

Client Alert

Latham & Watkins
Corporate, Environment, Land & Resources and
Finance Departments

Update: US LNG Exports — US DOE Releases LNG Export Study Supporting Increased LNG Exports

Committing to launching “a prudent, transparent, judicious decisionmaking process” on exporting liquefied natural gas (LNG) by the end of this year, the US Department of Energy (DOE) is one giant leap closer to making good on its long-awaited commitment.

On 5 December 2012, DOE’s Office of Fossil Energy posted a 230-page report, commissioned and prepared by third party NERA Economic Consulting (the NERA Study), into all of the 15 pending export application dockets, and published a notice in the Federal Register (the DOE Notice) that invites the public to provide comment on both the NERA Study and an earlier economic study issued by DOE’s Energy Information Administration in January 2012 (together, the 2012 LNG Export Study).

As discussed in Latham’s *Client Alert* from 30 September 2012, there has been political criticism of the delay in the processing of pending applications for LNG exports to non-FTA countries, as well as political support for more delay and further study. The release of this study lays groundwork for politically-contentious decisions regarding authorizations for LNG exports.

The NERA Study sets forth several key findings regarding the macroeconomic impacts of permitting exports from lower-48 states (*i.e.*, all states except Alaska and Hawaii). These key findings include:

- “...the US was projected to gain net economic benefits from allowing LNG exports.”
- “...for every one of the market scenarios examined, net economic benefits increased as the level of LNG exports increased.”
- “...benefits that come from export expansion more than outweigh the losses from reduced capital and wage income to US consumers, and hence LNG exports have net economic benefits in spite of higher domestic natural gas prices.”
- “Net benefits to the US would be highest if the US becomes able to produce large quantities of gas from shale at low cost, if world demand for natural gas increases rapidly, and if LNG supplies from other regions are limited.”
- “US natural gas prices increase when the US exports LNG. But the global market limits how high US natural gas prices can rise under pressure of LNG exports because importers will not purchase US exports if US wellhead price rises above the cost of competing supplies. In particular, the US natural gas price does not become linked to oil prices in any of the cases examined.”

“For every one of the market scenarios examined, net economic benefits increased as the level of LNG exports increased.”

- “Natural gas price changes attributable to LNG exports remain in a relatively narrow range across the entire range of scenarios. Natural gas price increases at the time LNG exports could begin range from zero to \$0.33 (2010\$/Mcf). The largest price increases that would be observed after 5 more years of potentially growing exports could range from \$0.22 to \$1.11 (2010\$/Mcf). The higher end of the range is reached only under conditions of ample US supplies and low domestic natural gas prices, with smaller price increases when US supplies are more costly and domestic prices higher.”
- “Like other trade measures, LNG exports will cause shifts in industrial output and employment and in sources of income. Overall, both total labor compensation and income from investment are projected to decline, and income to owners of natural gas resources will increase.”
- “Nevertheless, impacts will not be positive for all groups in the economy. Households with income solely from wages or government transfers, in particular, might not participate in these benefits.”
- “LNG exports are not likely to affect the overall level of employment in the US.”
- “Serious competitive impacts are likely to be confined to narrow segments of industry. About 10 percent of US manufacturing, measured by value of shipments, has both energy expenditures greater than 5 percent of the value of its output and serious exposure to foreign competition. Employment in industries with these characteristics is about one-half of one percent of total US employment.”

The full NERA Report and the DOE Notice can be accessed [here](#)¹, along with other relevant documents.

The DOE Notice states that DOE does not take a position regarding the key findings of the NERA Report at this time. The DOE Notice provides that DOE will accept initial comments on the 2012 LNG Export Study through 24 January 2013, and will accept reply comments from 25 January 2013 through 25 February 2013. The DOE Notice also provides that no final decisions will be issued in the 15 pending proceedings until DOE has received and evaluated comments on the 2012 LNG Export Study. The DOE intends to conduct its own review of the NERA Study as well as consideration of relevant comments on a consolidated basis for all 15 pending export applications made throughout the comment process for the 2012 LNG Export Study, prior to making final determinations for each pending application.

Also of note and great interest to developers and financing parties for currently or future proposed LNG export facilities, a related posting on DOE's website states that after DOE completes its review of the comments, it will then begin to consider pending applications on a case-by-case basis. DOE will consider individual applications based on the order in which the environmental review process of the related export facilities has been initiated at the Federal Energy Regulatory Commission (FERC). FERC must review and approve plans for the construction and operation of LNG export facilities and the modification of LNG import facilities to become export terminals. Because of the potentially long lead times involved in the environmental review process, FERC will commence the environmental review of facilities even before formal applications for construction and operation of facilities are filed, in what is known as FERC's "pre-filing process." In the posting on its website, DOE states that it

expects to act first upon applications for which the applicants have commenced the pre-filing process at the Federal Energy Regulatory Commission (FERC) as of 5 December 2012, in the general order in which the Department received them. Following disposition of those applications that have pre-filed with FERC, the Energy Department expects to act upon the rest of the pending applications — and any others submitted — in the order received.

The following is a list of requests to initiate the FERC pre-filing process reported in FERC's electronic library, as of 5 December 2012, in the order the requests were made, from the earliest to the latest requests:

Freeport LNG Development, L.P.,
Corpus Christi Liquefaction, LLC
Jordan Cove Energy Project, L.P. (Coos Bay)
Trunkline LNG Company, LLC, (Lake Charles La.)
Cameron LNG (Sempra, Hackberry, LA)
Dominion Cove Point LNG, LP
Oregon Pipeline Company (Astoria Ore.)
Lavaca Bay Pipeline System, LLC (Texas)
Southern LNG Co.
Gulf LNG Liquefaction Company, L.L.C

Endnote

¹ NERA Report December 2012: Macroeconomic Impacts of LNG Exports from the United States
http://www.fossil.energy.gov/programs/gasregulation/reports/nera_lng_report.pdf.

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