Industrial Energy Consumers of America
The Voice of the Industrial Energy Consumers

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October 16, 2017

U.S. Department of Energy (FE-34)
Office of Regulation and International Engagement
Office of Fossil Energy
P.O. Box 44375
Washington, DC 20026-4375

Re: ***Small-Scale Natural Gas Exports, Regulation Identifier Number (RIN) 1901-AB43 and FE Docket No. 17-86-R***

I. Summary

The proposed rule violates the Natural Gas Act (NGA) and is not in the public interest, nor consistent with free market principles.

II. Industrial Energy Consumers of America (IECA)

IECA is a nonpartisan association of leading manufacturing companies with $1.0 trillion in annual sales, over 3,400 facilities nationwide, and with more than 1.7 million employees. IECA company membership represents a diverse set of industries including: chemicals, plastics, steel, iron ore, aluminum, paper, food processing, fertilizer, insulation, glass, industrial gases, pharmaceutical, building products, automotive, brewing, independent oil refining, and cement.

III. Comments on the Proposed Rule

a. The Proposed Rule Violates the NGA

The Congressional intent of the NGA provisions that govern LNG exports were to protect the U.S. consumer from excessive LNG exports to non-free trade agreement (NFTA) countries, which would harm the public interest. The NGA makes domestic consumption and LNG exports to free trade agreement (FTA) countries a priority over LNG exports to NFTA countries.

Under the NGA, Congress requires the DOE to carefully measure and compare the public interest costs and benefits of incremental and cumulative volumes of LNG exports to NFTA agreement countries, as compared to no exports to NFTA countries. Public interest costs and benefits would be measured considering forecasted volumes of domestic demand and shipments to FTA countries whether by LNG or pipeline. Doing so would determine whether an application to export LNG to NFTA countries is not in the public interest.

The NGA does not give the DOE the authority to not consider the public interest costs and benefits when considering the approval or disapproval of an application to ship to NFTA countries, regardless of size. And, this proposed rule would result in an open-ended volume of LNG exports to NFTA countries. The NGA does not give DOE the ability to approve an opened ended volume of exports to NFTA countries or it would not have established the public interest costs and benefits test.

The NGA is worded clearly to mean individual applications to NFTA countries must undergo a public interest evaluation of costs and benefits as to whether the application export volume is not in the public interest with consideration to the cumulative impact of all application volumes previously approved for NFTA and considering domestic demand and other exports to FTA countries whether by pipeline or LNG. Unless cumulative application volume impacts are considered, there cannot be a determination that the individual application volume provides more benefits than costs to the public interest.

b. The NOPR is Not Consistent with Free Market Principles: The LNG Market is Not a Free Market or Fair Market

The U.S. natural gas market is a free market, whereby the price is determined by supply and demand. The global LNG market is not a free or fair market. LNG buyers are dominated by state-owned enterprise (SOE) entities or fully regulated government controlled utilities that have automatic cost pass-through. U.S. manufacturers do not have automatic cost pass through.

Long-term, and under future peak demand scenarios, U.S. consumers cannot compete with the buying power of countries and could become disadvantaged. None of the DOE LNG export studies considered this important point nor did they consider that the majority of LNG buying countries have winter when the U.S. does. This means that their buying LNG will push prices up in the winter during peak demand. Studies did not consider costs or risks of limitations of pipeline or storage capacities impacts.

The rule gives foreign government buyers rights to buy natural gas for periods of up to 30 years, thereby increasing and imposing growing risks and costs to U.S. consumers. Because approvals of LNG exports are for long periods of time, the DOE needs to have a measured approach and not approve excessive amounts to NFTA countries.

Furthermore, shipping LNG to NFTA countries is in conflict with fair trade and with negotiating FTAs with countries to enable U.S. manufacturers to export their goods there. LNG exports to NFTA agreement countries undermines FTA negotiations.

c. The NOPR is Not Consistent with the Public Interest, DOE has Not Defined Public Interest

The DOE admits that it has not defined the public interest. How then can costs and benefits be measured properly? How can the DOE interpret the phrase “public interest” without first defining it? IECA and others have encouraged the DOE to do a rulemaking process to define public interest before further action is taken.

d. Combined LNG Exports Already Approved Exceed 71 percent of U.S. Demand

The volume approved for exports is already excessive. The DOE has given final approval for the export of LNG of 33.4 billion cubic feet per day (Bcf/d) to FTA countries and 20.6 Bcf/d for shipment to NFTA countries, for a total of 54 Bcf/d, an equivalent of 71 percent of U.S. 2016 demand.

e. DOE Studies Conducted under the Obama Administration and Used to Justify Approval of LNG Export Applications Failed to Consider Critical Public Interest Risks and Issues.

i. Failed to consider cumulative consumption of technically recoverable resources.

According to the Energy Information Administration (EIA) AEO 2017, cumulative net demand for natural gas, which includes exports of LNG increasing to 12.1 Bcf/day and shipments to Mexico by 2050 totals 1,278.8 Tcf, would consume 58 percent of U.S. technically recoverable natural gas resources. This considers that only 12.1 Bcf/day is exported when a total of 54 bcf/day has been approved.

ii. Failed to consider the economic harm that LNG shipments to NFTA countries inflicts on manufacturing companies who face tariffs in those same countries.

Shipping LNG to NFTA countries undermines our ability to achieve fair trade agreements to sell manufacturing value-added goods. And it reduces their price of natural gas, making it harder for U.S. manufacturing companies to compete.

iii. Failed to account for LNG volumes to FTA countries.

The studies failed to include already approved application volumes to FTA countries and their cumulative demand impact on costs.

Sincerely,

Paul N. Cicio
President

The Industrial Energy Consumers of America is a nonpartisan association of leading manufacturing companies with $1.0 trillion in annual sales, over 3,400 facilities nationwide, and with more than 1.7 million employees worldwide. It is an organization created to promote the interests of manufacturing companies through advocacy and collaboration for which the availability, use and cost of energy, power or feedstock play a significant role in their ability to compete in domestic and world markets. IECA membership represents a diverse set of industries including: chemicals, plastics, steel, iron ore, aluminum, paper, food processing, fertilizer, insulation, glass, industrial gases, pharmaceutical, building products, automotive, brewing, independent oil refining, and cement.