

Appendix A. Request Letter



Department of Energy

Washington, DC 20585

August 15, 2011

MEMORANDUM

TO: HOWARD K. GRUENSPECHT
ACTING ADMINISTRATOR
ENERGY INFORMATION ADMINISTRATION

FROM: CHARLES D. MCCONNELL
CHIEF OPERATING OFFICER
OFFICE OF FOSSIL ENERGY 

SUBJECT: **ACTION:** Request for EIA to Perform a Domestic Natural Gas Export Case Study

ISSUE: The Department of Energy's (DOE) Office of Fossil Energy (FE) must determine whether exports of liquefied natural gas (LNG) to non-free trade agreement countries are not inconsistent with the public interest. An independent case study analysis of the impact of increased domestic natural gas demand, as exports, under different incremental demand scenarios, performed by the Energy Information Administration (EIA) will be useful to assist DOE/FE in making future public interest determinations.

BACKGROUND: DOE/FE has been delegated the statutory responsibility under section 3 of the Natural Gas Act (NGA) (15 U.S.C. § 717b) to evaluate and approve or deny applications to import and export natural gas and liquefied natural gas to or from the United States. Applications to DOE/FE to export natural gas and LNG to non-free trade agreement countries are reviewed under section 3(a) of the NGA, under which FE must determine if the proposed export arrangements meet the public interest requirements of section 3 of the NGA.

To-date, DOE/FE has received applications for authority to export domestically produced LNG by vessel from three proposed liquefaction facilities, one application to export LNG by ISO containers on cargo carriers, and additional applications could be submitted by others in the future. Applications submitted to DOE/FE total 5.6 billion cubic feet per day (Bcf/day) of natural gas to be exported from the United States, equal to over 8 percent of U.S. natural gas consumption in 2015 compared to the EIA reference case projection of 68.8 Bcf/day in 2015.¹

Studies and analyses submitted with, and in support of, LNG export applications to DOE/FE evaluated the impact LNG exports could have on domestic natural gas supply,

¹ EIA Annual Energy Outlook 2011 (AEO2011)



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demand and market prices. It would be helpful in DOE/FE reviews of these applications, and other potential applications, to understand the implications of additional natural gas demand (as exports) on domestic energy consumption, production, and prices under different scenarios.

Understanding that the domestic natural gas market is sensitive to a number of factors, including those highlighted on page 37 of the *AEO2011*, we request that EIA include sensitivity cases to explore some of these uncertainties, using the modeling analysis presented in the *AEO2011* as a starting point. The results of this study will be beneficial to DOE/FE by providing an independent assessment of how increased natural gas exports could affect domestic markets, and could be used in making future public interest determinations. The specific request of the study is provided in the attachment. We would like to receive the study, along with an analysis and commentary of the results by October 2011, and recognize that the study may be made available on EIA's website.

We are available to further discuss the study with your staff as they begin the study to clarify any issues associated with this request as needed.

RECOMMENDATION: That you approve this request.

APPROVE: _____ DISAPPROVE: _____ DATE: _____

ATTACHMENTS:

Impact of Higher Demand for U.S. Natural Gas on Domestic Energy Markets
Background: (15 U.S.C. § 717b)

Impact of Higher Demand for U.S. Natural Gas on Domestic Energy Markets

The Office of Fossil Energy (FE) requests the Energy Information Administration (EIA) to evaluate the impact of increased natural gas demand, reflecting possible exports of U.S. natural gas, on domestic energy markets using the modeling analysis presented in the *Annual Energy Outlook 2011 (AEO2011)* as a starting point. In discussions with EIA we learned that EIA's National Energy Modeling System is not designed to capture the impact of increased export-driven demand for natural gas on economy-wide economic indicators such as gross domestic product and employment, and that it does not include a representation of global natural gas markets. Therefore, EIA should focus its analysis on the implications of additional natural gas demand on domestic energy consumption, production, and prices.

The study should address scenarios reflecting export-related increases in natural gas demand of between 6 billion cubic feet per day (Bcf/d) and 12 Bcf/d that are phased in at rates of between 1 Bcf/d per year and 3 Bcf/d per year starting in 2015. Understanding that the domestic natural gas market is sensitive to a number of factors, including those highlighted on page 37 of the *AEO2011*, we request that EIA include sensitivity cases to explore some of these uncertainties. We are particularly interested in sensitivity cases relating to alternative recovery economics for shale gas resources, as in the *AEO2011 Low and High Shale EUR* cases, and a sensitivity case with increased baseline natural gas demand as in the *AEO2011 High Economic Growth* case.

The study report should review and synthesize the results obtained in the modeling work and include, as needed, discussions of context, caveats, issues and limitations that are relevant to the study. Please include tables or figures that summarize impacts on annual domestic natural gas prices, domestic natural gas production and consumption levels, domestic expenditures for natural gas and other relevant fuels, and revenues associated with the incremental export demand for natural gas. The standard *AEO 2011* reporting tables should also be provided, with the exception of tables reporting information that EIA considers to be spurious or misleading given the limitations of its modeling tools in addressing the study questions.

We would like to receive the completed analysis by October 2011 and recognize that EIA may post the study on its website after providing it to us.

Thank you for your attention to this request. Please do not hesitate to contact me (Charles D. McConnell) or John Anderson at 6-0521, if you have any questions.

Source: <http://uscode.house.gov/download/pls/15C15B.txt>

-CITE-

15 USC Sec. 717b

01/07/2011

-EXPCITE-

TITLE 15 - COMMERCE AND TRADE
CHAPTER 15B - NATURAL GAS

-HEAD-

Sec. 717b. Exportation or importation of natural gas; LNG terminals

-STATUTE-

(a) Mandatory authorization order

After six months from June 21, 1938, no person shall export any natural gas from the United States to a foreign country or import any natural gas from a foreign country without first having secured an order of the Commission authorizing it to do so. The Commission shall issue such order upon application, unless, after opportunity for hearing, it finds that the proposed exportation or importation will not be consistent with the public interest. The Commission may by its order grant such application, in whole or in part, with such modification and upon such terms and conditions as the Commission may find necessary or appropriate, and may from time to time, after opportunity for hearing, and for good cause shown, make such supplemental order in the premises as it may find necessary or appropriate.

(b) Free trade agreements

With respect to natural gas which is imported into the United States from a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas, and with respect to liquefied natural gas -

(1) the importation of such natural gas shall be treated as a "first sale" within the meaning of section 3301(21) of this title; and

(2) the Commission shall not, on the basis of national origin, treat any such imported natural gas on an unjust, unreasonable, unduly discriminatory, or preferential basis.

(c) Expedited application and approval process

For purposes of subsection (a) of this section, the importation of the natural gas referred to in subsection (b) of this section, or the exportation of natural gas to a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas, shall be deemed to be consistent with the public interest, and applications for such importation or exportation shall be granted without modification or delay.

(d) Construction with other laws

Except as specifically provided in this chapter, nothing in this chapter affects the rights of States under -

(1) the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

(2) the Clean Air Act (42 U.S.C. 7401 et seq.); or

(3) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

(e) LNG terminals

(1) The Commission shall have the exclusive authority to approve

or deny an application for the siting, construction, expansion, or operation of an LNG terminal. Except as specifically provided in this chapter, nothing in this chapter is intended to affect otherwise applicable law related to any Federal agency's authorities or responsibilities related to LNG terminals.

(2) Upon the filing of any application to site, construct, expand, or operate an LNG terminal, the Commission shall -

(A) set the matter for hearing;

(B) give reasonable notice of the hearing to all interested persons, including the State commission of the State in which the LNG terminal is located and, if not the same, the Governor-appointed State agency described in section 717b-1 of this title;

(C) decide the matter in accordance with this subsection; and

(D) issue or deny the appropriate order accordingly.

(3) (A) Except as provided in subparagraph (B), the Commission may approve an application described in paragraph (2), in whole or part, with such modifications and upon such terms and conditions as the Commission find (!) necessary or appropriate.

(B) Before January 1, 2015, the Commission shall not -

(i) deny an application solely on the basis that the applicant proposes to use the LNG terminal exclusively or partially for gas that the applicant or an affiliate of the applicant will supply to the facility; or

(ii) condition an order on -

(I) a requirement that the LNG terminal offer service to customers other than the applicant, or any affiliate of the applicant, securing the order;

(II) any regulation of the rates, charges, terms, or conditions of service of the LNG terminal; or

(III) a requirement to file with the Commission schedules or contracts related to the rates, charges, terms, or conditions of service of the LNG terminal.

(C) Subparagraph (B) shall cease to have effect on January 1, 2030.

(4) An order issued for an LNG terminal that also offers service to customers on an open access basis shall not result in subsidization of expansion capacity by existing customers, degradation of service to existing customers, or undue discrimination against existing customers as to their terms or conditions of service at the facility, as all of those terms are defined by the Commission.

(f) Military installations

(1) In this subsection, the term "military installation" -

(A) means a base, camp, post, range, station, yard, center, or homeport facility for any ship or other activity under the jurisdiction of the Department of Defense, including any leased facility, that is located within a State, the District of Columbia, or any territory of the United States; and

(B) does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects, as determined by the Secretary of Defense.

(2) The Commission shall enter into a memorandum of understanding

with the Secretary of Defense for the purpose of ensuring that the Commission coordinate and consult (1) with the Secretary of Defense on the siting, construction, expansion, or operation of liquefied natural gas facilities that may affect an active military installation.

(3) The Commission shall obtain the concurrence of the Secretary of Defense before authorizing the siting, construction, expansion, or operation of liquefied natural gas facilities affecting the training or activities of an active military installation.

-SOURCE-

(June 21, 1938, ch. 556, Sec. 3, 52 Stat. 822; Pub. L. 102-486, title II, Sec. 201, Oct. 24, 1992, 106 Stat. 2866; Pub. L. 109-58, title III, Sec. 311(c), Aug. 8, 2005, 119 Stat. 685.)

-REFTEXT-

REFERENCES IN TEXT

The Coastal Zone Management Act of 1972, referred to in subsec. (d)(1), is title III of Pub. L. 89-454 as added by Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1280, as amended, which is classified generally to chapter 33 (Sec. 1451 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1451 of Title 16 and Tables.

The Clean Air Act, referred to in subsec. (d)(2), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (Sec. 7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The Federal Water Pollution Control Act, referred to in subsec. (d)(3), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, Sec. 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (Sec. 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

-MISC1-

AMENDMENTS

2005 - Pub. L. 109-58, Sec. 311(c)(1), inserted "; LNG terminals" after "natural gas" in section catchline.

Subsecs. (d) to (f). Pub. L. 109-58, Sec. 311(c)(2), added subsecs. (d) to (f).

1992 - Pub. L. 102-486 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

-TRANS-

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of Energy and Commission, Commissioners, or other official in Federal Energy Regulatory Commission related to compliance with authorizations for importation of natural gas from Alberta as pre-deliveries of Alaskan gas issued under this section

with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to the Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, Secs. 102(d), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out under section 719e of this title. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out as an Abolition of Office of Federal Inspector note under section 719e of this title. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of this title.

DELEGATION OF FUNCTIONS

Functions of President respecting certain facilities constructed and maintained on United States borders delegated to Secretary of State, see Ex. Ord. No. 11423, Aug. 16, 1968, 33 F.R. 11741, set out as a note under section 301 of Title 3, The President.

-EXEC-

EX. ORD. NO. 10485. PERFORMANCE OF FUNCTIONS RESPECTING ELECTRIC POWER AND NATURAL GAS FACILITIES LOCATED ON UNITED STATES BORDERS
Ex. Ord. No. 10485. Sept. 3, 1953, 18 F.R. 5397, as amended by Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957, provided:

Section 1. (a) The Secretary of Energy is hereby designated and empowered to perform the following-described functions:

(1) To receive all applications for permits for the construction, operation, maintenance, or connection, at the borders of the United States, of facilities for the transmission of electric energy between the United States and a foreign country.

(2) To receive all applications for permits for the construction, operation, maintenance, or connection, at the borders of the United States, of facilities for the exportation or importation of natural gas to or from a foreign country.

(3) Upon finding the issuance of the permit to be consistent with the public interest, and, after obtaining the favorable recommendations of the Secretary of State and the Secretary of Defense thereon, to issue to the applicant, as appropriate, a permit for such construction, operation, maintenance, or connection. The Secretary of Energy shall have the power to attach to the issuance of the permit and to the exercise of the rights granted thereunder such conditions as the public interest may in its judgment require.

(b) In any case wherein the Secretary of Energy, the Secretary of State, and the Secretary of Defense cannot agree as to whether or not a permit should be issued, the Secretary of Energy shall submit to the President for approval or disapproval the application for a permit with the respective views of the Secretary of Energy, the Secretary of State and the Secretary of Defense.

Sec. 2. [Deleted.]

Sec. 3. The Secretary of Energy is authorized to issue such rules and regulations, and to prescribe such procedures, as it may from

time to time deem necessary or desirable for the exercise of the authority delegated to it by this order.

Sec. 4. All Presidential Permits heretofore issued pursuant to Executive Order No. 8202 of July 13, 1939, and in force at the time of the issuance of this order, and all permits issued hereunder, shall remain in full force and effect until modified or revoked by the President or by the Secretary of Energy.

Sec. 5. Executive Order No. 8202 of July 13, 1939, is hereby revoked.

-FOOTNOTE-

(!1) So in original. Probably should be "finds".

(!2) So in original. Probably should be "coordinates and consults".

-End-