

108TH CONGRESS
2D SESSION

H. R. 4413

To require certain terms and conditions for the siting, construction, expansion, and operation of liquefied natural gas import terminals, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2004

Mr. TERRY (for himself, Mr. GREEN of Texas, Mr. SULLIVAN, and Mr. NUNES) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To require certain terms and conditions for the siting, construction, expansion, and operation of liquefied natural gas import terminals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Liquefied Natural Gas
5 Import Terminal Development Act of 2004”.

1 **SEC. 2. TERMS AND CONDITIONS FOR LIQUEFIED NATURAL**
2 **GAS IMPORT TERMINALS.**

3 (a) EXPORTATION OR IMPORTATION OF NATURAL
4 GAS.—Section 3 of the Natural Gas Act (15 U.S.C. 717b)
5 is amended to read as follows:

6 “EXPORTATION OR IMPORTATION OF NATURAL GAS

7 “SEC. 3. (a) AUTHORIZATION ORDER.—No person
8 shall export any natural gas from the United States to
9 a foreign country or import any natural gas from a foreign
10 country without first having secured an order of the Sec-
11 retary of Energy authorizing such person to do so. The
12 Secretary shall issue such order upon application, unless,
13 after opportunity for hearing, the Secretary finds that the
14 proposed exportation or importation will not be consistent
15 with the public interest. The Secretary may by order grant
16 such application, in whole or in part, with such modifica-
17 tion and upon such terms and conditions as the Secretary
18 may find necessary or appropriate, and may from time to
19 time, after opportunity for hearing, and for good cause
20 shown, make such supplemental order as the Secretary
21 may find necessary or appropriate.

22 “(b) FREE TRADE AGREEMENTS AND LIQUEFIED
23 NATURAL GAS.—With respect to natural gas which is im-
24 ported into the United States from a nation with which
25 there is in effect a free trade agreement requiring national

1 treatment for trade in natural gas, and with respect to
2 liquefied natural gas—

3 “(1) the importation of such natural gas shall
4 be treated as a ‘first sale’ within the meaning of sec-
5 tion 2(21) of the Natural Gas Policy Act of 1978;
6 and

7 “(2) the Secretary of Energy shall not, on the
8 basis of national origin, treat any such imported
9 natural gas on an unjust, unreasonable, unduly dis-
10 criminatory, or preferential basis.

11 “(c) APPLICATION AND APPROVAL PROCESS.—For
12 purposes of subsection (a), the importation of the natural
13 gas referred to in subsection (b), or the exportation of nat-
14 ural gas to a nation with which there is in effect a free
15 trade agreement requiring national treatment for trade in
16 natural gas, shall be deemed to be consistent with the pub-
17 lic interest, and applications for such importation or ex-
18 portation shall be granted without modification or delay.

19 “(d) AUTHORIZATION FOR LIQUEFIED NATURAL GAS
20 IMPORT TERMINALS.—(1) No person shall site, construct,
21 expand, or operate a liquefied natural gas import terminal
22 without first having secured an order of the Federal En-
23 ergy Regulatory Commission authorizing such person to
24 do so. The Federal Energy Regulatory Commission shall
25 issue such order upon application, unless, after oppor-

1 tunity for hearing, it finds that the proposed siting, con-
2 struction, expansion, or operation will not be consistent
3 with the public interest. The Federal Energy Regulatory
4 Commission may by its order grant such application, in
5 whole or in part, with such modification and upon such
6 terms and conditions as the Federal Energy Regulatory
7 Commission may find necessary or appropriate.

8 “(2) An order issued pursuant to paragraph (1) shall
9 not be conditioned on—

10 “(A) a requirement that the liquefied natural
11 gas import terminal offer service to persons other
12 than the person securing the order;

13 “(B) any regulation of the liquefied natural gas
14 import terminal’s rates, charges, terms, or condi-
15 tions of service; or

16 “(C) a requirement to file with the Federal En-
17 ergy Regulatory Commission schedules or contracts
18 related to the liquefied natural gas import terminal’s
19 rates, charges, terms, or conditions of service.

20 “(3) Except as otherwise provided by Federal law, no
21 State or local government may require a permit, license,
22 concurrence, approval, certificate, or other form of author-
23 ization with respect to the siting, construction, expansion,
24 or operation of a liquefied natural gas import terminal.

1 “(4) Any decision made or action taken by a Federal
2 administrative agency or officer (or State administrative
3 agency or officer acting under delegated Federal author-
4 ity) with respect to the siting, construction, expansion, or
5 operation of a liquefied natural gas import terminal must
6 be consistent with any authorization provided by the Fed-
7 eral Energy Regulatory Commission pursuant to this sub-
8 section with respect to the liquefied natural gas import
9 terminal, and shall not prohibit or unreasonably delay the
10 siting, construction, expansion, or operation.

11 “(5) Nothing in this subsection shall be construed to
12 repeal or modify the authority under this section to au-
13 thorize a person to import or export natural gas or to au-
14 thorize facilities for the import or export of natural gas
15 other than liquefied natural gas import terminals.

16 “(e) SCHEDULE AND ADMINISTRATIVE RECORD.—
17 (1) The Federal Energy Regulatory Commission shall ap-
18 prove or deny any application to site, construct, expand,
19 or operate a liquefied natural gas import terminal under
20 subsection (d) not later than 1 year after the application
21 is complete.

22 “(2) With respect to each application under sub-
23 section (d), the Federal Energy Regulatory Commission
24 shall establish a schedule for all Federal and State admin-
25 istrative proceedings commenced under authority of Fed-

1 eral law, the completion of which is required before a per-
2 son may site, construct, expand, or operate the liquefied
3 natural gas import terminal, in order to ensure expeditious
4 progress toward such siting, construction, expansion, or
5 operation. The schedule shall also include all Federal and
6 State administrative proceedings authorized by Federal
7 law for the siting, construction, expansion, and operation
8 of natural gas pipelines and facilities related to the trans-
9 portation of liquefied natural gas or natural gas from the
10 liquefied natural gas import terminal. In establishing the
11 schedule, the Federal Energy Regulatory Commission
12 shall, to the extent practicable, accommodate the applica-
13 ble schedules established by Federal law for such pro-
14 ceedings. If a Federal or State administrative agency or
15 officer fails to complete a proceeding in accordance with
16 the schedule established by the Federal Energy Regulatory
17 Commission, the action of the Federal or State adminis-
18 trative agency or officer that is required before a person
19 may site, construct, expand, or operate the liquefied nat-
20 ural gas import terminal shall be conclusively presumed
21 and the siting, construction, expansion, or operation shall
22 proceed without condition.

23 “(3) With respect to the siting, construction, expan-
24 sion, or operation of a liquefied natural gas import ter-
25 minal, the Federal Energy Regulatory Commission shall

1 compile a single administrative record which shall consoli-
2 date the records of the proceedings referred to in para-
3 graph (2).

4 “(4) Any Federal administrative proceeding that is
5 an appeal or review of a decision made or action taken
6 by a Federal administrative agency or officer (or State ad-
7 ministrative agency or officer acting under delegated Fed-
8 eral authority) with respect to the siting, construction, ex-
9 pansion, or operation of a liquefied natural gas import ter-
10 minal shall use as its exclusive record for all purposes the
11 administrative record compiled by the Federal Energy
12 Regulatory Commission under paragraph (3).

13 “(f) JUDICIAL REVIEW.—(1) Except for review by
14 the Supreme Court of the United States on writ of certio-
15 rari, the United States Court of Appeals for the District
16 of Columbia Circuit shall have original and exclusive juris-
17 diction to hear and determine any civil action for review
18 of a decision made or action taken by a Federal adminis-
19 trative agency or officer (or State administrative agency
20 or officer acting under delegated Federal authority) with
21 respect to the siting, construction, expansion, or operation
22 of a liquefied natural gas import terminal. The civil action
23 shall be filed not later than 60 days after the decision or
24 action described in this paragraph.

1 “(2) If a civil action referred to in paragraph (1) is
2 filed, the Federal Energy Regulatory Commission shall file
3 in the United States Court of Appeals for the District of
4 Columbia Circuit the single administrative record com-
5 piled under subsection (e)(3) with respect to the liquefied
6 natural gas import terminal named in the civil action.

7 “(g) LEAD AGENCY.—With respect to the siting, con-
8 struction, expansion, or operation of a liquefied natural
9 gas import terminal, the Federal Energy Regulatory Com-
10 mission shall be the lead Federal agency for purposes of
11 complying with the National Environmental Policy Act of
12 1969 (42 U.S.C. 4321 et seq.).”.

13 (b) DEFINITION.—Section 2 of the Natural Gas Act
14 (15 U.S.C. 717a) is amended by adding at the end the
15 following new paragraph:

16 “(11) ‘Liquefied natural gas import terminal’
17 includes all facilities located onshore or in State wa-
18 ters that are used to receive, unload, store, trans-
19 port, gasify, or process liquefied natural gas that is
20 imported to the United States from a foreign coun-
21 try, but does not include the tankers used to deliver
22 liquefied natural gas to such facilities.”.

○