Industrial Energy Consumers of America (IECA)
The Voice of the Industrial Energy Consumers

POLICY OPTIONS TO PROTECT THE PUBLIC INTEREST AND TO INSULATE THE U.S. MARKET FROM THE NEGATIVE IMPACTS OF LNG EXPORTS

I. JUSTIFICATION FOR ACTION

U.S. LNG exports are forecasted to increase from about 13 billion cubic feet a day (Bcf/d) in 2023 to 25 Bcf/d in 2027, a 92 percent increase. LNG export terminals operating, under construction, approved and not under construction, proposed, pending applications, and applications in prefiling totals 52.7 billion cubic feet a day (Bcf/d) or 53 percent of U.S. 2022 dry natural gas production.[1] This does not include U.S. natural gas pipeline shipments to the eight LNG export terminals either under construction or planned in Mexico.

The new era of increasing LNG exports requires a thoughtful and balanced policy that will allow for LNG exports, but not at the expense of U.S. consumers, the economy, and national security. U.S. natural gas and electricity prices are impacted by LNG exports when U.S. inventories are low, which is what happened in the winter of 2021-2022 and spot prices of natural gas increased by 300 percent. Action must be taken by the U.S. Department of Energy (DOE) to protect the public interest and insulate the U.S. market from the global market. The reliability and costs of natural gas and electricity markets are at stake and economic and national security are at risk without DOE action. LNG exports are price insensitive and therefore have market power over U.S. consumers.

Unlike crude oil and the Strategic Petroleum Reserve, there is no federal reserve of natural gas, which can be used to ensure reliability. And, unlike crude oil, we cannot import natural gas if inventories are low and reliability is threatened.

II. CONSUMER PROTECTIONS UNDER THE NATURAL GAS ACT (NGA)

Unlike crude oil, gasoline, diesel, or propane, Congress granted protection for domestic consumers from natural gas export volumes, which would negatively impact the public interest under the NGA. There are explicit provisions to protect the “public interest,” even in the event of unforeseen circumstances. The EU, Australia, Japan, and China have already taken action to protect consumers. It is timely for the U.S. to do the same. The paragraphs below are from the Federal Register and explicitly makes clear that the DOE has the authority under the NGA to protect the public interest.

Federal Register on June 21, 2018:

The DOE is responsible for authorizing exports of domestically produced natural gas, including liquefied natural gas (LNG), to foreign nations pursuant to section 3 of the NGA.

[1] Dry natural gas production in 2022 totaled 100 Bcf/d, Natural Gas, U.S. Energy Information Administration, https://www.eia.gov/naturalgas/data.php

Under section 3(a) of the NGA, the DOE reviews applications to export natural gas to countries with which the United States has not entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas and with which trade is not prohibited by U.S. law or policy (non-FTA countries). NGA section 3(a) states that the DOE "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."

Additionally, under section 16 of the NGA, the ***DOE is authorized to "prescribe, issue, make, amend, and rescind such [export] orders…as it may find necessary or appropriate…" to satisfy its statutory responsibilities. The DOE has maintained, however, that [in the event of any unforeseen developments of such significant consequences as to put the public interest at risk, the DOE is fully authorized as necessary to protect the public interest.***

III. POLICY OPTIONS

A. Establish a Natural Gas Inventory Policy to insulate the U.S. market from the negative impacts of LNG exports when inventories are low.

The DOE should condition LNG export orders for shipment to NFTA countries in a manner that gives the DOE the option to require LNG exporters to reduce the rate of exports if U.S. natural gas inventories fall five percent below the previous year's average. Once inventories increase to levels that do not impact reliability and price, the DOE can allow the export rate to resume at market demand.

In the event that U.S. inventories fall, and U.S. allies need more LNG, the DOE can decide to not require the LNG exporters to reduce volumes.

B. The DOE should condition LNG export orders so that the approved volume to NFTA countries must <u>always</u> be in the public interest, not just when it is approved.

When past Administrations considered whether the requested LNG volumes to NFTA countries were in the public interest, once approved, there was no further consideration of whether the volume remained in the public interest. It was a one and done. The Biden DOE should stop the one and done.

The DOE should conduct periodical reviews of existing orders to NFTA countries and certify that the orders do not individually or collectively materially impact the price of natural gas in the U.S.

The regular review of orders is justifiable because domestic supply and the combination of domestic and LNG demand can change dramatically from year to year, driven by economic, weather, or policy-related events. For example, the Energy Information Administration (EIA) reported that for the winter of 2021-2022 the U.S. was short 14.9 Bcf/d of natural gas and this resulted in a 300 percent increase in spot natural gas prices. On a regional basis, higher natural gas prices increased the daily wholesale price of electricity by over 200 percent.

C. Define the NGA public interest.

The NGA does not define the public interest. The Biden DOE should define the public interest as, "the export volume to NFTA countries, individually or collectively must not materially impact the price of natural gas in the U.S."

D. For prospective shipments to NFTA countries, reduce applications to export approval periods from 2050 to 2030.

The previous Administration extended the period of approvals from 2030 to 2050. That policy change shifts supply and price risk from the LNG exporter and foreign country buyers to domestic consumers. It gives exporters and foreign country buyers access to our natural gas, while U.S. consumers do not have an alternative. We are captive. The Biden Administration should reduce the approval from 2050 to 2030. The DOE should establish a review process for all extensions to ensure that shipments to NFTA countries are not inconsistent with the public interest.