorization to export domestic LNG from Quintana Island near Freeport, Texas to any country which has or will develop the capacity to import LNG via ocean-going carrier, and with which trade is not prohibited by U.S. law or policy. Further delays in approval of pending exports applications will undermine the competitive position of FLEX and other applicants to the detriment of the United States and would be contrary to the requirements of the Natural Gas Act. The public interest requires expedition.

Respectfully submitted,

  
Attorneys for (PCA)

Freeport LNG Expansion, L.P.  
and  
FLNG Liquefaction, LLC

January 24, 2013

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<sup>12</sup> Pub. L. No. 102-486, § 201, 106 Stat. 2776, 2866 (1992); (codified as 15 U.S.C. § 717b(c) 2010).