

## LNGStudy

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**From:** Bill Cooper [bill.cooper@LNGFacts.org]  
**Sent:** Wednesday, January 23, 2013 6:04 PM  
**To:** LNGStudy  
**Subject:** CLNG Comments to DOE LNG Study 2012  
**Attachments:** CLNG Comments to DOE LNG Study 2012.pdf

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Please find attached the comments of the Center for Liquefied Natural Gas to the DOE commissioned LNG Study 2012.

Thank you,

**Bill Cooper**

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## BEFORE THE UNITED STATES DEPARTMENT OF ENERGY

In Re: 2012 LNG Exports Study

### COMMENTS BY THE CENTER FOR LIQUEFIED NATURAL GAS

The Center for Liquefied Natural Gas (CLNG) respectfully files these comments in conjunction with the 2012 LNG Exports Study, commissioned by the U.S. Department of Energy (DOE) and prepared by NERA Economic Consulting. CLNG requests that these comments be considered in all pending proceedings before DOE and in subsequent filings in which the various applicants seek authorization from DOE to export liquefied natural gas (LNG) to countries with which the United States has not entered into a free trade agreement providing for the national treatment for the trade in natural gas (non-FTA countries).

#### Introduction

CLNG is a non-profit trade association whose mission is to promote fact-based discussions on LNG, support public policies that permit LNG exports and imports to be a part of the U.S. energy mix, and to ensure the safe, secure, and environmentally responsible development and operation of LNG facilities in the United States.

CLNG agrees with the following: “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>1</sup> Therefore, because the exportation of LNG is in the public interest, DOE should promptly grant the pending applications seeking authorization from DOE to export LNG to non-FTA countries without limitations.

#### Legal Authority

The statutory authority governing DOE in its deliberations of the pending export applications is Section 3(a) of the Natural Gas Act, which states:

[N]o 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 [Secretary of Energy] authorizing it to do so. The [Secretary] shall issue such order upon application, unless after opportunity for hearing, [he] finds that the proposed exportation or importation will not be consistent with the public interest.<sup>2</sup>

#### The Rebuttable Presumption:

DOE recognizes that Section 3 of the Natural Gas Act establishes “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.”<sup>3</sup>

Therefore, even though several applicants have filed supporting documentation, the mere filing of the application would suffice. This creates a high evidentiary burden for those who oppose the application. As DOE said in the Sabine Pass case, citing a previous proceeding, “in order to overcome the rebuttable presumption favoring export authorizations, opponents of an export license must make an affirmative showing of

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<sup>1</sup> *Macroeconomic Impacts of LNG Exports from the United States*, NERA Economic Consulting, December 3, 2012, page 1.

<sup>2</sup> 15 USC 717b(a)

<sup>3</sup> Order No. 2961, *Sabine Pass Liquefaction, LLC*, FE Docket No. 10-111-LNG, page 28.

inconsistency with the public interest.”<sup>4</sup> Certainly, mere conjecture cannot be equated with “an affirmative showing.” As noted by DOE in the Sabine Pass case, dismissing the challenges of those opposing the application, “[A]lthough the opponents of the requested authorization have alleged potential negative impacts from a grant of the requested authorization, their arguments are not supported by factual studies or analyses...”<sup>5</sup> To date, no opponent in any pending proceeding has filed “factual studies or analyses” to support arguments against the applications, but have merely asserted unsubstantiated speculations.

In the absence of evidence overcoming the rebuttable presumption established by statute, DOE has taken the extraordinary measure of contracting with NERA Economic Consulting to provide independent evidence to inform DOE’s decisions on pending applications. Nothing contained in the NERA study overcomes the statutory presumption in favor of the applications. In fact, the NERA study strongly supports the approvals of the applications.

Therefore, DOE should grant the pending applications to export LNG to non-FTA countries.

#### The Public Interest:

The “public interest” is not defined in the Natural Gas Act. DOE has attempted to provide regulatory clarity as to what constitutes the public interest in the Kenai LNG case when it said: “DOE considers domestic need for the gas and any other issue determined to be appropriate, including whether the arrangement is consistent with

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<sup>4</sup> *Ibid*, footnote 38, page 28.

<sup>5</sup> *Ibid*, page 30.

DOE's policy of promoting competition in the marketplace..."<sup>6</sup> Since then, DOE has added several considerations to the "domestic need," but most appear to flow from the concept that the primary concern is to have enough natural gas to meet the domestic needs of U.S. consumers. For instance, DOE has added the following considerations, quoting from the Federal Register notice in the Golden Pass Products LLC filing:

To the extent determined to be relevant or appropriate, these issues [considerations] will include the impact of LNG exports associated with this Application, and the cumulative impact of any other application(s) previously approved, on domestic need for the gas proposed for export, adequacy of domestic natural gas supply, U.S. energy security, and any other issues, including the impact on the U.S. economy (GDP), consumers, and industry, job creation, U.S. balance of trade, international considerations, and whether the arrangement is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements.<sup>7</sup>

The record for the various proceedings overwhelmingly contains evidence that the U.S. has an abundance of natural gas, more than enough to meet growing domestic needs for years to come and allow LNG exports.<sup>8</sup> That evidence is in the form of the factual studies filed in support of the various applications now pending before the DOE. Far from contradicting those studies, the NERA study supplements those studies by confirming that LNG exports are good for the U.S. economy.

The marketplace determination:

The 1984 Policy Guidelines issued by DOE and later amended to include exports, states:

[t]he market, not government, should determine the price and other contract terms of imported [or exported] natural gas. The federal

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<sup>6</sup> *ConocoPhillips Alaska Natural Gas Corporation and Marathon Oil Company*, DOE/FE Opinion and Order No. 2500 (June 3, 2008), page 45.

<sup>7</sup> Federal Register notice, Golden Pass Products LLC, Federal Register Vol. 77, No. 235, page 72839

<sup>8</sup> National Petroleum Council, *Prudent Development: Realizing the Potential of North America's Abundant Gas and Oil Resources*, September 15, 2011, page 8

government's primary responsibility in authorizing imports [or exports] will be to evaluate the need for the gas and whether the import [or export] arrangement will provide the gas on a competitively priced basis for the duration of the contract while minimizing regulatory impediments to a freely operating market.

DOE's three (3) stated responsibilities are: 1. "to evaluate the need for the gas", 2. assure that the "arrangement will provide the gas on a competitively priced basis for the duration of the contract", and 3. to "minimiz[e] regulatory impediments to a freely operating market."

As to the need for the gas, there has been "substantial evidence showing an existing and a projected future supply of domestic natural gas sufficient to simultaneously support export and domestic natural gas demand both currently"<sup>9</sup> and over the terms of the projects proposed. To further quote from the *Sabine Pass* order, "No commenters or interveners have submitted contrary studies." Nor have opponents filed contrary studies in other proceedings. The NERA study does not contradict those studies either.

Concerning competitive pricing, there is a very liquid, competitive domestic market for natural gas with a multitude of producers, marketers, sellers, and buyers, thus assuring that the natural gas is competitively priced in the U.S. market.

The third stated responsibility of DOE is to "minimize regulatory impediments to a freely operating market." Such a responsibility to "minimize regulatory impediments to a freely operating market" certainly cannot mean that any one market determinant, such as price or export volumes, could be used to impede the development of the free market. What it surely means is that applicants that meet the statutory and regulatory

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<sup>9</sup> Order No. 2961, *Sabine Pass Liquefaction, LLC*, FE Docket No. 10-111-LNG, page 29.

requirements should be granted the authorizations to export LNG from the United States without regulatory limitation as to export volumes. The “freely operating market” will then allocate scarce and finite economic resources such as financing and end-use contracts to determine which projects will be built and become operational. For as some projects will likely be built, others may not.

The role of the regulator is to assure a level playing field for all participants and to monitor developments for continued consistency with the public interest, not to be a predictor of future events. DOE’s policy to allow a “freely operating market” to function with minimal regulatory impediments directly acknowledges the plain reading of the Natural Gas Act, which gives DOE the tools to respond to market conditions that adversely affect the public interest, not to predict future events during the authorization proceeding for projects with lifespans in excess of twenty (20) years each. Those market conditions are not short-term phenomena such as temporary price increases, which DOE has acknowledged: “DOE does not, however, intend to use this authority as a price maintenance mechanism.”<sup>10</sup>

While the NERA study was commissioned by DOE to inform its decisions on the pending applications, even it does not attempt to predict the future: The model “is a model of long run economic growth such that in any given year, prices, employment, or economic activity might fluctuate above or below projected levels. It is used in this study not to give unconditional forecasts of natural gas prices, but to indicate how,

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<sup>10</sup> Deputy Assistant Secretary, Office of Oil and Natural Gas, Christopher A. Smith letter to Congressman Edward Markey, February 24, 2012

under different conditions, different decisions about levels of exports would affect the performance of the economy.”<sup>11</sup>

Consequently, based upon statutory authority and DOE’s regulatory precedent, DOE should grant all pending applications for LNG exports to non-FTA countries without limitation, allowing the contracting parties to participate in a “freely operating market” seeking competitively priced natural gas for export.

#### The NERA Study

“DOE commissioned the LNG Export Study to inform DOE’s decisions on applications seeking authorization to export LNG from the lower-48 states to non-free trade agreement (FTA) countries.”<sup>12</sup> Given the statutory presumption favoring the applications, it seems extraordinary for DOE to commission a factual study as evidence in the pending proceedings when the opponents to the applications, some of which have been pending for over one (1) year, have not done so. In any event, this section will comment on the study itself.

DOE commissioned NERA Economic Consulting to use its models to evaluate the macroeconomic impact of LNG exports from the United States. NERA developed a total of 63 scenarios, which included global scenarios and the 16 U.S. scenarios for LNG exports modeled by the Energy Information Administration (EIA) in its report.<sup>13</sup> In addition, NERA modeled cases with no exports and with unlimited exports. NERA chose to highlight 13 scenarios covering the range of economic impacts from all 63 scenarios modeled, eliminating those that had essentially identical outcomes. The

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<sup>11</sup> *Macroeconomic Impacts of LNG Exports from the United States*, NERA Economic Consulting, December 3, 2012, page 5.

<sup>12</sup> Federal Register, Volume 77, No. 238, Tuesday, December 11, 2012, page 73627

<sup>13</sup> *Effect of Increased Natural Gas Exports on Domestic Energy Markets*, U.S. Energy Information Administration, January 2012



NERA study is robust and informative, providing DOE the needed analysis to adequately inform DOE's decisions on the pending applications.

While critics may allege shortcomings in the modeling and assumptions of the NERA study, and CLNG does believe that some of the assumptions are conservative, the NERA study comes to the well-supported and reasoned conclusions about the benefits of LNG exports, and its methodology was of high quality. The NERA study, even if revisited, would reach the same strong conclusions, namely that "U.S. economic welfare consistently increases as the volume of natural gas exports increased"<sup>14</sup>, thereby obviating the need for any revisions or additional studies before DOE begins the decision-making process on the pending applications.

While CLNG agrees with the conclusions about LNG exports yielding net economic benefits set forth in the NERA study, CLNG points out that there are assumptions in the NERA study that are very conservative, meaning that the assumptions used cause the study to understate the positive impacts of LNG exports.

The NERA study used the EIA's Annual Energy Outlook for 2011 (AEO 2011) for all scenarios "and incorporated the assumptions about energy and environmental policies, baseline coal, oil and natural gas prices, economic and energy demand growth, and technology availability and cost in the corresponding AEO cases."<sup>15</sup> While CLNG does not suggest delaying the process further by updating the NERA study by considering, for example, the reference cases for the AEO 2012 and AEO 2013 Early Release projections, both of those outlooks by EIA forecast greater domestic natural

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<sup>14</sup> *Macroeconomic Impacts of LNG Exports from the United States*, NERA Economic Consulting, December 3, 2012, page 6.

<sup>15</sup> *Ibid*, page 5.

gas supplies and lower domestic prices for natural gas than does the AEO 2011. Consequently, the overall impacts to the U.S. economy from LNG exports would be even more positive, while the negative impacts to the economy of marginally higher energy costs would be mitigated to a greater degree than in the NERA study. In fact, as an example, the AEO 2013 Early Release projects approximately 18% more production in 2025 than does the AEO 2011 analysis, while forecasts for natural gas prices are approximately 22% lower than in the AEO 2011 analysis. Simply put, the NERA study understates the supply and overstates the impact of prices for natural gas, thus understating the overall net benefits to the U.S. economy.

The NERA study assumes full employment, but the reality is far from it and unlikely to be achieved for years to come. This full employment assumption artificially limits employment gains that would be derived from the construction and operation of LNG export projects, not to mention the employment gains derived from the production of new natural gas supplies. Once construction begins at any of the proposed projects, an average of 2,000 to 3,000 high-paying jobs would be created for approximately four (4) years, with 150 to 250 permanent jobs at each facility. A project could begin construction shortly after governmental approvals are received. A recent study by IHS CERA<sup>16</sup> estimates that for every 1 Bcf/d of shale gas production, approximately 32,000 jobs will be supported throughout the economy. The U.S. International Trade Administration estimates that for each annual \$165,000 of export value, one new U.S. job is created.<sup>17</sup> Using this rule of thumb, each 5 Bcf/d of LNG exports generating

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<sup>16</sup>HIS Global Insight, *The Economic and Employment Contributions of Shale Gas in the United States*, December 2011

<sup>17</sup> U.S. Department of Commerce, International Trade Commission, "Exports Support American Jobs," 2011.

export revenue of \$14 billion, would result in about 85,000 new jobs. With the current unemployment rate, LNG exports could be a significant and timely boost to the economy.

Given the conservative nature of the assumptions and the use of 2011 AEO projections that understate supply and overstate price, one could reasonably assert that the NERA study, even in the light most favorable to the opponents of the applicants, strongly supports LNG exports from the United States.

CLNG agrees with the following conclusions set forth in the NERA study:

- “The macroeconomic analysis shows that there are consistent net economic benefits across all the scenarios examined and that the benefits generally become larger as the amount of exports increases.”<sup>18</sup>
- “Every scenario shows improvement in GDP over the No-Exports cases...”<sup>19</sup>
- “LNG exports will not drive the price of domestic natural gas to levels observed in countries that are willing to pay oil parity-based prices for LNG imports.”<sup>20</sup> In other words, U.S. natural gas prices will not become linked to world oil prices.
- “[T]he increase in investment for liquefaction facilities and increased natural gas drilling and production provides, in general, near-term stimulus to the economy.”<sup>21</sup>
- “[T]he range of aggregate macroeconomic results from this study suggests that LNG export has net benefits to the U.S. economy.”<sup>22</sup>

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<sup>18</sup> *Macroeconomic Impacts of LNG Exports from the United States*, NERA Economic Consulting, December 3, 2012, page 76.

<sup>19</sup> *Ibid*

<sup>20</sup> *Ibid*

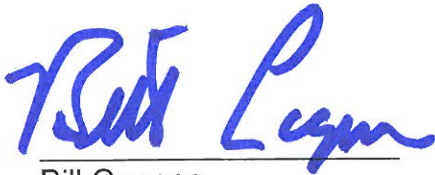
<sup>21</sup> *Ibid*

<sup>22</sup> *Ibid*

## Conclusion

CLNG respectfully asserts that the DOE should promptly grant authorizations to all pending applicants to export LNG to non-FTA countries without limitation based upon the following: 1. The Natural Gas Act creates a rebuttal presumption that applications are consistent with the public interest, and no opponent has offered evidence to the contrary; 2. Granting the authorizations is consistent with DOE's established policies and previous decisions; and 3. The NERA study supports LNG exports as providing net benefits to the U.S. economy and thus are not inconsistent with the public interest.

Respectfully submitted,



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