



## Department of Energy

Washington, DC 20585

August 27, 2013

The Honorable Ed Whitfield  
Chairman  
Subcommittee on Energy and Power  
Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

On June 18, 2013, Christopher Smith, Acting Assistant Secretary for Fossil Energy, testified regarding the "U.S. Energy Abundance: Regulatory, Market, and Legal Barriers to Export."

Enclosed are the answers to four questions that were submitted by Representative Joe Barton to complete the hearing record.

If we can be of further assistance, please have your staff contact our Congressional Hearing Coordinator, Lillian Owen at (202) 586-2031.

Sincerely,

A handwritten signature in black ink that reads "Christopher E. Davis". The signature is written in a cursive style with a large, prominent "D".

Christopher E. Davis

Deputy Assistant Secretary  
for Congressional Affairs  
Congressional and Intergovernmental Affairs

Enclosure

cc: The Honorable Bobby L. Rush, Ranking Member



## QUESTION FROM REPRESENTATIVE BARTON

Q1. Is DOE statutorily obligated to consider the cumulative impact of liquefied natural gas export authorizations? Please provide the legal argument defending your position.

A1. DOE is required by statute to review whether a proposed authorization for the export of liquefied natural gas (LNG) is consistent with the “public interest.” *See* 15 U.S.C. § 717b(a) (“[DOE] shall issue such order upon application, unless, ... it finds that the proposed exportation ... will not be consistent with the public interest.”).

DOE’s review of LNG export applications focuses on: (i) the domestic need for the natural gas proposed to be exported, (ii) whether the proposed exports pose a threat to the security of domestic natural gas supplies, (iii) whether the proposed export arrangement is consistent with DOE’s policy of promoting market competition, and (iv) any other factor bearing on the public interest. These factors include economic impacts, international impacts, security of natural gas supply, and environmental impacts.

As one such factor, DOE considers the cumulative impact of each successive LNG export authorization on domestic natural gas supply and demand fundamentals. *See, e.g., Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC, DOE/FE Order No. 3282, Order Conditionally Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel From the Freeport LNG Terminal on Quintana Island, Texas, to Non-Free Trade Agreement Nations, at 5-7, 112-113 (May 17, 2013).* DOE’s review of this factor enables the agency to assess the impact of all LNG export authorizations to date on the security and availability of domestic natural gas supplies. DOE believes that this analysis is a key determinant of the public interest.

QUESTION FROM REPRESENTATIVE BARTON

Q2. Please define “cumulative impact” as referred to in the Freeport LNG Order (DOE/FE Order No. 3282).

A2. “Cumulative impact” refers to the additional impact(s) on the public interest associated with each successive authorization to export liquefied natural gas, focusing on the effect of the export on domestic natural gas supply and demand fundamentals.

## QUESTION FROM REPRESENTATIVE BARTON

Q3. Please list the factors that DOE will consider in the cumulative impact analysis.

A3. DOE/FE's review of LNG export applications focuses on: (i) the domestic need for the natural gas proposed to be exported, (ii) whether the proposed exports pose a threat to the security of domestic natural gas supplies, (iii) whether the proposed export arrangement is consistent with DOE/FE's policy of promoting market competition, and (iv) any other factor bearing on the public interest. These factors include economic impacts, international impacts, security of natural gas supply, and environmental impacts.

As one such factor, DOE considers the cumulative impact of each successive LNG export authorization on domestic natural gas supply and demand fundamentals. See, e.g., Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC, DOE/FE Order No. 3282, Order Conditionally Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel From the Freeport LNG Terminal on Quintana Island, Texas, to Non-Free Trade Agreement Nations, at 5-7, 112-113 (May 17, 2013). DOE's review of this factor enables the agency to assess the impact of all LNG export authorizations to date on the security and availability of domestic natural gas supplies. DOE believes that this analysis is a key determinant of the public interest.

## QUESTION FROM REPRESENTATIVE BARTON

Q4. Please describe how DOE would evaluate economic, international and environmental considerations in each of the following scenarios. Please include any additional criteria DOE would consider. Your comments will aid in the illustration of DOE policy regarding review of the public interest standard.

- a. Company A applies for authorization to export LNG to a non-FTA country seeking to prevent gas supply interruptions by reducing its dependence on geopolitically unstable regions.
- b. Company B applies for authorization to export LNG to a non-FTA country seeking to diversify its gas supply routes in order to negotiate a lower price from another supplier.
- c. Company C applies for authorization to export LNG to a non-FTA country seeking to diversify its energy portfolio in order to meet environmental goals.
- d. Company D applies for authorization to export LNG to a non-FTA country seeking to supply a new natural gas power plant that will provide villages with reliable and affordable electricity for the first time.

A4. Section 3(a) of the Natural Gas Act (15 U.S.C. § 717b(a)) sets forth the standard for review of LNG export applications to non-free trade agreement countries. This provision creates a rebuttable presumption that a proposed export of natural gas is in the public interest.

DOE/FE must grant such an application unless opponents of the application overcome that presumption by making an affirmative showing of inconsistency with the public interest. In making a public interest evaluation, DOE will consider a number of criteria. DOE identifies the criteria considered as part of DOE's public interest review process in each Federal Register Notice of Application, which domestic need for the gas proposed for export, adequacy of domestic natural gas supply, as well as economic, international and environmental considerations, among others. Because each unique application has many criteria that the Department may consider, it is not possible to isolate the impact, and how the Department would consider, the hypothetical scenarios posed here.