

**MODERNIZING THE NATURAL GAS ACT TO ENSURE  
IT WORKS FOR EVERYONE**

**HOUSE SUBCOMMITTEE ON ENERGY, COMMITTEE  
ON ENERGY AND COMMERCE**

**FEBRUARY 5, 2020**

**COMMENTS FOR THE RECORD  
OF**

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## EXECUTIVE SUMMARY

Chairman Rush, Ranking Member Upton, thank you for holding this important hearing to consider needed modernization of the Natural Gas Act (NGA). In my 37 years of commercial and policy engagement in energy markets, none compare to the significant changes that are underway. What has not changed is the central importance of the cost and reliability of energy.

The Industrial Energy Consumers of America is a nonpartisan association of leading manufacturing companies with \$1.0 trillion in annual sales, over 3,700 facilities nationwide, and with more than 1.7 million employees. 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, independent oil refining, and cement.

IECA urges the Subcommittee on Energy to take bipartisan action to modify the NGA in the following four areas.

- Give the FERC or NERC interstate natural gas pipeline capacity oversight authority to assure natural gas and electric reliability, as well as national security.
- Section 3: For purposes of implementing Section 3, we urge Congress to change the public interest determination so that the burden is on natural gas exporters to prove that exporting to non-free trade agreement (NFTA) countries is in the public interest. Today, the burden is on the public (consumers).
- Interstate natural gas pipelines are monopolies. Place the burden on interstate natural gas pipelines to regularly prove to the FERC that their rates are just and reasonable. If not, require the FERC to conduct reviews of interstate natural gas pipeline rates every three years. Doing so would reduce consistent significant pipeline overcharges and avoid/reduce significant legal costs to shippers (consumers).
- Under Section 5, give the FERC the same refund authority for overcharged pipeline rates that are available under Section 206 of the Federal Power Act.

## COMMENTS FOR THE RECORD

### **I. Give the FERC or NERC interstate natural gas pipeline capacity oversight authority to assure natural gas and electric reliability, as well as national security.**

Unlike the electricity market where Congress granted the North American Electric Reliability Corporation (NERC) nationwide market reliability oversight, there is no such oversight for natural gas pipeline reliability. Without natural gas pipeline reliability, we cannot have electric reliability, nor national security. And, it does not matter how much natural gas resources we have in the ground unless there are sufficient natural gas pipeline capacity.

Natural gas pipeline capacity is critical to the growth of the entire manufacturing sector, which contributes \$2.3 trillion to the U.S. GDP and 12.8 million jobs.<sup>1</sup> Industrial natural gas demand represents 28 percent of total U.S. demand and manufacturers do not have an economic alternative.<sup>2</sup> Reliability of pipeline capacity is critical. Manufacturers operate 24/7. If there is inadequate pipeline capacity, we are forced to cut back or stop manufacturing operations. This could result in millions of dollars per day of additional costs that may result in the permanent closure of facilities resulting in the loss of valuable high-paying jobs. The same is true for reliability of electricity, a sector that has become largely dependent upon natural gas for its generation. Like natural gas pipeline capacity availability, manufacturers are already impacted by decreasing power quality.

It is vital to know that there is sufficient natural gas pipeline capacity to serve increasing domestic and export demand, especially at peak winter and summer demand, and with consideration to aging pipelines and replacement.

Demand increases have been significant, consuming much of existing pipeline capacity. According to the U.S. Energy Information Administration (EIA), domestic natural gas demand will increase from 74.6 Bcf/d in 2015 to 85.2 Bcf/d in 2020, an 14.2 percent increase and is forecasted to increase to 87.4 Bcf/d by 2025.<sup>3</sup> Total gross exports have increased to over 12 Bcf/day in 2019 and are forecasted to increase to 15.9 Bcf/d by 2025 (see Figure 1). Importantly, natural gas power generation's share of the market will increase from 26.7 percent of the market in 2015 to 34.6 percent by 2025. Natural gas electric generation is displacing coal and is the backup generating source for the ever-increasing production of renewable energy.

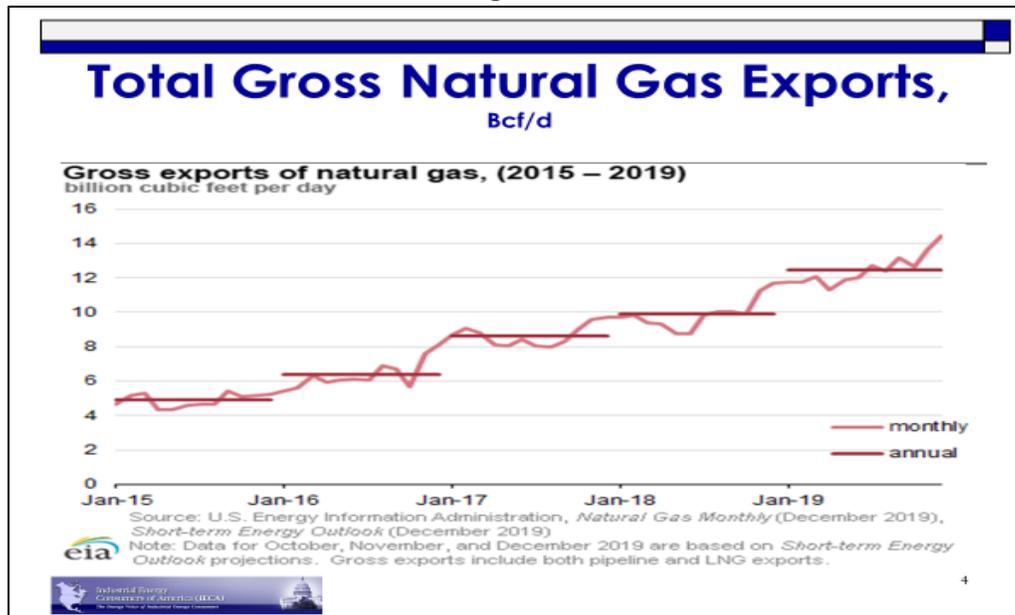
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<sup>1</sup> Value Added by Industry, U.S. Bureau of Economic Analysis (BEA), <https://www.bea.gov/> and Employment, Hours, and Earnings, U.S. Bureau of Labor Statistics (BLS), <https://www.bls.gov/>

<sup>2</sup> Natural Gas, U.S. Energy Information Administration (EIA), <https://www.eia.gov/naturalgas/>

<sup>3</sup> Natural Gas, U.S. Energy Information Administration (EIA), <https://www.eia.gov/naturalgas/>

Figure 1



In past years, oversight was not needed, however three things have changed:

**a. Accelerating LNG and pipeline exports to Mexico decrease available natural gas pipeline capacity for domestic consumers.**

Fast growing export volumes are reason enough to justify pipeline capacity oversight. Export volumes decrease available pipeline capacity for the domestic market because the exported natural gas is going offshore to supply other countries, not U.S. consumers. Exporters have locked up long-term pipeline capacity contracts, capacity that is no longer available to domestic consumers for years to come. There is LESS available pipeline capacity for domestic consumers than what is thought. The same concerns exist for the availability of natural gas that is in storage.

Natural gas exports are forecasted to account for 75 percent of U.S. demand growth over the next five years, increasing market share from 10 to 20 percent of total U.S. demand.<sup>4</sup> The FERC has approved LNG exports equal to an additional 21 Bcf/day, a volume equal to 26 percent of demand that is not yet under construction.<sup>5</sup> (See Appendix Figures 3-5.) According to the U.S. DOE from February 2016 to November 2019, 58.2 percent of U.S. LNG was shipped to countries that do not have a free trade agreement with the U.S, countries that often discriminate against U.S. manufacturing products.<sup>6</sup> This is problematic to IECA. IECA supports LNG exports to free trade agreement countries.

<sup>4</sup> S&P Global, Platts

<sup>5</sup> LNG Exports, FERC, <https://www.ferc.gov/industries/gas/indus-act/lng.asp>, January 21, 2020

<sup>6</sup> LNG Monthly 2019, U.S. Department of Energy (DOE), <https://www.energy.gov/fe/downloads/lng-monthly-2019>

**STATUS OF LNG EXPORT TERMINALS  
(AS OF JANUARY 24, 2020)**

<b>Terminal</b>	<b>Volume (Bcf/d)</b>	<b>Status</b>
Sabine Pass (Trains 1-5)	3.50	Exporting
Dominion Cove Point	0.82	Exporting
Corpus Christi (Train 1)	1.44	Exporting
Cameron LNG (Train 1)	0.71	Exporting
Southern LNG Company (Units 1-4)	0.14	Exporting
Freeport LNG Development (Trains 1-2)	1.42	Exporting
<b>Capacity: Exporting</b>	<b>8.03 Bcf/d (9.8% of 2018 U.S. demand)</b>	
Sempra-Cameron (Trains 2-3)	1.43	Under Construction
Freeport LNG Development (Train 3)	0.71	Under Construction
Corpus Christi (Train 2)	0.72	Under Construction
Sabine Pass (Train 6)	0.70	Under Construction
Southern LNG Company (Units 5-10)	0.21	Under Construction
Venture Global Calcasieu Pass	1.41	Under Construction
Golden Pass	2.10	Under Construction
Driftwood LNG	4.00	Under Construction
<b>Capacity: Under Construction</b>	<b>11.28 Bcf/d (13.7% of 2018 U.S. demand)</b>	
Lake Charles	2.20	Approved
Magnolia LNG	1.08	Approved
Sempra-Cameron	1.41	Approved
Port Arthur LNG (Trains 1-2)	1.86	Approved
Freeport LNG Development (Train 4)	0.72	Approved
Gulf LNG Liquefaction	1.50	Approved
Eagle LNG Partners	0.13	Approved
Venture Global LNG	3.40	Approved
Texas LNG Brownsville	0.55	Approved
Rio Grande LNG	3.60	Approved
Annova LNG Brownsville	0.90	Approved
Corpus Christi	1.86	Approved
Delfin LNG	1.80	Approved
<b>Capacity: Approved, Not Under Construction</b>	<b>21.01 Bcf/d (25.6% of 2018 U.S. demand)</b>	
Jordan Cove	1.08	Proposed
Commonwealth LNC	1.18	Proposed
Port Fourchon LNG	0.65	Pre-Filing
Galveston Bay LNG	1.20	Pre-Filing
Pointe LNG	0.90	Pre-Filing
Delta LNG - Venture Global	2.76	Pre-Filing
Port Arthur (Trains 3 & 4)	1.86	Pre-Filing
<b>Capacity: Pending/Pre-Filing</b>	<b>9.63 Bcf/d (11.7% of 2018 U.S. demand)</b>	
<b>Capacity: Total Overall</b>	<b>49.95 Bcf/d (60.8% of 2018 U.S. demand)</b>	

Source: Federal Energy Regulatory Commission (FERC)

**b. A decade of rapid domestic and export demand has consumed much of the available pipeline capacity.**

The National Petroleum Council report from December 2019 states: “The United States has a vast oil and natural gas infrastructure network, but existing infrastructure has been modified and *adapted to near capacity.*”

The Interstate Natural Gas Association of America’s (INGAA) Foundation released a report in June 2018 which states that 26,000 miles of natural gas pipeline is needed by 2035, only fifteen years from now,<sup>7</sup> an average of 1,400 miles of new pipeline placed in service each year. As of November, 2019, according to the FERC, 5,762 miles of interstate natural gas pipelines have been placed in service from 2010 to 2019, an average of 576 miles per year, less than one-half of what INGAA states is needed.<sup>8</sup>

**c. Insufficient pipeline capacity is already a problem regionally and pipelines are getting more difficult to build and longer to place into service.**

Regional shortages of natural gas pipeline capacity already exist, preventing manufacturing companies from expanding facilities and building cogeneration of power and steam for their facilities.

The National Petroleum Council released a report in December 2019 which states: “However, there are rising levels of opposition to permitting and siting of new and modified infrastructure. Some major projects have been delayed or impeded, and the trend is concerning.”<sup>9</sup>

Opposition to new pipelines often result in legal action which slows down or stops the construction of pipelines and substantially increases the costs of the pipeline, which are then passed onto us, domestic consumers. It is important to remember that interstate natural gas pipelines are monopolies and consumers cannot avoid paying these higher costs.

**II. Section 3: For purposes of implementing Section 3, change the public interest determination so that the burden is on natural gas exporters to prove that exporting to non-free trade agreement (NFTA) countries is in the public interest. Today, the burden is on the public (consumers).**

IECA understands this first hand. We are the only consumer organization to intervene in the majority of the DOE LNG export applications for shipment to NFTA countries. IECA is not opposed exports so long as they do not result in increased costs or impacts to reliability of natural gas or electricity long term. That said, IECA believes that too many export applications

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<sup>7</sup> INGAA: North America Midstream Infrastructure through 2035; <https://www.ingaa.org/File.aspx?id=34658>

<sup>8</sup> Federal Energy Regulatory Commission: <https://www.ferc.gov/industries/gas/indus-act/pipelines.asp> FERC data, as of November, 2019

<sup>9</sup> National Petroleum Council, Dynamic Delivery, December 12, 2019 [https://dynamicdelivery.npc.org/files/Infra-Exec\\_Summary-12-12-2019-FINAL.pdf](https://dynamicdelivery.npc.org/files/Infra-Exec_Summary-12-12-2019-FINAL.pdf)

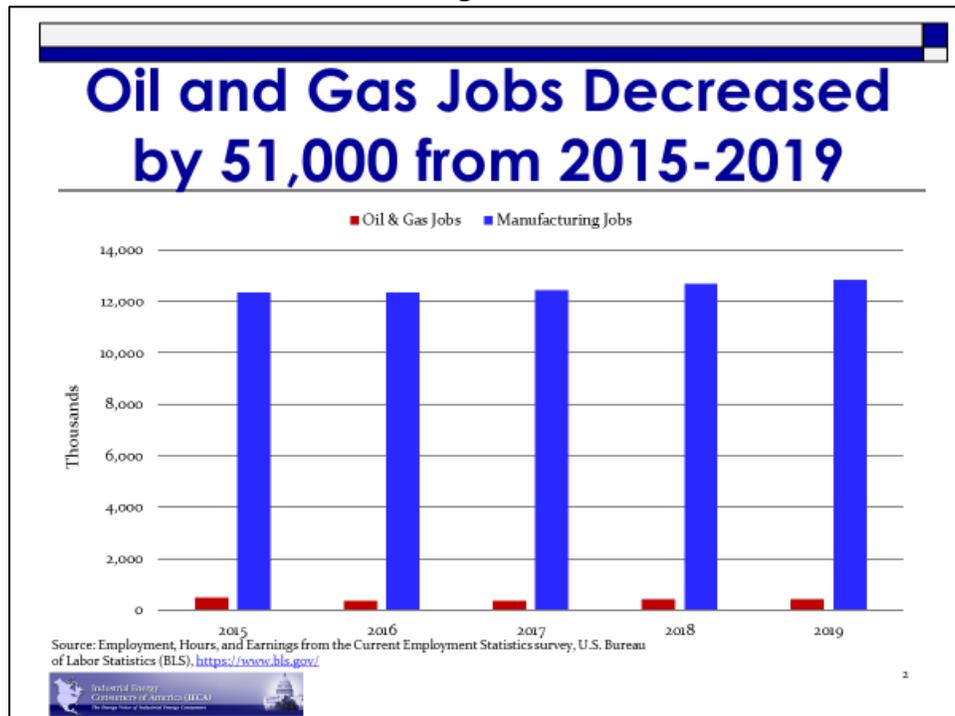
have been approved without consideration to natural gas and electricity price and reliability risks to manufacturing and the domestic consumer. This concern includes pipeline capacity risks.

For NFTA exports, Section 3 places the burden on the consumer to prove that there will be damage to the public interest for LNG export applications that are awarded for 20 to 30 years. It is impossible to forecast what will happen next year, let alone 30 years from now. And, the DOE LNG export studies have used proprietary economic models which makes it impossible to replicate and challenge. And, is inconsistent with the Data Quality Act.

The DOE LNG export studies have confirmed that the benefits of LNG exports go almost exclusively to a very small and narrow portion of the economy, the natural gas production and export companies, while 100 percent of U.S. consumers face enormous forward pricing and reliability risks. Therefore, the cost and reliability risks are inconsistent with the public benefits.

Job creation versus job destruction risks also do not meet the public cost versus benefit test. From 2015 to 2019, natural gas production significantly increased but oil and gas industry jobs have decreased by 51,000 (see figure 2) while manufacturing sector jobs increased by 505,000. The public cost versus benefit point is that if the DOE approves too many exports and prices rise, it threatens the entire manufacturing sector with 12,841,000 jobs. This risk, by itself calls for moderation, a balanced approach to how much LNG export volume are approved and exported, with consideration to pipeline capacity. Instead, the DOE has never not approved an LNG export application.

Figure 2



Importantly, IECA has consistently pointed out that none of the DOE LNG export studies consider pipeline capacity availability. A significant omission. The NGA public interest calls for surety that the U.S. can export natural gas without negative impact to U.S. consumers.

Lastly, the process of considering the approval of LNG export applications are cloaked in the darkness of the DOE Federal Register notices that the general public never sees. The public is fundamentally without knowledge of the LNG application process. If they do not know the LNG application process exists, they are unable to represent themselves and raise concerns.

Therefore, since the general public are left out of the process, it behooves Congress to place the burden on the LNG exporters to prove that their cumulative volumes are in the public interest.

**III. Place the burden on interstate natural gas pipelines to regularly prove to FERC that their rates are just and reasonable. If not, require the FERC to conduct reviews of interstate natural gas pipeline rates every three years. Doing so would reduce consistent significant pipeline overcharges and avoid/reduce significant legal costs to shippers (consumers).**

It is important to first recognize that interstate natural gas pipelines are a monopoly and do not have any competition. The pipelines are guaranteed a high fixed rate of return (12-13%), which means their profitability is guaranteed. This rate of return is significantly higher than most U.S. businesses. Because of the monopoly status, FERC has the responsibility to ensure that natural gas pipelines rates are just and reasonable and are not over-collecting and that shippers/consumers are not being overcharged.

The FERC is not under any obligation to review individual pipeline rates. The FERC does on occasion take the initiative to review an individual pipeline rate. When they do, the record shows that FERC determines that the pipelines are overcharging.

Because the FERC randomly and rarely initiates rate reviews, the burden shifts to companies/consumers who pay for the use of the pipeline to take legal action to get rate relief. Most often this occurs when pipelines give notice of a rate increase. This forces shippers/consumers to hire expensive attorneys to legally intervene in the rate case which can cost hundreds of thousands of dollars for each of the multiple shippers/consumers.

The NGA requires pipelines to provide their services at just and reasonable rates. The burden should be on them to assure that the FERC and shippers are in compliance. Every taxpayer in the U.S. is required by law to pay taxes owed on their income. The burden is on the taxpayer to assure compliance. It is reasonable and logical that pipelines also have this obligation for their rates.

**IV. Under Section 5, give the FERC the same refund authority for overcharged pipeline rates that is available under Section 206 of the Federal Power Act.**

Under section 206 of the Federal Power Act (FPA), the FERC or an electric transmission customer can file a rate complaint. If FERC finds that an electric transmission entity has charged an unjust and unreasonable rate, then the FERC may order that the entity refund overcharged funds based on a refund effective date set by the FERC when it issues the notice of the complaint. The NGA offers no such recourse.

Under section 5 of the NGA, entities that believe they have been overcharged can still file a complaint against an interstate natural gas pipeline. However, under section 5 the FERC only has authority to grant prospective rate relief, it cannot order refunds of over-collections. Natural gas transmission customers thus are not able to recoup monies that are determined to be unjustly collected. This creates an incentive for interstate natural gas pipelines to prolong such cases because they are able to keep all of the overcharged monies. Closing this loophole will set the proper incentive for pipelines to resolve section 5 proceedings more quickly.

On behalf of the manufacturing sector and all U.S. consumers, we urge you to take bipartisan action to serve the public interest.

Sincerely,

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President  
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202-223-1661

APPENDIX

Figure 3

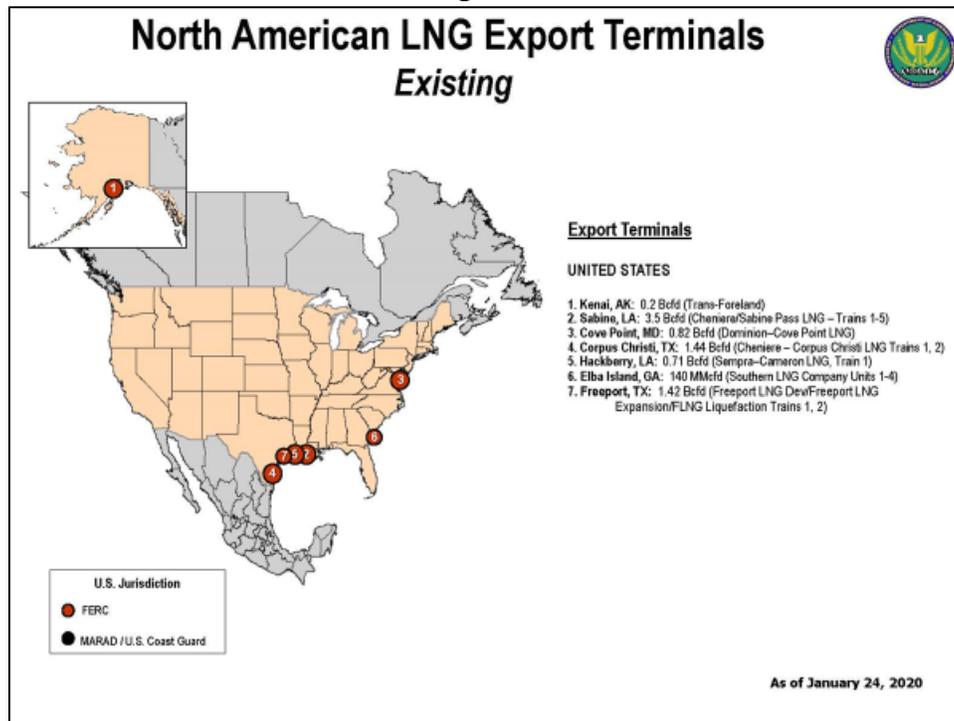


Figure 4

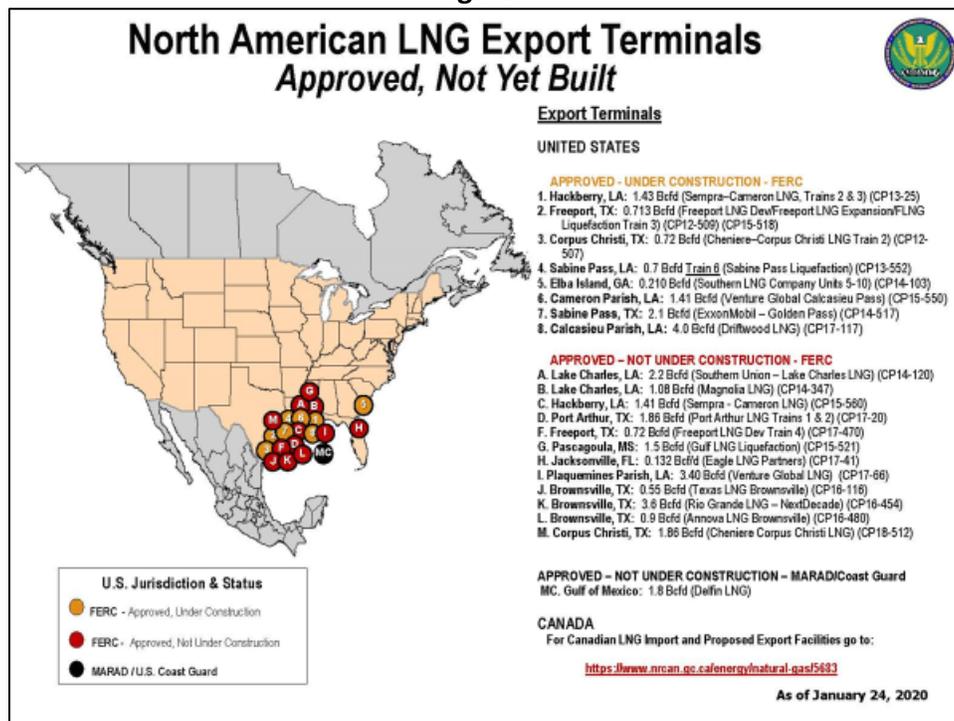


Figure 5

