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4 H.R. 6, THE DOMESTIC PROSPERITY AND GLOBAL FREEDOM ACT

5 TUESDAY, MARCH 25, 2014

6 House of Representatives,

7 Subcommittee on Energy and Power

8 Committee on Energy and Commerce

9 Washington, D.C.

10 The Subcommittee met, pursuant to call, at 1:04 p.m., in
11 Room 2123 of the Rayburn House Office Building, Hon. Ed
12 Whitfield [Chairman of the Subcommittee] presiding.

13 Members present: Representatives Whitfield, Hall,
14 Shimkus, Terry, Burgess, Latta, Cassidy, McKinley, Gardner,
15 Pompeo, Kinzinger, Griffith, Barton, Upton (ex officio),
16 Rush, McNerney, Tonko, Green, Doyle, Barrow, Christensen,
17 Castor and Waxman (ex officio).

18 Staff present: Nick Abraham, Legislative Clerk; Gary
19 Andres, Staff Director; Charlotte Baker, Deputy
20 Communications Director; Sean Bonyun, Communications
21 Director; Allison Busbee, Policy Coordinator, Energy & Power;
22 Tom Hassenboehler, Chief Counsel, Energy & Power; Jason Knox,
23 Counsel, Energy & Power; Ben Lieberman, Counsel, Energy &
24 Power; Brandon Mooney, Professional Staff Member; Chris
25 Sarley, Policy Coordinator, Environment & Economy; Jeff
26 Baran, Democratic Senior Counsel; Alison Cassady, Democratic
27 Senior Professional Staff Member; and Caitlin Haberman,
28 Democratic Policy Analyst

|
29 Mr. {Whitfield.} I would like to call the hearing to
30 order this afternoon. The topic of the hearing this
31 afternoon is on H.R. 6, The Domestic Prosperity and Global
32 Freedom Act. And at this time I would recognized myself for
33 5 minutes opening statement.

34 And, as I said, we are excited about this hearing today.
35 This is on the legislation introduced by our colleague Cory
36 Gardner of Colorado. One of the subject matters that is
37 really being discussed throughout the world today is the
38 abundant energy supply in America, and, of course, one reason
39 for that is the recent finds in natural gas in America. And
40 we believe that, while we need further discussion on it, of
41 course, that the export of liquid natural gas, not only would
42 it be beneficial to our allies in Europe who find themselves
43 dependent on expensive natural gas coming from Russia, but it
44 would also be beneficial to our own economy because of the
45 low cost of natural gas. And with the expansion of
46 infrastructure to get that natural gas to market, it is going
47 to create a lot of jobs. Another benefit from the export of
48 liquefied natural gas would, of course, be to improve our
49 trade account deficit, which has been negative for many
50 years.

51 And so, despite all of these benefits, though, the

52 current process for approved LNG exports is very slow and
53 unpredictable. Just yesterday the DOE did approve an
54 application to export LNG from the Jordan Cove terminal in
55 Coos Bay, Oregon. This marks the seventh application to be
56 approved by DOE, but there are still over 20 applications
57 pending. While the world waits for natural gas from America,
58 a backlog of applications to export languishes at the
59 Department of Energy. Now, we also understand that getting
60 the permit approved at DOE is just the beginning. You still
61 have to go through FERTH, the environmental process, so it is
62 going to take a while. But this is an important development
63 for America. We believe that it is important for the entire
64 world.

65 And at this time I would like to yield the balance of my
66 time to the author of this legislation, Cory Gardner of
67 Colorado.

68 [The prepared statement of Mr. Whitfield follows:]

69 ***** COMMITTEE INSERT *****

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70 Mr. {Gardner.} I thank the gentleman. Thank you, the
71 Chairman, for this hearing today on H.R. 6, The Domestic
72 Prosperity and Global Freedom Act. I would also like to
73 thank Representative Tim Ryan, and all of the members who
74 have chosen to co-sponsor this legislation. This bill that I
75 have introduced is short and straightforward. It grants
76 approval for completed LNG export applications that are
77 currently languishing at the Department of Energy, and would
78 modify the standard of review for future export applications
79 by shifting the benchmark from free trade agreement countries
80 to World Trade Organization member countries. Rarely in
81 Congress do we get chances to pass legislation that creates
82 economic opportunities here at home, strengthen and help our
83 allies around the globe, weaken our enemies, and not spend
84 the American taxpayers' money all at the same time. Rarely
85 do we even get to do one of those at the same time. But H.R.
86 6 gives us a chance to do all of these.

87 I want to first give praise to what has brought us to
88 the point of even being able to discuss selling some natural
89 gas to other countries. American ingenuity has propelled the
90 United States to the number one natural gas producing nation
91 in the world. The shale gas revolution has provided enormous
92 economic benefit to our nation. With the ability to sell

93 some of the natural gas we produce, we can see even more
94 economic benefit.

95 To paraphrase Pulitzer Prize winning author Dr. Daniel
96 Yergin, when he testified before this subcommittee last year,
97 the United States is demand constrained, not supply
98 constrained, when it comes to natural gas. In my home state
99 of Colorado, on the western slope, the Peyonce Basin has been
100 suffering due in part to the overabundance of natural gas
101 supplies, which are saturating the market. Expanding the
102 market for U.S. natural gas will encourage greater investment
103 and new production.

104 H.R. 6 also offers immense geopolitical benefits. The
105 near monopolistic control Russia has on the LNG market in
106 Europe has given them immense power, and reforming the LNG
107 export process would send an immediate signal to the rest of
108 the world that would help check Russia's aggression. But for
109 its natural gas and oil production and exports, Russia's
110 economy is no match for our industrial know-how and
111 ingenuity.

112 It is this American ingenuity that discovered there is
113 enough natural gas to use domestically and to export to our
114 allies around the globe. We have reached a turning point in
115 this country that is moving towards energy independence. We
116 no longer need to be at the mercy of nations that mean us

117 harm. Being less dependent on foreign energy keeps our
118 troops at home, keeps them safe, and keeps them from serving
119 abroad. Energy produced here at home and sent overseas means
120 we are sending energy, and not our troops.

121 It is a false dichotomy to say that we must choose
122 between allowing for the sale of natural gas to other nations
123 or keeping it here. We will have enough for both for
124 generations to come. There are some that are opposing LNG
125 exports who still cling to the failed notion of Nixon era
126 price control efforts. Like the leisure suit and eight-track
127 player, it is time to let it go. We have heard from former
128 Senator Jay Bennett Johnston and others that history is
129 littered with the failed policies to control prices. It is
130 time for us to move forward.

131 I want to thank those that will be testifying here
132 today, and I look forward to this debate. Thank you, Mr.
133 Chairman. I yield back.

134 [The prepared statement of Mr. Gardner follows:]

135 ***** COMMITTEE INSERT *****

|
136 Mr. {Whitfield.} Gentleman yields back. At this time
137 recognize the gentleman from Illinois, Mr. Rush, for a 5
138 minute opening statement.

139 Mr. {Rush.} I want to thank you, Mr. Chairman, for
140 holding today's hearing on the potential impacts of exporting
141 liquefied natural gas to overseas markets, as laid out in
142 H.R. 6. Mr. Chairman, I look forward to today's hearing of
143 experts, stakeholders, to clarify questions I have regarding
144 the consequences of exporting LNG, and the impact it may have
145 on several key issues that I am concerned about, including
146 domestic natural gas prices, the potential for jobs, the
147 effect on our manufacturing base, as well as the impact on
148 the U.S. trade balance.

149 As I understand the issue, Mr. Chairman, proponents of
150 exporting natural gas say that doing so will lead to a net
151 positive impact on American jobs, on the American economy,
152 and the U.S. trade balance. Supporters also contend that
153 exporting LNG to Japan, South Korea, Europe, and other U.S.
154 allies will lower their natural gas prices, and provide them
155 with leverage in negotiating with other natural gas
156 suppliers, such as Russia. Opponents, primarily from within
157 the U.S. manufacturing sector, disagree with those
158 conclusions, and argue that exporting LNG will raise natural

159 gas prices in the U.S., harm domestic manufacturing in energy
160 intensive industries, and also hurt other natural gas
161 consumers.

162 The underlying bill, H.R. 6, will amend the Natural Gas
163 Act to increase the number of destination countries for LNG
164 exports for which DOE is required to deem applications
165 consistent with the public interest. Under current law, DOE
166 is required to grant applications for LNG exports to the 20,
167 I want to emphasize that, to the 20 countries that have free
168 trade agreements with the U.S. However, H.R. 6 will instead
169 require DOE to approve ``without modification or delay''
170 applications for LNG exports to all 159 members of the WTO,
171 including all likely importers of LNG, such as China, India,
172 Japan, and European countries. While increasing our exports
173 of LNG may have positive impact on our economy, I believe
174 that it is imperative that we do so in a manner that is both
175 reasonable, that is safe, and that is truly in the public's
176 interest, Mr. Chairman.

177 Mr. Chairman, today I am eager to engage our panel of
178 witnesses to gain more insight into both the impacts of
179 exporting LNG generally, as well as to learn more about the
180 effects that H.R. 6 will have specifically. With an
181 abundance of natural gas domestically, due to our
182 technological advances, including hydraulic fracturing and

183 horizontal drilling, it is important for the members of this
184 subcommittee to fully understand the consequences of
185 increasing exports, and the impact that will have on our
186 consumers, our manufacturing base, and our economy as a
187 whole.

188 So I look forward to today's witnesses on this important
189 matter. And with that, Mr. Chairman, I yield back the
190 balance of my time.

191 [The prepared statement of Mr. Rush follows:]

192 ***** COMMITTEE INSERT *****

|
193 Mr. {Whitfield.} Thank you, Mr. Rush. And at this time
194 I would like to recognize the chairman of the full committee,
195 Mr. Upton, for 5 minutes.

196 Mr. {Upton.} Well, thank you, Mr. Chairman. And before
197 I start, I just want to welcome back Ranking Member Rush. I
198 know his family has experienced some real health concerns,
199 and you have been out of the saddle, and we really do welcome
200 you back, so good to see you.

201 Three weeks ago the House overwhelmingly, rightly so,
202 passed a billion dollar loan guarantee aid package for
203 Ukraine. And today the House Foreign Affairs Committee is
204 marking up yet another package of support as Russia's
205 aggression continues. In this committee, we would debate on
206 a bill that would help not only Ukraine, but literally every
207 other Eastern and Central European Country, as well as other
208 allies in Asia, and around the world, who are dependent on
209 Russia's natural gas. And although passage of H.R. 6, The
210 Domestic Prosperity and Global Freedom Act, won't certainly
211 immediately turn on the spigot of American gas to Ukrainian
212 or Hungarian homes overnight, it will indeed send a message,
213 the right message, and a very powerful signal.

214 The U.S. will be well positioned as a global energy
215 superpower. We have the resources, the expertise, and the

216 technology to deliver growing amounts of our domestic energy
217 bounty to the market in the years and decades to come.
218 Increasing exports would also result in the flow of billions
219 of dollars into the United States economy. We can do that
220 with this bill.

221 This committee has an extensive record on the issue of
222 LNG exports, including multiple hearings, an international
223 forum, and a comprehensive report. And with continued
224 technological innovation and access to production, a diverse
225 electricity portfolio that indeed keeps all fuel sources in
226 the mix, and a commitment to new infrastructure to get
227 surging supplies to needed areas of demand, America has the
228 ability to deliver a natural gas supply well in excess of our
229 domestic needs. And by putting our extra natural gas
230 capacity to use, by entering the global marketplace, the U.S.
231 can supplant the influence of other exporters, like Russia,
232 while strengthening ties with our allies and trading partners
233 around the world. Overall, U.S. natural gas exports truly
234 offer this win-win scenario.

235 Yield now to Mr. Barton.

236 [The prepared statement of Mr. Upton follows:]

237 ***** COMMITTEE INSERT *****

|
238 Mr. {Barton.} Thank you, Chairman Upton, and thank you,
239 Chairman Whitfield, and Ranking Member Rush for hosting this
240 hearing today. I am proud to be an original co-sponsor of
241 H.R. 6, along with Congressman Gardner from Colorado. We do
242 need to streamline the regulatory process for liquefied LNG
243 exports. In the Energy Policy Act of 2005 we gave the FERC
244 the authority to conduct the environmental review and make
245 the final decision, but we gave the Department of Energy the
246 authority to determine whether it was in the national
247 interest to even go forward with that.

248 I want to compliment the Department of Energy on
249 approving the latest project yesterday. I am told they did
250 that in 35 days. These days, that is a world record
251 lightning speed approval, and we are very appreciative of
252 that. Unfortunately, there are still more than 20 export
253 applications pending, and hopefully, after today's hearing,
254 and with the passage of this piece of legislation, we can get
255 that process hopefully even to be a little bit more timely.
256 In any event, I look forward to today's hearing, I appreciate
257 the witnesses, and I yield to Mr. Shimkus the balance of the
258 time.

259 [The prepared statement of Mr. Barton follows:]

260 ***** COMMITTEE INSERT *****

|

261 Mr. {Shimkus.} Well, I thank my colleague. We should
262 not underscore the importance of this legislation for freedom
263 and democracy. The countries of Eastern Europe, and even
264 Europe as a whole, have been, and will continue to be, to be
265 extorted by the Russian Federation. It is a known fact.
266 They extort on oil, they do trade, and the like. This bill
267 is really an energy shot for freedom for these countries that
268 are trying to get out of the Russian sphere of influence. I
269 want to thank Cory for his effort. Cory, I know I can speak
270 for all my friends in Eastern Europe to say thank you for
271 this effort. It is really monumental and incredibly helpful
272 to these countries who are looking to release themselves from
273 the yoke of the Russian Federation, and of totalitarian
274 regime.

275 I don't want to seem melodramatic. I have dealt in this
276 area for 18 years, and this is incredibly important at this
277 time for these former Eastern European countries, also known
278 as the former captive countries, because they once were
279 captive to Soviet Union. And I yield back my time.

280 [The prepared statement of Mr. Shimkus follows:]

281 ***** COMMITTEE INSERT *****

|
282 Mr. {Whitfield.} Gentleman's time has expired. At this
283 time I will recognize the gentleman from California, Mr.
284 Waxman, for 5 minutes.

285 Mr. {Waxman.} Thank you very much, Mr. Chairman. Today
286 we are examining Congressman Gardner's bill to change the
287 approval process for liquefied natural gas exports. I said
288 it when we first started discussing the possibility of LNG
289 exports, I have an open mind, but I want to talk about some
290 of my concerns. A number of studies predicted that LNG
291 exports would have mildly positive economic effects, and
292 since then DOE has moved aggressively to approve LNG exports.
293 Today they have approved seven export proposals, and they are
294 continuing to examine other applications as well.

295 We need to carefully consider the impact of LNG exports
296 on natural gas prices, and the impact of higher prices on
297 American consumers and manufacturers. And we also need to
298 look at the impact of LNG exports on global carbon emissions.
299 Increasing U.S. exports would allow other countries to move
300 from coal to natural gas, reducing their carbon emissions
301 abroad, but LNG exports could increase U.S. carbon pollution
302 by shifting electricity generation back to coal, and
303 increasing fugitive methane emissions. I am not opposed to
304 DOE's considering applications for additional LNG exports,

305 but I want those reviews to be thorough.

306 I am concerned about the approach of this bill. The
307 bill would short circuit the established review process for
308 pending and future LNG export applications. It requires DOE
309 to approve essentially unlimited LNG exports to all 159 World
310 Trade Organization countries without any determination that
311 such exports are in the public interest, or whether they
312 would have significant adverse impacts on domestic natural
313 gas prices, manufacturing, and jobs. DOE would have to
314 immediately grant the 25 LNG export applications currently
315 pending. In doing that, by the way, that would result in
316 approved export amount of 36 billion cubic feet per day.
317 That is almost half of all natural gas consumed daily in the
318 United States. Unlimited LNG exports would have serious
319 impacts on consumers and manufacturers. That is why major
320 companies like Dow, Ocoa, and Newcourt have raised concerns
321 about this bill.

322 Proponents of unlimited LNG exports contend we need to
323 help Ukraine and our European allies resist Russian
324 aggression. This bill will not result in LNG exports to
325 Europe for several years, if at all. No LNG export
326 facilities currently exist in the continental United States.
327 The first export terminal will not begin initial operations
328 until late 2015. Export capacity will not ramp up into other

329 facilities until 2017 or 2018.

330 When the U.S. actually begins to export significant
331 quantities of LNG 3 or 4 years from now, where will it go?
332 Well, it won't go directly to Ukraine, because Ukraine does
333 not have any facilities to import or re-gasify LNG. In fact,
334 it may not even go to Europe. We send be sending a clear
335 message to Russia its aggression will have costly
336 consequences, but I worry whether this really has the impact
337 we want on a foreign policy basis. Russia is a member of the
338 World Trade Organization. This bill adds Russia to the list
339 of countries that can receive American natural gas without
340 any DOE review. That is a very strange way to send a signal
341 to support our American allies in Europe.

342 This hearing should help us have an opportunity to think
343 carefully about the bill, and I want to yield the balance of
344 my time to Mr. McNerney.

345 [The prepared statement of Mr. Waxman follows:]

346 ***** COMMITTEE INSERT *****

|
347 Mr. {McNerney.} Thank you. I am in favor of LNG
348 exports, but I have four concerns. First of all, gas
349 production in this country needs to be done cleanly, and that
350 means eliminating fugitive gas, it means don't use fresh
351 water, it means prevent well leakage to groundwater, and it
352 means treating waste water. Until we are sure that we have
353 national standards of some kind to make sure that that
354 happens, I am very skeptical. Second, these large exports
355 could impact U.S. manufacturing renaissance, and the price of
356 natural gas generally in this country.

357 Third, LNG export facilities are already being approved
358 faster than they can be built, so this isn't really needed.
359 And as Mr. Waxman mentioned, Ukraine doesn't even have LNG
360 import facilities. And lastly, automatic approval seems
361 pretty extreme to me. I mean, this could encourage the worst
362 kind of applications to be submitted, knowing that they are
363 going to be approved no matter what. So, until those
364 concerns are addressed, I don't think I can support this
365 bill. Thank you. I yield back.

366 [The prepared statement of Mr. McNerney follows:]

367 ***** COMMITTEE INSERT *****

|
368 Mr. {Whitfield.} Gentleman's time has expired, and that
369 concludes the opening statements. Today we have two panels
370 of witnesses, and on the first panel we have one person, and
371 that person is Dr. Paula Gant, who is the Deputy Assistant
372 Secretary for Oil and Natural Gas at the Department of
373 Energy. And part of her portfolio certainly has
374 responsibility for this area. So, Dr. Gant, we will
375 recognize you for your 5 minute opening statement. Turn
376 your--

|
377 ^STATEMENT OF DR. PAULA GANT, DEPUTY ASSISTANT SECRETARY FOR
378 OIL AND NATURAL GAS, DEPARTMENT OF ENERGY.

|
379 ^STATEMENT OF DR. PAULA GANT

380 } Ms. {Gant.} Thank you, Chairman Whitfield, and Ranking
381 Members Rush and Waxman, and the members of the subcommittee.
382 I very much appreciate the opportunity to appear before you
383 today, and to have the opportunity to explain and answer your
384 questions about the Department's process for regulating the
385 export of natural gas, including liquefied natural gas, or
386 LNG exports.

387 As Representative Gardner and Representative Rush have
388 noted, we are enjoying an incredibly abundant natural gas
389 supply, and observing the tremendous opportunities presented
390 by that in recent years. It certainly makes my job quite a
391 lot of fun, and these are extraordinary times for the
392 country. There is tremendous opportunity, and we at the
393 Department are very much focused on helping ensure that the
394 country realizes that opportunity.

395 Over the last several years, domestic gas production has
396 increased significantly, outpacing demand growth, and
397 resulting in declining net natural gas imports. This

398 production growth is primarily due to the use of improved
399 drilling technologies and practices, including largely the
400 ability to extract natural gas from shale formations.
401 Productions from shale formations amounted for a little less
402 than two percent of domestic natural gas production in 2000.
403 By 2012, that had risen to 40 percent of natural gas
404 production, quite a dramatic change.

405 Historically, the Department of Energy has played an
406 important role in the development of technologies that have
407 enabled the access to energy resources like this. Beginning
408 in the late 1970s, public research dollars were invested in
409 the development of hydraulic fracturing and horizontal
410 drilling technologies that were later picked up and refined
411 with private investment, and continued industry innovation.
412 This has unlocked billions of dollars in economic activity
413 associated with shale gas production.

414 Thanks to American ingenuity and know-how applied to
415 this tremendously abundant natural gas resource, the U.S. is
416 now the world's number one gas producer, and is poised to
417 become a net exporter of gas in 2018. This is according to
418 the Energy Information Administration. And this is an
419 extraordinary shift in our fortunes. Our outlook is shifting
420 from one framed by energy scarcity to one framed by energy
421 abundance. This presents tremendous opportunity and

422 tremendous responsibility that we get it right.

423 Today domestic natural gas prices are lower than
424 international prices of delivered LNG to overseas markets.
425 As in the United States, demand for natural gas is increasing
426 rapidly in these other markets. Due primarily to these
427 developments, DOE has received a growing number of
428 applications to export domestically produced natural gas to
429 overseas markets in the form of LNG, or liquefied natural
430 gas. DOE's authority to regulate natural gas arises under
431 the Natural Gas Act, as mentioned previously. It provides
432 two statutory standards for processing applications to export
433 LNG from the United States.

434 By law, applications to export LNG to countries with
435 which the U.S. has a free trade agreement that provides for
436 natural treatment of trade in natural gas are deemed to be
437 consistent with the public interest, and the secretary must
438 grant authorization without modification or delay. As of
439 March 24, DOE has granted 35 such applications. For
440 applications to export liquefied natural gas to non-free
441 trade agreement countries, the secretary must grant that
442 authorization unless, after an opportunity for hearing, the
443 proposed export is found not to be consistent with the public
444 interest. In executing that requirement, DOE has established
445 a robust process to assess the public interest, a process

446 that provides for robust public input and transparency, and
447 also allows a balancing of the many aspects of the public
448 interest that must be considered, and that may potentially be
449 affected by the export of natural gas.

450 While Section 3(a) of the Natural Gas Act establishes a
451 broad public interest standard, and a presumption favoring
452 export authorizations, the statute neither defines the public
453 interest, nor identifies criteria that must be considered.
454 In prior decisions, however, the Department has identified a
455 range of factors that it evaluates when assessing the public
456 interest, including economic impacts, international
457 considerations, environmental impacts, security of natural
458 gas supply, among others. To conduct this review, the
459 Department looks at the record evidence, as presented by
460 applicants and participants in the proceeding. Applicants
461 and interveners are free to raise new issues or concern
462 relevant to the public interest that may have not been
463 address in prior cases. And, in fact, we have seen that to
464 be the case.

465 To date, DOE has granted seven conditional
466 authorizations for long term export of domestically produced
467 lower 48 natural gas to non-FTA agreement countries. This is
468 equivalent to 9.3 billion cubic feet a day of capacity. This
469 includes, as was noted, the Jordan Cove Energy Project, which

470 the Department approved yesterday. As of today, there are 24
471 applications pending to export LNG to non-free trade
472 agreement countries. The Department will continue to process
473 these applications on a case by case basis in the order of
474 precedence that had been established and made public on DOE's
475 website. During this time, as we have done previously, we
476 will continue to monitor market developments and assess their
477 impact in the assessment of the public interest, and consider
478 information as it becomes available.

479 In conclusion, Mr. Chairman, I would like to emphasize
480 that DOE is committed to moving this process forward as
481 expeditiously as possible. We understand the importance of
482 this issue and its significance, and the importance of
483 getting our process right. Thank you, Mr. Chairman. I would
484 be happy to answer questions.

485 [The prepared statement of Ms. Gant follows:]

486 ***** INSERT 1 *****

|
487 Mr. {Whitfield.} Thank you very much, Dr. Gant. We
488 appreciate your statement, and taking time to come over and
489 talk about this important issue. At this time I recognize
490 myself for 5 minutes of questions.

491 Of course, one of the developments with Mr. Gardner's
492 legislation is it creates WTO countries the same as free
493 trade agreement countries. And in your written testimony,
494 you stated that you were concerned that H.R. 6, one of your
495 concerns, that it would leave out public input. And I wanted
496 to just explore that a little bit with you. When DOE made
497 the NERA study available, that study was made available for
498 public comment, and that was kind of the baseline for
499 reviewing these applications.

500 And in yesterday's Order on the Jordan Cove project, DOE
501 concluded that NERA's explanation of its modeling design,
502 methodology, and results provided a sufficient basis both for
503 the public to provide meaningful comments, and for the
504 Department to evaluate NERA's conclusions. And also DOE
505 concluded in this recent Order that, ``We are not persuaded
506 that using post-annual energy outlook after post-2011 energy
507 productions'', you are not persuaded that anything post-2011
508 would have materially affected the findings of the LNG export
509 study.

510 So it would appear that the DOE non-FTA filing and
511 authorization, since it is just one permitting process,
512 because we have to get FERC involved also, it appears to me
513 that your concerns about public input, maybe it is not that
514 much of a concern, because the NERA study is sort of the
515 baseline anyway, with the comments that you all made on these
516 recent approvals. So would you agree with me that maybe you
517 are being too concerned about the implications of what you
518 perceive to be the lack of public input?

519 Ms. {Gant.} Thank you, Mr. Chairman, and I agree the
520 language in our Orders can be quite hard to read out loud
521 sometimes. I struggle with it myself. I think there are a
522 couple pieces to your question, and if I can take them in
523 two? There are a number of aspects that inform our public
524 interest determination, economic factors being some of them,
525 as framed by the NERA analysis to a great extent, including
526 environmental implications and geopolitical consideration.
527 So the public interest is broader than the economic aspects
528 of it.

529 As I understand the legislation, and I am not intimately
530 familiar with it, it would remove DOE's requirement to
531 conduct a public interest determination. And the public
532 interest determination is the means by which we solicit
533 public input, so it would remove the public's opportunity to

534 provide input on our process.

535 The second piece of your question--

536 Mr. {Whitfield.} But if you had that public input in
537 the NERA study, wouldn't that compensate for the--

538 Ms. {Gant.} The NERA study was cut out for public
539 comment, and then it is put on the record in each of our
540 subsequent Orders, so it applies to each of those Orders.
541 And each of the applications, and the dockets that are
542 established for them, must be given their own individual
543 consideration on a case by case basis, as established by the
544 statute. Could I answer the second part of your question,
545 with regard to the NERA?

546 Mr. {Whitfield.} Yeah, go ahead.

547 Ms. {Gant.} And I believe the reference you are
548 referring to in our Order refers to the new information that
549 has been provided. So the NERA analysis was based on the
550 annual energy outlook 2011, as released by EIA. In December,
551 EIA released their Annual Energy Outlook 2014. They do this
552 every year. The information provided therein, particularly
553 with regard to the AEO 2014, demonstrates a projection for
554 natural gas supply growth that is greatly outpacing expected
555 natural gas demand growth. And so the finding, from our
556 perspective, is that integrating the AEO 2014 into our
557 analysis would not create a conclusion inconsistent with what

558 we have already come to in 2011, which indicates that exports
559 of natural gas generate net positive benefits for the U.S.
560 economy.

561 Mr. {Whitfield.} Now, has DOE taken an official
562 position on the Gardner legislation?

563 Ms. {Gant.} I am aware of the proposal. It has not
564 made its way through interagency review, so I am not in a
565 position to comment on the specifics.

566 Mr. {Whitfield.} My time has expired. At this time I
567 recognize Mr. Rush for 5 minutes of questioning.

568 Mr. {Rush.} Dr. Gant, thank you again for appearing
569 before this subcommittee. And a lot of this--have under
570 consideration is pretty timely now because of what is
571 happening in Eastern Europe now. And I think that all the
572 members of this subcommittee, in fact, all the members of the
573 Congress, we all stand together because we want to ensure
574 that there are effective sanctions against Putin, and what he
575 has done in Crimea, and we want to stop him. I don't think
576 that there is any doubt in anybody's mind that we want to
577 stand resolute and united, and trying to do all that we can
578 to ensure that the democratic process is available to all
579 those who are in Eastern Europe.

580 But, with that said, the question came up earlier today,
581 or the topic came up earlier today about H.R. 6, and its

582 having such a tremendous impact on the future of Eastern
583 Europe. And my question to you is, if H.R. 6 was, in fact,
584 enacted today, when is the earliest possible time that
585 exports of LNG will have their impact on decreasing Russia's
586 hold on the Ukraine, or on the other of our European allies,
587 whom right now have been paying Russia for their natural gas
588 supply? When do you see, or can you estimate, that Russia
589 and Putin will feel the effect of the decrease of the Eastern
590 European countries' dependence on Russian natural gas?

591 Ms. {Gant.} Thank you for that question, Ranking Member
592 Rush. A couple of things that I think I can share that are
593 responsive. And first I would say that we are tremendously
594 concerned in moving to take immediate action to help our
595 allies in Ukraine, and across Europe, and take the situation
596 very seriously. To answer your question with regard to the
597 legislation, again, I will just have to ask the committee
598 understand I haven't had a chance to really assess the
599 legislation and what impact it would have. But what I can
600 say is that our understanding of the way that the timeline on
601 which projects are moving is that the earliest point at which
602 we could export substantial volumes of liquefied natural gas
603 from the lower 48 would be the third quarter of 2015. So,
604 regardless of what happens with a change in legislation,
605 because the project that has final approval is moving along

606 in its process at FERC.

607 However, there are other things that we can do to help
608 the Ukraine and our European allies. The Administration is
609 keenly aware of these, and engaged in looking for ways to
610 provide financial and technical existence. Also, there is
611 the possibility of reversing pipeline flows in the Ukraine,
612 should Russia actually turn off the tap, so to speak. That
613 hasn't happened yet, but there are efforts underway to
614 prepare for that eventuality and reverse pipeline flows so
615 that gas could flow from Europe into the Ukraine.

616 And, importantly, as has been noted before, our increase
617 in domestic production in recent years has allowed us to
618 significantly reduce our reliance on imported liquefied
619 natural gas. Those cargoes that would have been destined for
620 U.S. markets have made their way to other places on world
621 markets. And we do know that increased supplies of natural
622 gas on global markets, and increase diversity of those
623 supplies, increases our energy security, and those of our
624 allies and trading partners. So things are happening that
625 could have a positive impact.

626 Mr. {Rush.} But you have not been able to really look
627 at and do your due diligence on this bill? That is
628 understandable. But is there any way the effect of this
629 bill, or any bill right now that would come out of the

630 Congress on remediating the issue, or helping the Ukrainian
631 people, it is not really certain right now any legislation
632 that this Congress won't have an immediate effect. Is that
633 what you are saying, in essence?

634 Mr. {Whitfield.} The gentleman's time has expired, but
635 I would like you to go on and answer his question.

636 Ms. {Gant.} I would have to beg your patience that I am
637 not in a position to opine on actions that this body might
638 take, but I can say that we are proceeding with the guidance
639 that you have given us, and working as expeditiously as
640 possible.

641 Mr. {Whitfield.} At this time recognize the gentleman
642 from Texas, Mr. Barton, for 5 minutes.

643 Mr. {Barton.} Thank you, Mr. Chairman, and I thank our
644 witness for being here. First I am going to make a comment,
645 and then I am going ask you some questions. Mr. Waxman
646 referred to, and you also, I think, referred in your opening
647 statement to the number of projects that are pending, and the
648 amount of LNG that would be exported, if they were all to be
649 approved. There is one minor point, they also all have to be
650 built, and they are not all going to be built. You could
651 approve 30 projects. My guess is you will have one or two
652 built on the East Coast, one or two on the West Coast, and
653 perhaps two or three on the Gulf of Mexico.

654 Now, I could be totally wrong about that, but the cost
655 of these projects, and the long term financing commitment,
656 and the uncertainty of the foreign markets, as soon as we
657 start exporting LNG, these prices that look so lucrative
658 overseas, they are not going to stay at \$16 and NCL for 12 or
659 \$13. When people see that the U.S. is going to export to
660 Hungary, or to Japan, or to Eastern Europe, or wherever,
661 those prices are going to change, and there is going to be an
662 equilibrium point. We don't know where that is, but you are
663 not going to build 20 LNG terminals to export natural gas.
664 That is just not going to happen.

665 Could you give an example, at least hypothetically, of
666 what would not be in the national interest? I mean, so far
667 every project that has been reviewed has been approved, and
668 the law is such that you have to find it is not in the
669 national interest. If it is where we already have a trade
670 agreement, it is an automatic, and if it is not, you do have
671 to do this review, but so far the yeses have won every time.
672 So what would be an example that would not be in the national
673 interest, hypothetically?

674 Ms. {Gant.} Thank you, Congressman. We would agree
675 that it is unlikely that all of these projects will get
676 built, that the success of these will depend on a number of
677 factors. These are decade old commitments. They require

678 very sophisticated engineering and construction capacities,
679 and very large capital commitments, and very significant
680 steel in the ground, if you will. The guidance that we have
681 been given in the Natural Gas Act is to conduct a public
682 interest review. As I noted, we didn't get a lot of guidance
683 on what that meant, so we have tried to create a process that
684 is very transparent, and we are working our way through that
685 process.

686 Considering the public interest in the criteria that we
687 have set out, what I can tell you is that the considerations
688 that we take into account in making that determination are
689 all part of the public record. And given the information
690 that is placed on the record to date in those proceedings,
691 weighing all of that, and balancing those interests, our
692 determination has been that--

693 Mr. {Barton.} You--

694 Ms. {Gant.} --export is in the public interest.

695 Mr. {Barton.} You have talked for a minute and a half
696 and haven't said a thing. You know, that is not an
697 adversarial question. Let me give you a hypothetical. If
698 Barton LNG exports presents an application to the Department
699 of Energy to export LNG to North Korea to help build
700 manufacturing capability to build missiles that would then be
701 capable of attacking the United States, would that be in the

702 national interest?

703 Ms. {Gant.} I would imagine that quite a bit of
704 information would be put into the public record for us to
705 consider in that proceeding, and we would do so.

706 Mr. {Barton.} I would hope the answer to that question
707 would be no. I mean, well, my time is evaporating, so let me
708 move on. Is it safe to assume that the geopolitical
709 considerations that Mr. Rush has talked about, and Mr.
710 Shimkus talked about, are reasons to approve LNG exports,
711 that there is a geopolitical strategic component to the
712 review?

713 Ms. {Gant.} Yes, sir. In all of our orders that we
714 have approved to date, and authorizations have granted,
715 geopolitical considerations, international considerations,
716 are factored in. We take very seriously our nation's
717 commitment to free trade, and very much understand that
718 increasing the supply and diversity of natural gas on global
719 markets benefits our energy use security, and that of our
720 allies.

721 Mr. {Barton.} Okay. This is my last question, and I
722 want you to give me, in the spirit of John Dingle, who is not
723 here, a yes or no answer. And I will give you a hint that
724 these questions are designed to make your report look good,
725 okay? Question one, isn't it true that the Department of

726 Energy rejected the claim that the NERA study overstated the
727 likely macro benefits from LNG exports? Yes or no?

728 Ms. {Gant.} Yes, sir.

729 Mr. {Barton.} Okay. Isn't it true that DOE observed
730 that more natural gas is likely to be produced domestically
731 if LNG exports are authorized than if they are prohibited?

732 Ms. {Gant.} Yes, sir.

733 Mr. {Barton.} Okay. Isn't it also true that the
734 Department of Energy rejected the claim that there is a one
735 for one tradeoff between gas used in manufacturing and gas
736 diverted for export?

737 Ms. {Gant.} Yes, sir.

738 Mr. {Barton.} Okay. And isn't it also true that DOE
739 was not persuaded that LNG exports will substantially
740 increase the volatility of domestic natural gas prices?

741 Ms. {Gant.} Yes, sir.

742 Mr. {Barton.} And this is my last question. Isn't it
743 true that DOE believes that the public interest generally
744 favors authorizing proposals to export natural gas that have
745 been shown to lead to net benefits to the U.S. economy?

746 Ms. {Gant.} Yes, sir.

747 Mr. {Barton.} Thank you very much.

748 Mr. {Whitfield.} Gentleman's time has expired. At this
749 time recognize the gentleman from California, Mr. Waxman, for

750 5 minutes.

751 Mr. {Waxman.} Thank you, Mr. Chairman. The Department
752 of Energy has established a process for considering
753 applications to export LNG, if the LNG would go to a country
754 that has a free trade agreement with the U.S., the
755 application is quickly granted. But if the LNG is going to a
756 country without a free trade agreement, DOE does a public
757 interest determination. That takes some time, but DOE has
758 granted seven of those applications so far. Dr. Gant, I
759 would like to ask you about how the Gardner bill would change
760 this approval process. Everyone should understand what this
761 bill would actually do. 24 applications to export LNG to
762 non-free trade agreement countries are currently pending
763 before DOE. Under the Gardner bill, what would happen to
764 those applications?

765 Ms. {Gant.} Thank you, Congressman. Again, I have had
766 the chance to only briefly review the bill, but as I
767 understand the basic concept, it would grant status to WTO
768 nations like that is currently granted to FTA nations under
769 the Natural Gas Act, and in doing so, would remove DOE's
770 requirement to conduct a public interest determination.

771 Mr. {Waxman.} So they would be granted without
772 modification or delay?

773 Ms. {Gant.} If that is what the legislation instructs.

774 Mr. {Waxman.} Okay. It is my understanding it does.
775 So for these applications, there would be no public interest
776 determination, or analysis of whether the exports would have
777 adverse impacts on domestic natural gas prices or consumers,
778 is that right?

779 Ms. {Gant.} As my understanding of the proposal is,
780 yes, sir.

781 Mr. {Waxman.} Okay. Automatically granting those
782 applications would result in the approval of a total of 36
783 billion cubic feet per day in LNG exports. That is equal to
784 almost half of our total domestic consumption. Has DOE done
785 any analysis of how this level of potential exports would
786 impact domestic natural gas prices?

787 Ms. {Gant.} Yes, sir. My understanding is that the
788 capacity presented in the 24 applications that have not been
789 granted non-FTA approval status is 36 BCF a day. The
790 economic analysis that we have conducted to date does not
791 consider exports at that level.

792 Mr. {Waxman.} Okay. So these are just the pending
793 applications? Under the Gardner bill, future applications to
794 export LNG to any of the 159 World Trade Organization member
795 countries, DOE would be required to just deem them in the
796 public interest and grant them, isn't that right?

797 Ms. {Gant.} Again, not being familiar with the

798 specifics of the legislation, if there is no public interest
799 determination required, my understanding is, yes, the
800 Secretary would be required to deem them--

801 Mr. {Waxman.} If there is no public interest--

802 Ms. {Gant.} Right.

803 Mr. {Waxman.} --requirement for analysis?

804 Ms. {Gant.} Yes, sir.

805 Mr. {Waxman.} Okay. The WTO membership includes all
806 likely importers, and the automatic approval doesn't depend
807 on the proposed LNG export levels. Every application to
808 export any amount of LNG to virtually anywhere in the world
809 would be automatically granted under this bill. Dr. Gant,
810 that is really just unlimited LNG exports, isn't it?

811 Ms. {Gant.} My understanding is if the exports were
812 authorized, then market forces would determine how many LNG
813 cargoes would actually be exported from the United States.

814 Mr. {Waxman.} Well, as far as the government is
815 concerned, an application from anywhere in the world would be
816 automatically granted under this bill. Market forces, of
817 course, would determine another--

818 Ms. {Gant.} Yes, sir. The--

819 Mr. {Waxman.} --be another factor. Okay. Is there any
820 way under this bill for DOE to ensure that the total level of
821 LNG exports will be in the public interest, or not have

822 significant adverse impacts on domestic natural gas prices,
823 consumers, and manufacturers?

824 Ms. {Gant.} Our current process considers these
825 applications on a case by case basis, and looks at the
826 macroeconomic benefits and impacts of LNG exports. To the
827 extent that we weren't conducting that review, we wouldn't be
828 opining on that.

829 Mr. {Waxman.} And is it your understanding the Gardner
830 bill would not require that review?

831 Ms. {Gant.} Again, I have very limited understanding.

832 Mr. {Waxman.} Okay. I have an open mind on LNG
833 exports, but I have concerns about this bill. Rubber
834 stamping what I think is unlimited LNG exports without any
835 determination that they are in the public interest could have
836 serious unintended consequences. That is why many of the
837 largest manufacturers in the country oppose this bill. Yield
838 back my time, Mr. Chairman.

839 Mr. {Whitfield.} Gentleman yields back. At this time,
840 recognize the gentleman from Illinois, Mr. Shimkus, for 5
841 minutes.

842 Mr. {Shimkus.} Thank you, Mr. Chairman. Let me ask,
843 permitting doesn't mean building, is that correct?

844 Ms. {Gant.} Correct.

845 Mr. {Shimkus.} And I take it my colleagues didn't

846 understand that. The markets will determine whether these
847 get built, and a lot of jobs for steelworkers, a lot of jobs
848 for laborers. These LNG facilities are major construction
849 projects, and that would be good for the economy also. I
850 have spent 18 years as a member of Congress, dealing with
851 Eastern European issues. I have spent 3 years on the West
852 German border. I have a passion for freedom and democracy in
853 the former captive nations.

854 To my friend Mr. Rush, who I know shares the same thing,
855 these countries are already seeing benefits of lower natural
856 gas prices because of the ability to export. I want to read
857 an article from Climate Change Science and Technology on 6
858 March. ``Last week Lithuania took another important step
859 towards the creation of its own liquefied natural gas
860 terminal. The floating storage and re-gasification unit that
861 is being built in South Korea by Hyundai Heavy Industries was
862 put to water for initial testing, and christened by
863 Lithuania's president. The ship should arrive in Klaipeda,
864 the location of Lithuania's LNG terminal by the end of the
865 year, and is planned for initial processing of LNG to start
866 in December.'' My opening was just a passion plea. These
867 countries need to free themselves from the extortion of
868 Russian energy markets. And it is not just Eastern European.
869 It is the Western European countries too. 50 percent of

870 energy in Western Europe is from Russia. This is a big deal,
871 folks.

872 And now let me tie it to this whole FTA/WTO debate. The
873 key component is we don't have a free trade agreement with
874 Europe, is that correct?

875 Ms. {Gant.} That is my understanding.

876 Mr. {Shimkus.} So if we want to help Europe, we have to
877 move to the WTO format. There was another bill that I
878 sponsored by Mike Turner, a member of the NATO Parliamentary
879 Assembly, and that was to grant this same provision to NATO
880 countries. And in the permutation of how legislation gets
881 written, it was deemed an easier way to include the WTO
882 members than to go to a defensive treaty alliance type issue.

883 Again, I want to make sure that I highlight, in this day
884 and age, at this time in the world's history, with what is
885 currently going, if you had any interest in a democratic,
886 free Europe, whole and free, this is a big deal. The
887 Russians extort by trade, they extort by energy. They get
888 involved in political campaigns, legal and illegally. We are
889 not making this up. Talk to any ambassador from an Eastern
890 European country of Russian influence to try to destabilize
891 their country. This is our opportunity, another way, without
892 troops, bringing a measure of security to our European
893 friends.

894 And, of course, Shimkus is ethnically Lithuanian. I am
895 glad that they have moved on an import terminal, at great
896 expense to them. They have already seen the benefits of
897 being able to negotiate lower natural gas prices because of
898 the acknowledgement that now they are going to be able to go
899 to the world market, outside of Russia, for their energy
900 needs.

901 So I want to thank you for the permits that you have
902 already rendered. I hope that you will keep an open mind on
903 this bill, and the WTO implications for our allies in Europe.
904 It is a key component in this current struggle that we have.
905 Thank you for, Mr. Chairman, a great hearing. I want to
906 thank again Mr. Gardner. There couldn't be a more important
907 time to move this legislation than now. So, with that, I
908 will yield back my time.

909 Mr. {Whitfield.} Gentleman yields back. At this time
910 recognize the gentleman from California, Mr. McNerney, for 5
911 minutes.

912 Mr. {McNerney.} Thank you, Mr. Chairman. I agree with
913 my colleague from Illinois that natural gas is a geopolitical
914 tool, and it would be beneficial to have LNG import to
915 Ukraine, but Ukraine doesn't have LNG import facilities, and
916 we are already approving LNG export facilities far faster
917 than they can possibly be built, so I question the need for

918 this bill. But I do have one question for Dr. Gant.

919 You know, with the deeming and automatic approval of LNG
920 export facilities, that makes me worry about the quality of
921 applications that you are going to be receiving, if that was
922 to be enacted into law, in terms of safety, in terms of
923 fugitive gas emissions, and all kinds of environmental
924 problems. Is that something that would be a problem, in your
925 mind, in your estimation?

926 Ms. {Gant.} Thank you for the question. I would just
927 note that DOE has responsibility for considering the impact
928 of actually exporting the natural gas molecule, while our
929 partner agency, the Federal Energy Regulatory Commission, is
930 responsible for the permitting and citing of the actual
931 physical facility, and safety, and engineering quality,
932 environmental impacts actually associated with the facility.

933 Mr. {McNerney.} So those aspects are okay, as far as
934 you are concerned?

935 Ms. {Gant.} Again, as I understand the legislation, it
936 only addresses DOE's responsibilities.

937 Mr. {McNerney.} Okay. All right. That was my only
938 question. I yield back.

939 Mr. {Whitfield.} Gentleman yields back. At this time
940 we will recognize the gentleman from Nebraska, Mr. Terry, for
941 5--

942 Mr. {Terry.} To follow on that line of questioning,
943 from the day that a permit is filed with DOE, what has been
944 the average timeline for the seven that have been granted?

945 Ms. {Gant.} Each individual application presents its
946 own unique--

947 Mr. {Terry.} That is why I said average--

948 Ms. {Gant.} --individually.

949 Mr. {Terry.} --between the seven.

950 Ms. {Gant.} So once the comment period finished on the
951 rulemaking, it was 3 months before we issued the first
952 conditional authorization.

953 Mr. {Terry.} 3 months?

954 Ms. {Gant.} And we are on an average of about a 2 month
955 pace, give or take a week or 2--

956 Mr. {Terry.} And that is--

957 Ms. {Gant.} --depending on how fast we can--

958 Mr. {Terry.} Very good. I understand that. Then what
959 happens to the process one DOE signs off on a permit?

960 Ms. {Gant.} So the statute gives us a little bit of
961 flexibility. An applicant can proceed in parallel at the
962 Department of Energy and the Federal Energy Regulatory
963 Commission. We have established a process by which those
964 applicants that have started their pre-filing process at FERC
965 are entered into our order in the order at which they apply

966 to us after initiating that process, and that they proceed
967 through our process in parallel, if you will, to the FERC
968 application process.

969 However, we are a coordinating agency with the Federal
970 Energy Regulatory Commission on the environmental impact
971 assessment. So once we have given the conditional approval
972 for export, then we wait until the Federal Energy Regulatory
973 Commission has completed their environmental review, and then
974 we consider that in our determination of a final
975 authorization.

976 Mr. {Terry.} Okay. Now, even though you may be sped
977 up, the reality is FERC still has to deal with it, so if
978 there is one agency that wants to delay, for whatever
979 political purposes, like Keystone pipeline and that, FERC can
980 do that?

981 Ms. {Gant.} In the vast majority of the applications
982 before us, the Federal Energy Regulatory Commission has the
983 lead Federal agency responsibility--

984 Mr. {Terry.} Right.

985 Ms. {Gant.} --for conducting environmental reviews of
986 these projects.

987 Mr. {Terry.} Couple of miscellaneous type questions
988 here. A former member of this committee used to say that if
989 we exported any, then that means the prices of natural gas in

990 the United States would automatically go to the world prices
991 on natural gas. That person always lost me on the logic.
992 What is DOE's opinion on whether or not, if we fill up one
993 ship with liquid natural gas and send it over to the Ukraine,
994 or Lithuania, that that means that we will be on a world
995 price for natural gas?

996 Ms. {Gant.} The analysis that we consider in assessing
997 the public interest is based on the analysis conducted by EIA
998 and NERA previously, particularly in NERA analysis across all
999 scenarios envisioned where an export were provided for, were
1000 allowed, and taken up in global markets, we saw overall
1001 benefits to the U.S. economy. And, importantly, in the EIA's
1002 AEO 2014 that was released in December, that projects a
1003 significant increase over the forecast period in LNG exports
1004 relative to the base case used in our NERA analysis. We see
1005 an actual decrease in projected Henry Hub prices for natural
1006 gas in the U.S., so that the--

1007 Mr. {Terry.} Okay.

1008 Ms. {Gant.} --baseline of 39--

1009 Mr. {Terry.} Very good. And have you been to the
1010 Balkan Fields, or the Eagleford Place?

1011 Ms. {Gant.} I have not, but I imagine I will have--

1012 Mr. {Terry.} You should. The Chairman and I, and a
1013 couple others, Cory, did that. Fly over at night and see how

1014 much of the natural gas is being flared off, or wasted, in my
1015 view.

1016 Ms. {Gant.} Um-hum.

1017 Mr. {Terry.} And that is an extremely disappointing
1018 picture to me. So when we talk about whether or not
1019 exporting LNG is going to create a demand issue for us when
1020 we are burning off, flaring, almost a third sounds almost
1021 silly to me.

1022 Ms. {Gant.} Um-hum.

1023 Mr. {Terry.} Has DOD, in your last 30 seconds, looked
1024 into how to better capture that 1/3 that is just lit off?

1025 Ms. {Gant.} Yes, sir. A couple of important things, we
1026 are very focused on reducing methane emissions from natural
1027 gas and oil systems, and other sources across the economy, as
1028 part of the President's climate action plan. Specifically
1029 with regard to natural gas associated with oil production,
1030 increasingly producers are looking at gasifying their
1031 drilling sites, so moving off of diesel engines, onto natural
1032 liquefied natural gas engines, so you are looking at ways to
1033 increase the value of that fuel on site. In addition, the
1034 quadrennial energy review will provide an opportunity to look
1035 at obstacles to building gathering lines that would allow you
1036 to capture natural gas.

1037 Mr. {Terry.} It would, if you would get one.

1038 Mr. {Whitfield.} The gentleman's time has expired. We
1039 have a vote on the House floor. We are going to try to do
1040 two more questions because Dr. Gant is going to be leaving,
1041 and we are going to be gone 50 minutes, and we are going to
1042 be coming back for the second panel. But the next on the
1043 list is Mr. Doyle. He will be recognized for 5 minutes, and
1044 then Mr. Gardner. And if you all wanted to--

1045 Mr. {Doyle.} Thank you, Mr. Chairman. Well, let me
1046 just say this. This hearing is not about whether or not we
1047 should export natural gas. We are doing that. Having said
1048 that, I have some great concerns about this bill.

1049 Dr. Gant, you said that your average approval time is
1050 around 2 months, every 2 months you are approving a permit.
1051 And I also heard you say that, when Mr. Barton asked you,
1052 when the first permit that you approved would actually come
1053 online, you said around the third quarter of 2015, is that
1054 correct? So that is about 15 months from now. So, based on
1055 your granting permits on an average of about 2 months, you
1056 could conceivably grant another seven or eight permits before
1057 the first facility actually goes online, assuming it goes
1058 online by the third quarter of 2015. At that point we would
1059 have 15 permitted facilities to go to non-free trade
1060 agreement countries.

1061 Now, you said that the difference between granting a

1062 permit to a non-FTA country versus an FTA country is you go
1063 through a process to see if it is in the national interest to
1064 do so. But, under Mr. Gardner's legislation, that would be
1065 waived. It would be treated just like an FTA permit, where
1066 you don't go through that process, is that correct?

1067 Ms. {Gant.} As I understand.

1068 Mr. {Doyle.} So, conceivably, if somebody wanted to
1069 export natural gas to Russia, which is a WTO country, there
1070 wouldn't be a review process by DOE whether or not that was
1071 in the national interest? It would just be approved like an
1072 FTA country? Is that correct?

1073 Ms. {Gant.} Correct.

1074 Mr. {Doyle.} I would say to Mr. Gardner, and people
1075 that are co-sponsors of this bill, you may want to consider,
1076 based on what is going on in the world with the Russians, the
1077 Chinese, Pakistani, Turkey, how these countries are flaunting
1078 our trade laws and cleaning our manufacturers' clocks. We
1079 just came from a steel caucus hearing this morning where
1080 these same very countries that we could be sending natural
1081 gas to, without any review to see if it is in the natural
1082 public interest, are using our trade laws to put our
1083 companies out of business.

1084 The one edge our manufacturers have in this country is
1085 cheap energy, and we are about to take that from them too.

1086 Right now we have natural gas at \$4 to \$5 at MCF. They are
1087 paying \$14 to \$16 over there. Mr. Barton has it right. What
1088 is going to happen is our prices are going to come up a
1089 little, and their prices are going to come down a little, and
1090 we will eventually hit some sort of a leveling off period of
1091 pricing where it doesn't make any more sense to export. And
1092 the market will determine how many of these facilities
1093 actually get built, because they cost billions of dollars to
1094 build. And even if you approve 30 permits, the likelihood is
1095 nowhere near 30 facilities are going to get built.

1096 Well, if the sweet spot ends up a \$9 or \$10, it then
1097 becomes the world price. Now we have lost our competitive
1098 edge, our manufacturers have, in this world market, because
1099 they no longer have the benefit of cheaper energy than their
1100 competitors overseas, whose companies still illegally
1101 subsidize their industries, and put the steel industry out of
1102 business. We lose 20, 30 companies before we get relief at
1103 the International Trade Commission.

1104 I would just say to Mr. Gardner, and anyone else that is
1105 for this bill, let us sit down and think about the countries
1106 we want to actually do this to. Let us not open up to every
1107 WTO country. Let us talk about who our allies are, and who
1108 our partners are, and what we are trying to accomplish over
1109 in Europe and Eastern Europe, and maybe limit it to those

1110 countries. And let us make certain that if somebody can put
1111 an application in to send natural gas over to Russia right
1112 now that the review process that would be waived under your
1113 bill isn't waived. If you are not going to do that, I would
1114 suggest that you single out Russia and a few other countries
1115 not be eligible for this kind of favorable treatment.

1116 I am not against exporting natural gas. I am for it. I
1117 am for doing it. What I hate to see happen is just like with
1118 the Keystone pipeline. You know, not an ounce of American
1119 steel in that pipeline. The Indians and the Russians
1120 provided the steel that is going to build that Keystone
1121 pipeline. We need buy American provisions in this bill. If
1122 we are going to build these export facilities, they better
1123 damn well use American steel, U.S. steel, not Russian steel,
1124 not Indian steel, making sure that our companies have a level
1125 playing field when we do this.

1126 I am all for exporting the natural gas. I am not for
1127 giving away our competitive edge, and I am certainly not for
1128 giving cheap gas to our enemies. And this allows that to
1129 happen without any review from the Department of Energy. I
1130 don't have any questions. I yield back.

1131 Mr. {Whitfield.} At this time recognize the gentleman
1132 from Colorado, Mr. Gardner, for 5 minutes.

1133 Mr. {Gardner.} Well, thank you, Mr. Chairman, and if

1134 the gentleman supports the exporting, I would hate to see him
1135 exporting. So I thank you for your passion that you bring to
1136 this bill, but I hope you will stay and listen to other
1137 witnesses who are testifying today who will completely rebut
1138 and refute the statements that you just made. In fact, there
1139 is testimony within today's hearing that talks about the
1140 price impact, that talks about many of those same claims that
1141 you are making, which are refuted by the evidence and price
1142 impacts that are negligible, if at all, under this
1143 legislation.

1144 But what we do know, of course, as the DOE witness has
1145 talked about, and I thank you for the opportunity to have you
1146 here today, is the economic impact that this would have on
1147 the United States right now. The DOE permit application, in
1148 your assumptions, you talk about the number of jobs it would
1149 create. Have any of these facilities resulted in less
1150 employment in the United States? Have any of these permits
1151 resulted in a net loss of employment to the United States?

1152 Ms. {Gant.} I am not aware that those calculations have
1153 been made.

1154 Mr. {Gardner.} I mean--

1155 Ms. {Gant.} I am not privy to them, if they have.

1156 Mr. {Gardner.} Does higher production of domestic
1157 energy result in more or less jobs?

1158 Ms. {Gant.} The economic analysis that we base in our
1159 Orders demonstrates that greater production of natural gas
1160 has generated overall economic impacts.

1161 Mr. {Gardner.} And the gas that we are exporting is
1162 American gas, is that correct?

1163 Ms. {Gant.} That is correct, sir.

1164 Mr. {Gardner.} So we are creating American jobs, yes?

1165 Ms. {Gant.} Yes, sir.

1166 Mr. {Gardner.} With American energy?

1167 Ms. {Gant.} That is what the economic analysis
1168 suggests.

1169 Mr. {Gardner.} And it is going overseas to displace
1170 energy that is coming from who, Russia?

1171 Ms. {Gant.} It is hard to say which natural gas is
1172 being displaced, but there is no doubt that--

1173 Mr. {Gardner.} Would it displace Russian gas?

1174 Ms. {Gant.} There is no doubt that we have greater
1175 supplies of natural gas--

1176 Mr. {Gardner.} Would that be a net benefit to U.S.
1177 allies?

1178 Ms. {Gant.} It is definitely a net benefit.

1179 Mr. {Gardner.} And why would that be a net benefit?

1180 Ms. {Gant.} Because increased supplies of gas on global
1181 markets, and diversity of those supplies, increases energy

1182 security.

1183 Mr. {Gardner.} So that means what for the United
1184 States, in terms of geopolitical situation?

1185 Ms. {Gant.} We are very keenly interested and invested
1186 in the energy security of our allies and training partners.

1187 Mr. {Gardner.} So it would increase the security of our
1188 allies?

1189 Ms. {Gant.} It is a key strategic interest to the
1190 United States.

1191 Mr. {Gardner.} Okay. It would create American jobs?

1192 Ms. {Gant.} What is it? I am sorry, I have lost track
1193 of what it--

1194 Mr. {Gardner.} We would create American jobs
1195 developing--

1196 Ms. {Gant.} Increased production of natural gas has led
1197 to, yes, increased economic benefits.

1198 Mr. {Gardner.} And that would be a net benefit to the
1199 United States economy?

1200 Ms. {Gant.} In our analysis to date, yes.

1201 Mr. {Gardner.} I thank the witness for her time.

1202 Mr. {Whitfield.} I might make just one comment
1203 regarding the scenario of exporting gas to Russia, or North
1204 Korea, or wherever, and maybe Dr. Gant can answer this
1205 question, or maybe you can't, but the reason we have these

1206 hearings is to find out. But Mr. Doyle presented a pretty
1207 dire--and many of us would agree with you. We wouldn't want
1208 gas going to Russia, North Korea, some of these WTO
1209 countries.

1210 It is my understanding that the Energy Policy Act of
1211 1975 gave the President of the United States the authority to
1212 prohibit export of natural gas to any country if they deemed
1213 it should not be done. And I know the Gardner bill does not
1214 amend that Act, but do you know personally if what I have
1215 just said is accurate?

1216 Ms. {Gant.} Mr. Chairman, if you wouldn't mind, I would
1217 rather take that question for the record--

1218 Mr. {Whitfield.} Yeah.

1219 Ms. {Gant.} --because I believe I know the answer--

1220 Mr. {Whitfield.} Okay.

1221 Ms. {Gant.} --but I would rather--

1222 Mr. {Whitfield.} All right.

1223 Ms. {Gant.} --not--

1224 Mr. {Whitfield.} Well, if you wouldn't mind getting
1225 back in touch with our committee staff? Because it is our
1226 understanding that that is the case, that the President could
1227 intervene and prevent some of the scenarios that Mr. Doyle
1228 talked about. But we want to make sure that that is
1229 accurate. Okay. That concludes the first panel, and we

1230 thank you very much for taking time to come over and give
1231 your insights on this, and we look forward to working with
1232 you as we move forward. So you are dismissed.

1233 The second panel, we are going to cast these votes, and
1234 we are going to be back here in 50 minutes. And, as I have
1235 said before, we have world class restaurants in the Rayburn
1236 Building, so if you want to go down and get something to
1237 refresh yourself?

1238 Mr. {Rush.} They have 15 minutes to get down there.

1239 Mr. {Whitfield.} Fifteen?

1240 Mr. {Rush.} They have got 15 minutes to get down to
1241 Rayburn. They close at 2:30.

1242 Mr. {Whitfield.} Yeah, they close at 2:30, so you
1243 better hurry. But we will be back in 50 minutes.

1244 [Whereupon, at 2:15 p.m., the subcommittee recessed, to
1245 reconvene at 3:05 p.m. the same day.]

|

1246 Mr. {Whitfield.} I would like to call the hearing back
1247 to order. And I want to apologize once again to those of you
1248 on the second panel. We appreciate your patience, and
1249 certainly do look forward to your testimony. And on the
1250 second panel today, we have Dr. Anita Orbán, who is
1251 Ambassador-at-Large for Energy Security for the government of
1252 Hungary. We have The Honorable Jim Bacchus, who is with
1253 Greenberg Trauig Law Firm. We have Mr. David Schryver, who
1254 is Executive Vice President of the American Public Gas
1255 Association, Mr. Kenneth Ditzel, who is Principal with the
1256 Charles River Associates. And we have Dr. David Montgomery,
1257 Senior Vice President for NERA Economic Consulting.

1258 So all of you have a perspective on this issue, and we
1259 really look forward to hearing from you. So, at this time, I
1260 will recognize Dr. Orbán for her 5 minute opening statement.
1261 And just make sure your microphone is on. Thank you.

|
1262 ^STATEMENTS OF DR. ANITA ORBÁN, AMBASSADOR-AT-LARGE FOR
1263 ENERGY SECURITY, GOVERNMENT OF HUNGARY; THE HONORABLE JAMES
1264 BACCHUS, GREENBERG TRAUIG LLP; DAVE SCHRYVER, EXECUTIVE VICE
1265 PRESIDENT, AMERICAN PUBLIC GAS ASSOCIATION; KENNETH DITZEL,
1266 PRINCIPAL, CHARLES RIVER ASSOCIATES; AND DR. W. DAVID
1267 MONTGOMERY, SENIOR VICE PRESIDENT, NERA ECONOMIC CONSULTING.

|
1268 ^STATEMENT OF ANITA ORBÁN

1269 } Ms. {Orbán.} Thank you, Mr. Chairman. Thank you,
1270 Chairman Whitfield, and the members of the subcommittee. I
1271 am honored to be here today to provide perspective on the
1272 importance of LNG export legalization for Central Eastern
1273 Europe. We applaud the leadership of this committee to look
1274 at the geostrategic aspect of the LNG export. On March 6
1275 four ambassadors of the four Visegrád countries signed a
1276 letter to Speaker Boehner and Majority Leader Harry Reid to
1277 urge them to recognize the overall importance of U.S.
1278 engagement in Central Eastern Europe, and more specifically
1279 in the area of energy security. I would like to ask you, Mr.
1280 Chairman, to enter this letter into the record along with my
1281 written remarks.

1282 Mr. Chairman, we are in the middle of the largest

1283 security crisis that Europe has seen since the end of the
1284 Cold War, and energy dependence, especially that of Ukraine
1285 and Central Eastern Europe is on everybody's mind. Energy
1286 import dependence is one of the key factors that limit the
1287 political options available to the Central Eastern European
1288 countries as U.S. allies. The popular interpretation of
1289 energy dependence, and natural gas dependence in particular,
1290 is widely associated with supply cutoffs. Supply cut may
1291 indeed happen, with unpredictable consequences for countries
1292 in the region. Yet, if used, it would seriously hurt the
1293 supplier as well, in the short term with loss of revenue, in
1294 the midterm with loss of its markets.

1295 There is another aspect of dependency, however, which is
1296 much less discussed, and that is its price implication. It
1297 is prices that provide the best economic and political tool
1298 for the monopoly supplier. Whoever has the monopoly calls
1299 the shots. Higher prices inflict a very tangible cost on the
1300 dependent country's economy and population by stuffing the
1301 supplier's coffers, and allowing it to reap the economic
1302 grants to finance further political, economic, and military
1303 actions. Most importantly, it can be applied in a
1304 discriminatory manner. The only way to limit the monopoly
1305 supplier's ability to use the price weapon is to establish
1306 alternative supplies. Once they are in place, the monopoly

1307 supplier can no longer use the price discrimination tool
1308 freely.

1309 For Central Eastern European countries the most
1310 important task is today to create the credible alternative
1311 options. To do that, we need to do two things. First of
1312 all, we need to enhance and ensure the capacity of the
1313 pipeline system and of the infrastructure, and we need to
1314 secure the necessary volumes of additional natural gas
1315 import. The first is our homework. Only we can do that, to
1316 create robust energy infrastructure, to create access to
1317 alternative supply, to create access to energy terminals. It
1318 is beyond the limit of my presentation to go into details to
1319 explain how much and what we have done, but I am very happy
1320 to elaborate on them during the Q and A session.

1321 However, Europe has been much less successful in
1322 building up the necessary volumes for alternative supply, and
1323 this has been largely out of the control of Europe. EU and
1324 U.S. sanctions against Iran, the slower than expected
1325 progress in Iraq, the upheaval in North Africa postponed, or
1326 put on hold indefinitely, potential alternative pipeline
1327 supplies. With no pipeline gas option available, the most
1328 credible alternative is to have access to the energy market.
1329 And it is pretty much only the American LNG which can create
1330 the credible volume to have a real impact in Central Eastern

1331 Europe.

1332 The urgency of establishing the region's access to LNG
1333 means that the United States Congress has a potent tool at
1334 its disposal. By clearing the way for U.S. shale gas to
1335 reach America's Central European NATO allies, it would
1336 provide significant protection against the deployment of the
1337 energy weapon. It is simply not true that lifting the
1338 natural gas export ban today would not have an immediate
1339 effect in the region. It would. It would immediately change
1340 the business calculus for infrastructure investments, and
1341 send an extremely important message of strategic reassurance
1342 to the entire region.

1343 Access to LNG would also assist Ukraine. During 2013,
1344 two capacities, reverse flow capacities, were opened toward
1345 Ukraine, one from the direction of Hungary, another from the
1346 direction of Poland, enabling the supply of natural gas to
1347 Ukraine on purely market terms.

1348 Expediting LNG export is an elegant, yet very effective
1349 tool, which is relatively cheap to use. It is a historic
1350 opportunity to send a strong message of freedom to the region
1351 by simply letting the markets work. This is not a partisan
1352 issue. It is an American issue that all statesmen in this
1353 country must show leadership on.

1354 Mr. Chairman, members of the committee, I believe that

1355 doing away with these export limitations would make economic
1356 sense, even in better times, but there is nothing like a
1357 crisis to focus the mind. As representatives of a country
1358 that Central Eastern Europe has traditionally looked to for
1359 leadership, you know well that you do not always have the
1360 luxury of choosing the time to make some of the most
1361 necessary decisions. But with the post-Cold War settlement
1362 crumbling before our eyes, if there was ever a time for your
1363 leadership, it is now. And if there was ever an issue that
1364 would do as much good at as little cost, it is the issue at
1365 hand. Thank you for your attention.

1366 [The prepared statement of Ms. Orbán follows:]

1367 ***** INSERT 2 *****

|
1368 Mr. {Whitfield.} Thank you, Dr. Orbán. And at this
1369 time I will recognize the gentleman, Mr. Bacchus, for 5
1370 minutes.

|
1371 ^STATEMENT OF JAMES BACCHUS

1372 } Mr. {Bacchus.} Thank you, Mr. Chairman, and it is
1373 always good to be back in this House. I had the privilege
1374 some time ago of representing the State of Florida in this
1375 House. Today I want to emphasize that I am here today
1376 representing no one but myself. I am speaking solely for
1377 myself. Furthermore, I am here today not to speak on issues
1378 of policy, but on issues of law, specifically on issues
1379 relating to international trade law under the WTO treaty.
1380 And I believe I have been invited here today because, when I
1381 became a former member of the House, I went to Geneva and
1382 became one of the seven founding Judges on the appellate body
1383 of the World Trade Organization, and I served for nearly a
1384 decade there, including two terms as the Chief Judge there.
1385 I have written quite a few WTO legal opinions.

1386 So that is why I am here today. I am here because,
1387 largely overlooked in the emerging Congressional debate so
1388 far about restricting exports of natural gas, is the
1389 possibility that such restrictions are inconsistent with the
1390 obligations of the United States to other members of the WTO
1391 under the WTO treaty. This matters, because if our
1392 restrictive energy measures are inconsistent with our treaty

1393 obligations, the United States risks losing a case in the
1394 WTO, and such a loss could cause the WTO to authorize
1395 expensive economic sanctions against us through the loss of
1396 previously granted concessions in other sectors of our
1397 international trade.

1398 Mr. Chairman, WTO rules apply to trade in natural gas
1399 and other energy products in the same way they apply to other
1400 traded products. Some suggested that energy products are
1401 somehow separate and apart from other treated products in how
1402 WTO rules apply to them. There is no legal basis for this
1403 view. Among WTO rules that bind us in the WTO treaty are
1404 rules prohibiting bans, quotas, and other forms of
1405 quantitative restrictions on exports, unless those
1406 restrictions take the form of export taxes. Now, as all the
1407 members know, taxes on exports are prohibited by our
1408 Constitution in the United States, so energy export taxes are
1409 not an option for us. WTO rules also permit temporary
1410 restrictions on exports to prevent or relieve critical
1411 shortages of essential products, but that can hardly be said
1412 to apply to our current situation with respect to supplies of
1413 natural gas.

1414 A number of legal concerns occur when considering the
1415 consistency of the current U.S. process for licensing exports
1416 of natural gas with WTO rules. First of all, the current

1417 U.S. process gives special treatment in licensing exports of
1418 natural gas to countries with which we have a free trade
1419 agreement. Natural gas exports to these countries are deemed
1420 to be in the public interest, and permitted without delay.
1421 In contrast, the Department of Energy has elected to subject
1422 licensing requests for LNG exports to non-FTA countries to a
1423 thorough and lengthy assessment intended to determine whether
1424 exports of natural gas to those countries serve our public
1425 interest. In this way, applicants that ship LNG to FDA
1426 countries are preferentially given expedited review in the
1427 licensing process, as compared to those applicants that will
1428 ship LNG to non-FTA countries.

1429 When seen through the prism of WTO law, Mr. Chairman,
1430 these are measures affecting trade that result in
1431 discrimination between like traded products. The legal
1432 question under WTO law is whether this discrimination can be
1433 excused by an exception in WTO law that allows trade
1434 discrimination as part of a free trade agreement. But it is
1435 not at all clear that all of the FTAs of the United States
1436 fit within the definition in the WTO treaty of a free trade
1437 agreement.

1438 Fortunately, H.R. 6, introduced by Congressman Gardner
1439 of Colorado, and currently under consideration by this
1440 committee, would eliminate this potential legal concern by

1441 providing that natural gas exports to all members of the WTO
1442 would be deemed to be in the public interest. Depending on
1443 how the Department of Energy chooses to implement H.R. 6,
1444 however, it may not, in its present form, remedy several
1445 other legal concerns arising from the current U.S. licensing
1446 process under WTO rules. I, frankly, could not tell from the
1447 testimony earlier today by the representative from the
1448 Department of Energy how precisely they view this bill, how
1449 they would change what they do if this bill is enacted, or
1450 even how they engage in their process today, nor can, really
1451 anyone else.

1452 One remaining legal concern under WTO rules is the
1453 question of the lengthy delays in granting export licenses.
1454 H.R. 6, in its third paragraph, would provide for immediate
1455 approval of pending applications, but what about new ones?
1456 Under WTO rules, a license can clearly be a restriction on
1457 exports. And case law has defined the notion of a
1458 restriction broadly to include licensing procedures that post
1459 limitations on actions, or had a limited effect, such as by
1460 creating uncertainties, or by affecting investment plans. In
1461 one case, delays of up to 3 months in issuing export licenses
1462 were found to be inconsistent with the rules.

1463 Now, to be sure, liquefied natural gas is, practically
1464 speaking, not just another widget. Before it can be shipped

1465 by sea, natural gas much be transformed in a careful way that
1466 requires special facilities. Some period of deliberation,
1467 and citing, and evaluating LNG facilities seems reasonable.
1468 The FERC process of environmental consideration is probably
1469 perfectly defensible under WTO rules. But what would WTO
1470 Judges be likely to say about delays in issuing export
1471 licenses that last much longer?

1472 Mr. {Whitfield.} Mr. Bacchus, I have let you go a
1473 couple minutes over. If you would just summarize, and--

1474 Mr. {Bacchus.} Let me make one more point, Mr.
1475 Chairman, and then I will be happy to answer questions of the
1476 members on these other issues. And I congratulate the
1477 committee on asking first about our WTO obligations before
1478 enacting legislation, rather than finding out about them
1479 later in Geneva.

1480 An additional remaining legal concern is the lack of
1481 clarify, and how the Department of Energy defines the public
1482 interest. Conceivably even lengthy delays in the licensing
1483 process could be excused under WTO rules if it could be
1484 proven by the United States that such delays are necessary to
1485 protect life or health, or are related to the conservation of
1486 exhaustible natural resources, so long as the process is not
1487 applied in a way that results in arbitrary or unjustifiable
1488 discrimination, or disguise restriction on international

1489 trade.

1490 Now here is my final point, Mr. Chairman, for now. If,
1491 however, in determining the public interest the DOE considers
1492 as a factor the effect the proposed exports will have on
1493 domestic producers that use natural gas in making their
1494 products and their competition with like foreign products,
1495 then these exceptions to WTO rules will not be available, and
1496 will not excuse a WTO violation caused by lengthy licensing
1497 delays.

1498 In fact, Mr. Chairman, the United States of America has
1499 been making precisely the point that I have just made just
1500 now in a case against China in the WTO, dealing with Chinese
1501 restrictions on exports of rare earth elements. Most likely
1502 the United States will win this case. A WTO panel ruling is
1503 expected tomorrow. If we have proven the facts, we will
1504 prevail on the arguments I have just made, that are some of
1505 the same arguments that we heard earlier today.

1506 [The prepared statement of Mr. Bacchus follows:]

1507 ***** INSERT 3 *****

|
1508 Mr. {Whitfield.} Thank you so much, Mr. Bacchus. At
1509 this time I recognize Mr. Schryver for 5 minutes.

|

1510 ^STATEMENT OF DAVID SCHRYVER

1511 } Mr. {Schryver.} Chairman Whitfield, Ranking Member
1512 Rush, the members of the subcommittee, I appreciate this
1513 opportunity to testify before you today, and I thank the
1514 subcommittee for calling this important hearing on The
1515 Domestic Prosperity and Global Freedom Act introduced by
1516 Congressman Gardner. My name is Dave Schryver, and I am the
1517 Executive Vice President for the American Public Gas
1518 Association. APGA is a national association for publicly
1519 owned natural gas distribution systems. There are currently
1520 approximately 1,000 public gas systems located in 37 states
1521 in the U.S. Publicly owned gas systems are not-for-profit
1522 retail distribution entities owned by, and accountable to,
1523 the citizens they serve.

1524 As a result of advances in natural gas drilling
1525 techniques, U.S. consumers have enjoyed affordable energy
1526 prices, and a manufacturing renaissance is underway. The
1527 U.S. now has a unique opportunity to implement its long
1528 declared, but never seriously pursued, policy of energy
1529 independence, and thereby to fundamentally transform key
1530 variables affecting both our national security and domestic
1531 economy.

1532 However, APGA is concerned that the export of LNG
1533 threatens this opportunity. There have been about 30
1534 applications filed at the Department of Energy, and the sum
1535 total of LNG that could be exported, should all these
1536 facilities go forward, would equate to nearly half of current
1537 U.S. natural gas production. This potential level of export
1538 could have serious adverse implications not only for U.S.
1539 national security, but also for domestic consumers of natural
1540 gas, and the economy as a whole.

1541 The pursuit of energy independence requires that the
1542 United States wean itself off of imported oil, which accounts
1543 for approximately 40 percent of our domestic use. The two
1544 major consumers of foreign oil in the United States are the
1545 transportation sector and the industrial sector. By
1546 converting commercial vehicles to natural gas, the United
1547 States can take giant steps towards energy independence and
1548 reducing greenhouse gas emissions.

1549 To accomplish this goal, natural gas in the United
1550 States must remain plentiful and reasonably priced. U.S.
1551 natural gas prices today are affordable, competitive, and
1552 relatively stable in contrast to the situation just a few
1553 years ago. This important change in gas pricing is the
1554 product of both the newly available supplies of natural gas
1555 and the fact that our natural gas market is largely limited

1556 to North America. At these prices, natural gas vehicles are
1557 price competitive with gasoline.

1558 By contrast, the large scale export of natural gas via
1559 LNG will not only play havoc with the current supply and
1560 demand situation, enhance the price of natural gas, but will
1561 also, because the price of LNG abroad is tied to the
1562 international oil market, inevitably link the domestic price
1563 of natural gas to international oil markets, which are
1564 substantially more volatile, and less transparent than our
1565 domestic market.

1566 APGA is not against free trade, but when important
1567 policies collide, nations must make choices. U.S.
1568 policymakers must carefully consider and prioritize the use
1569 of domestic resources according to the national interest over
1570 both the long and short terms. Ultimately, U.S. LNG will be
1571 sold by private firms to the highest bidder without any
1572 consideration of U.S. geopolitical interest. Wherever these
1573 firms can obtain the highest price for natural gas is where
1574 the gas will be sold.

1575 Proof of this assertion can be found in the already
1576 approved applications for export of natural gas to non-FTA
1577 countries. The seven approved applications have finalized
1578 contracts, or are negotiating contracts, to sell U.S. gas to
1579 Japan, South Korea, and India. Since the goal of profit

1580 maximization applies to all pending non-FTA export
1581 applications, any future exports will also go where the price
1582 is highest, and not where U.S. geopolitical interests may
1583 wish them to be sent. In addition, Ukraine, unlike its
1584 likely Asian competitors, currently has no LNG import
1585 facilities, and therefore no capacity to receive U.S. gas in
1586 the near future. Rather than exporting LNG, a focus should
1587 be on exporting the drilling technology that has enabled
1588 producers in this country to tap into our huge shale
1589 reserves. There are vast shale reserves in Europe, including
1590 in Ukraine, that are there for the taking.

1591 APGA strongly believes that natural gas has a critical
1592 role to play in keeping energy prices affordable for U.S.
1593 consumers, reducing our dependence on foreign oil, reviving
1594 domestic manufacturing. No matter how well intentioned, the
1595 projected price increases of exporting LNG threatens those
1596 three objectives. In lieu of exporting our affordable
1597 premium fossil fuel, Congress should focus on adopting
1598 policies that encourage greater domestic demand for natural
1599 gas. This is a much better choice in both the short and long
1600 term to accelerate the transition from imported oil to
1601 domestic natural gas to fuel our transportation sector,
1602 revitalize our manufacturing industry, and improve our
1603 balance of trade.

1604 We urge the committee to carefully consider the adverse
1605 impact that exporting LNG will have on millions of natural
1606 gas consumers in the U.S., who will feel the impact of higher
1607 prices resulting from exposure to the global export market.
1608 APGA thanks you for this opportunity to testify, and we look
1609 forward to working with this committee on this important
1610 issue.

1611 [The prepared statement of Mr. Schryver follows:]

1612 ***** INSERT 4 *****

|
1613 Mr. {Whitfield.} Thanks very much, and, Mr. Ditzel, you
1614 are recognized for 5 minutes.

|

1615 ^STATEMENT OF KENNETH DITZEL

1616 } Mr. {Ditzel.} Mr. Chairman, and members of the
1617 subcommittee, thank you for your invitation to present
1618 testimony before the Subcommittee on Energy and Power. My
1619 name is Ken Ditzel. I am a principal at Charles River
1620 Associates, where I have authored three reports on LNG
1621 exports since February 2013. The client for these reports
1622 has been Dow Chemical. The views I express today, though,
1623 are mine, and do not necessarily reflect the views of CRA or
1624 others.

1625 Now, Dr. Montgomery and I have conflicting views on the
1626 value of LNG exports. I first want to state that Dr.
1627 Montgomery and I have known each other for almost 10 years,
1628 and we worked together for almost seven. He is a great
1629 person, and I agree with David on many other subjects where
1630 he is given Congressional testimony, but this time is
1631 different. The reason is that LNG exports could present
1632 serious opportunity costs. Why? It is because gas intensive
1633 manufacturing creates twice as much GDP, almost five times
1634 the permanent jobs, and eight times the construction jobs as
1635 LNG exports on an equivalent consumption basis. Also,
1636 manufacturing distributes these benefits across more states,

1637 which means more people win in more states. Finally,
1638 manufacturing has a larger trade balance impact than LNG
1639 exports. Assuming equivalent consumption, manufacturing
1640 would create a \$34 billion trade benefit differential.

1641 Given these higher benefits, we need to ask ourselves
1642 two key questions. One, is there a price point where the
1643 manufacturing renaissance will be at risk? Two, could U.S.
1644 LNG exports raise prices to this level? To answer the first
1645 question, price levels approaching almost \$8 per million BTU
1646 would end the manufacturing renaissance. We saw these price
1647 levels in the mid-2000s, and the job destruction that ensued.
1648 The answer to the second question is yes. LNG exports, if
1649 left unconstrained, could raise domestic gas prices above \$8
1650 per million BTU. Why? It has to do with net back pricing.
1651 Today the U.S. net back price would be \$10 per million BTU,
1652 if there were exports.

1653 Turning to the two NERA reports, I have a number of
1654 criticisms about their assumptions, process, and results.
1655 Given DOE's reliance on the first NERA report, it is
1656 surprising that the DOE never had the report peer reviewed,
1657 as it would have uncovered a number of concerns, such as,
1658 one, the NERA report forecasted no exports in its reference
1659 cases, even though 30 BCF per day of applications were
1660 submitted at the time. Second, a lack of transparencies in

1661 results, full output data by scenario were missing on supply
1662 and demand by region in international LNG import prices.
1663 Third, resource owners win, while the rest of the economy
1664 loses. Fourth, assumptions that the LNG market is
1665 competitive. We know it is not because OPEC influences the
1666 oil prices by which LNG is indexed.

1667 In reviewing the second NERA report, I found more
1668 concerns. One is NERA's now forecasting five BCF per day in
1669 the long term in its reference scenario, even though actual
1670 LNG export margins have slightly decreased between the timing
1671 of the two reports. The second is NERA's results are
1672 inconsistent. NERA forecasts all have prices to be \$3.44 in
1673 2018 in its reference scenario. Backing into this price
1674 using NERA's output tables gives lower prices, which means
1675 LNG exports would be uneconomic, and would not occur in their
1676 model.

1677 Three, NERA forecasts almost one BCF per day of exports
1678 by 2018, which is only 45 percent of the Sabine Pass
1679 capacity, yet Sabine has a take or pay contract that would
1680 put the facility near 100 percent. Also, at 45 percent, one
1681 has to wonder if Sabine is a losing proposition, which
1682 shareholders wouldn't want to hear. Fourth, NERA forecasts
1683 international gas prices to drop from \$16 today to \$11 by
1684 2018. That is because NERA models the energy market as

1685 competitive, and we know it is not. The BG group, however,
1686 forecasts LNG import prices to remain close to today's levels
1687 from the next few years.

1688 In summary, I believe the value of LNG exports is still
1689 very much in question. The process employed thus far has
1690 been opaque, and I encourage the DOE to open up the process,
1691 and reconsider the reports it relies upon for determining
1692 what is in the public interest.

1693 [The prepared statement of Mr. Ditzel follows:]

1694 ***** INSERT 5 *****

|

1695 Mr. {Whitfield.} Thank you very much. At this time,
1696 Dr. Montgomery, you are recognized for 5 minutes.

|

1697 ^STATEMENT OF DAVID MONTGOMERY

1698 } Mr. {Montgomery.} Thank you, Mr. Chairman, Ranking
1699 Member Rush, and Mr. Green, Mr. Griffith, and Mr. Gardner. I
1700 appreciate the opportunity to be here, and thought I might as
1701 well mention all of you. I led both NERA's study of the
1702 macroeconomic impacts of LNG exports that we did for the
1703 Department of Energy, and also our recent update. I have
1704 provided a copy of this report with my testimony. I would
1705 like to request that that be entered for the record. I am
1706 also speaking today for myself, not for NERA, or any other
1707 consultant there, or any of their clients. These are my
1708 opinions.

1709 We did, as Dr. Gant mentioned, in our new study update
1710 our data to the most recent complete Energy Information
1711 Administration annual energy outlook. What Mr. Ditzel refers
1712 to as our forecasts are simply what was in AEO 2011, when we
1713 did the DOE study, and 2013, in our current study. The
1714 reference case was calibrated precisely to the AEO forecast,
1715 as close as you can come. So we did the update. We also
1716 looked at higher levels of exports than we did in the
1717 previous study. We looked at the full amounts of exports
1718 that the market would take in each of the scenarios we

1719 developed. And what we found, again, was that LNG exports
1720 would provide net economic benefits to the U.S. in all the
1721 scenarios we examined, and the less the regulators restricted
1722 U.S. exports, the greater the benefits would be.

1723 Indeed, the largest net benefits were achieved when no
1724 limit was set on LNG exports by DOE. But that didn't mean
1725 that exports are unlimited, because the market would limit
1726 them. And, put another way, there is a sweet spot, I agree,
1727 but the sweet spot is only going to be found by letting the
1728 market work to discover it. We are not going to be able to
1729 discover a sweet spot through arguments here, or through
1730 analysis. The sweet spot is the point at which the value in
1731 domestic use and the value in exports are balanced off by the
1732 market.

1733 We also find that the benefits of LNG exports will be
1734 distributed broadly, and we looked at this more carefully
1735 than we did in the previous version. Wage growth will be
1736 slightly slower, but it is not true that it is only rich land
1737 owners in Wyoming and North Dakota that will be getting the
1738 benefits. Workers benefit from increased values of their
1739 401(k)'s and retirement savings. Everyone benefits from a
1740 source of government revenue that doesn't retard growth. And
1741 there is the basic point of international trade that when we
1742 increase exports, it directly reduces the cost of the other

1743 imported consumer goods that people buy. So there is an
1744 offsetting effect.

1745 You know, there is a demand for our exports. Other LNG
1746 exports go up, buyers need Dollars. Buyers go out and
1747 acquire those Dollars. That drives the value of the Dollar
1748 up. That drives down the price of all the other goods that
1749 we import. For consumers, that is what turns out to be a
1750 wash, and it is a very important part of understanding the
1751 trade implications.

1752 Now, you have heard that the chemical industry will
1753 create more GDP if it were allocated the BCF of gas than the
1754 natural gas industry would create by exporting it. That is a
1755 false dichotomy, and bad economics in the bargain. The same
1756 thing could be said of every industry that uses a basic
1757 commodity, for example, grocery manufacturers, who use the
1758 same agricultural products that we export. Does this mean
1759 that we need to establish a law that creates a public
1760 interest requirement through determining whether agricultural
1761 exports are in our national interest? No. The market sorts
1762 that one out perfectly adequately.

1763 The whole notion that chemicals, or other manufacturing
1764 industries, need government allocations of energy to survive
1765 is false. There is just no problem for the government to
1766 solve. The competitive advantage of U.S. manufacturing won't

1767 be taken away by exports. I would like to put up one slide
1768 here which shows what happened. This is the manufacturing
1769 renaissance. This is the effect of lower natural gas prices.
1770 The blue line shows 2005. The United States is the highest
1771 cost producer of chemicals at that point. It was really on
1772 the verge of being knocked out of business. Now we are tied
1773 with the Middle East as the lowest cost producer. We have a
1774 60 cent a pound advantage in ethylene production over our
1775 nearest rival.

1776 So I did a calculation. I asked, what is the maximum
1777 impact that we see from natural gas exports across all our
1778 cases? It is not this fantasy that we are going to be linked
1779 to oil prices, and suddenly jump to 10 or \$12 a barrel. It
1780 is a \$1 increase above what prices would otherwise be. That
1781 \$1 increase in natural gas prices converts to 5 cents a pound
1782 on the cost of producing ethylene. That is out of a 60 cent
1783 advantage that we have already.

1784 It is true, U.S. manufacturing gets a huge advantage
1785 over its rivals in countries that have to import natural gas,
1786 and we get it because our gas is so much cheaper, and that
1787 there is enough for manufacturing, and enough for the exports
1788 as well. In fact, when we looked at exports, we found that
1789 almost all of the increased gas for exports was coming from
1790 additional production. Almost none of it was coming from

1791 manufacturing. Manufacturing can afford to buy the gas
1792 because it has such an advantage. It is a false dichotomy to
1793 say it is either or.

1794 Let me show two other slides. This one shows that there
1795 are employment impacts, and they are positive impacts. There
1796 are direct jobs that are going to be created by building LNG
1797 facilities. We show them here that they will peak before
1798 2018, 2,000 to 40,000 jobs, depending on how fast we get on
1799 with the business of exporting LNG. That actually converts
1800 into reduced unemployment. Lot of talk about creating jobs,
1801 and putting people to work 40 years from now is nonsense.
1802 CBO, and most other forecasters, assume that once we get out
1803 of this recession, we will stay approximately at full
1804 employment. What matters is between now and 2018, because
1805 that is when CBO says we will be returning to full
1806 employment. Using a standard kind of macroeconomic theory,
1807 we looked at this and determined that we would get something
1808 up to 45,000 additional workers joined out of the unemployed
1809 and put to work at the maximum level of LNG exports that we
1810 came across.

1811 Final chart, let me show, this would have an effect on
1812 Russia. I will leave it to others to talk about why it is
1813 our strategic advantage to do this, but what this shows is
1814 that if we do two things, one is if we remove bureaucratic

1815 restrictions on exports, and the second is if we actually
1816 encourage the shale revolution, rather than restricting it
1817 through ham-handed regulations or unjustified fears, we can
1818 knock out five trillion cubic feet of Russian exports. It
1819 won't be because we are exporting directly to Russia, to
1820 Europe, it is because we will be going where we have
1821 transportation cost advantages to go, and others, in
1822 particular the Middle East and Africa, will be shipping their
1823 gas to Europe, and knocking Russia out of that market.

1824 That will face Russia with two choices, and it is the
1825 choice every monopolist has to face when a competitor
1826 appears. They either have to cut back their production in
1827 order to maintain high prices, cede most of their market, or
1828 they have to take much lower prices. We project that, in the
1829 optimistic supply case that EIA has developed in 2013, we
1830 could reduce Russia's natural gas export revenues between 40
1831 and 60 percent if we free up LNG exports. I think that is a
1832 significant hit to the Russian economy, and one that should
1833 get their attention. Thank you for your indulgence.

1834 [The prepared statement of Mr. Montgomery follows:]

1835 ***** INSERT 6 *****

|
1836 Mr. {Whitfield.} Thank you, and thank all of you for
1837 your testimony. We appreciate it very much. We know that,
1838 on this subject matter of exporting LNG, that there are a lot
1839 of different perspectives to review it from. One is the
1840 geopolitical arena, and from an economic standpoint, it
1841 sounds like, Dr. Montgomery, you believe that economically it
1842 would be a tremendous benefit for us to export natural gas.
1843 And, Mr. Ditzel, I guess it would be fair to say, from your
1844 perspective, it would be more of a negative than a positive
1845 overall.

1846 So, I want to get back to that in just a minute, but,
1847 Dr. Orbán, you have heard the argument that because of the
1848 time that it takes to put in infrastructure to export that
1849 really there is not going to be any immediate benefit to
1850 European countries that are relying on natural gas from
1851 Russia. Would you agree with that assessment, or do you
1852 disagree with that assessment?

1853 Ms. {Orbán.} Thank you, Chairman. I would disagree
1854 with this assessment, and let me highlight two points here.
1855 One is, if the decision is made to expedite U.S. energy to
1856 its allies, it can have two impacts. One, it is a strategic
1857 reassurance of the relationship between the European allies
1858 and your United States immediately. It sends a very

1859 important geopolitical signal at that very moment. Second,
1860 the economic impact. We have numerous cases, and in my
1861 written testimony, I also cited one case, when a future
1862 prospective alternative already had a price impact on the
1863 dominant supplier's pricing. So we believe that it would
1864 have an immediate price impact on the dominant supplier's
1865 pricing in Central Eastern Europe.

1866 And also let me add, when we are talking about the
1867 energy industry, we are talking about decades of investment.
1868 An investment will reach its maturity in several decades. We
1869 are talking here about a couple of years, which is, in the
1870 energy industry, it is like talking about tomorrow, or the
1871 day after tomorrow. And let me also take this opportunity to
1872 highlight that it is very important for us that this issue
1873 here, what we are discussing today, is a non-partisan issue
1874 in the United States. And I would like to highlight and
1875 recognize Congressman Gardner for introducing this bill, and
1876 I would like to recognize also Ranking Member Rush for
1877 acknowledging the geopolitical aspect of this important
1878 issue.

1879 Mr. {Whitfield.} Let me ask you, when you import
1880 natural gas from Russia by way of the Ukraine, or Belarus, or
1881 however, what is the length normally of those contracts?

1882 Ms. {Orbán.} The current length of those contracts is

1883 20 to 25 years. They are long term contracts.

1884 Mr. {Whitfield.} Your microphone.

1885 Ms. {Orbán.} Sorry. The length of those contracts is
1886 20, 25 years. They are long term contracts, which were
1887 usually concluded in the '90s. So a lot of countries, we see
1888 their contracts are expiring in the next couple of years. If
1889 we are talking about renegotiating of the contract, or the
1890 future of the gas market in Central Eastern Europe, for all
1891 these countries, knowing that the credible option is there to
1892 buy 2018, 2019, onward, it gives an absolutely different
1893 negotiating position.

1894 Mr. {Whitfield.} So certainly, from your perspective,
1895 this is a crucial time, with these contracts to expire?

1896 Ms. {Orbán.} It is the time.

1897 Mr. {Whitfield.} Yeah. And where do you import gas
1898 from, other than Russia, in Hungary, for example?

1899 Ms. {Orbán.} We are importing from Russia, as well as
1900 we have access to a hub in Baumgarten, which is in Austria,
1901 where we are able to import not on a long term basis, but on
1902 a spot basis. But if we talk about the molecules, all the
1903 molecules in the pipeline system are Russian, of course, in
1904 that part of Europe.

1905 Mr. {Whitfield.} And most of this natural gas that you
1906 are importing, it is used for electricity, or for--

1907 Ms. {Orbán.} It is used for heating, it is used for
1908 manufacturing, and it is used for electricity. The case of
1909 Hungary is pretty important to note that 3/4 of the
1910 households use natural gas for heating. As a result, it is
1911 an extremely important social, as well as political issue,
1912 the energy security, as well as the price of gas.

1913 Mr. {Whitfield.} And one time you had indicated that in
1914 Croatia they were in the process of building an import
1915 facility there that Hungary would benefit from. Is that the
1916 case?

1917 Ms. {Orbán.} There is a plan to build an energy
1918 facility in Croatia. If it is built, Hungary would benefit
1919 from that immediately, as well as many other countries in the
1920 region. We inaugurated a pipeline between Croatia and
1921 Hungary in 2010, with six billion cubic meters capacity,
1922 which is a pretty big capacity, compared to the size of the
1923 market there. It is three times of the market of Croatia.
1924 It is about 60 percent of the market of Hungary. But for the
1925 LNG terminals to be built, you need the volume. You need the
1926 supply on the other end. And the LNG market currently is
1927 pretty tight. There is not really new LNG coming into the
1928 market. To get that investment feasible and up and going,
1929 you need the credible opportunity and alternative of energy
1930 entering the market.

1931 Mr. {Whitfield.} Well, my time has expired. I wanted
1932 to discuss this difference between Mr. Montgomery and Mr.
1933 Ditzel a little bit, and also the WTO, but I am going to have
1934 to recognize Mr. Rush for 5 minutes at this point.

1935 Mr. {Rush.} It is very interesting, Mr. Chairman, I
1936 want you to know. We are seeing a resurgence in American
1937 manufacturing, and I want to make sure that we don't do
1938 anything to undermine and hinder, or hamper, this resurgence
1939 in manufacturing. But I am also quite interested in the
1940 geopolitical aspects of this, and I don't know whether or not
1941 Dr. Orbán could speak to this, but I certainly want to ask.

1942 I grew up on the streets in Chicago, and it has been my
1943 experience that a success of a bully is that there is a
1944 chance to be a bully until you stop them from being a bully.
1945 And you stand up to a bully. You call the bully out. And
1946 so, in my own way, I look at Putin as being a bully. And if
1947 we don't do something in here, in terms of the LNG, or
1948 whatever, what can you see, or tell us, or give us an idea,
1949 where does he go next? Who is he going to bully next? Do
1950 you have any idea about that? And then I am going to get
1951 back to the matter at hand, but I just want to take the
1952 opportunity, because I think if you don't stop a bully, he is
1953 going to keep on bullying. That is the nature of a bully,
1954 until you stand up to him. So is that one of your concerns?

1955 Ms. {Orbán.} Thank you, Mr. Rush. If I understood you
1956 correctly at the beginning of your question, you allowed me
1957 now to answer, but you said that you will still--

1958 Mr. {Rush.} Okay.

1959 Ms. {Orbán.} --ask it. I am not sure whether anybody
1960 is able to answer your question.

1961 Mr. {Rush.} All right. Well, let us go back to
1962 something maybe somebody could answer. Mr. Schryver, the
1963 American Public Gas Association has been working with Alcor,
1964 Newcore, and other major U.S. manufacturers on the issue of
1965 LNG exports. And you call have significant concerns about
1966 exporting LNG. The Industrial Energy Consumers of America is
1967 also very concerned that you all will oppose the bill before
1968 the subcommittee. So, based on your conversations with these
1969 companies, why do you think that they are so concerned about
1970 LNG exports?

1971 Mr. {Schryver.} From the perspective of our members, we
1972 are concerned about the price impacts first and foremost.
1973 Our members are focused on providing safe and affordable
1974 natural gas to their customers, so that is one. We are also
1975 concerned about the impact LNG export is going to have on
1976 efforts to increase our energy independence. That is number
1977 two. And lastly, you know, there has been a number of
1978 studies out there, you know, whether there is a net benefit

1979 or not. And when our members look at their natural gas
1980 customers, half the people they serve on average, you know,
1981 don't own stock, and those that do may not necessarily own
1982 stock in a natural gas production company, or a company that
1983 is going to benefit from LNG production. So, from that
1984 standpoint, they really see no benefit from LNG export.

1985 Mr. {Rush.} All right. Mr. Ditzel, I understand that
1986 Dow had commissioned some of your work on LNG export impacts?

1987 Mr. {Ditzel.} Yes.

1988 Mr. {Rush.} Yeah. Are Dow and other manufacturers
1989 right to be worried about the effect of LNG exports on the
1990 price of natural gas in the U.S.?

1991 Mr. {Ditzel.} They absolutely do. I have enumerated in
1992 all my studies the impact of LNG exports was going to be
1993 significant. If we leave it unconstrained, we will see
1994 prices rising above \$8 per million BTU. I have raised this
1995 concern many times because I have some serious questions
1996 about the quality of the NERA report. As I pointed out in my
1997 oral testimony, and also in my written testimony, there are a
1998 number of flaws where the numbers just don't add up or make
1999 sense.

2000 And, for example, I pointed out that NERA comes to \$3.44
2001 per MCF in 2018 in its reference scenario. The problem is
2002 that when you look at their output tables and you add it all

2003 up, it comes to a number that is lower, which means you
2004 wouldn't export. So there are a number of concerns with the
2005 NERA--

2006 Mr. {Rush.} My time is running out. What about the
2007 jobs? They are--large volumes of LNG exports. How many jobs
2008 are at stake?

2009 Mr. {Ditzel.} Well, when we did our analysis, and
2010 looking at the job impact, we found that there is a five time
2011 impact by manufacturing relative to LNG exports. So that is
2012 roughly 180,000 jobs that are created from manufacturing at
2013 five BCF per day, and a fifth of that with LNG exports. And
2014 it is only something that is a concern if LNG prices rise, or
2015 force prices to rise above \$8 per million BTU, which we think
2016 will happen.

2017 Mr. {Rush.} And Dr. Montgomery don't agree with you.
2018 He disagrees. And why do you think he is wrong about his--

2019 Mr. {Ditzel.} Sure.

2020 Mr. {Rush.} --analysis?

2021 Mr. {Ditzel.} He ties his reports and his analysis to
2022 the EIA reference case. And as I have shown in my slides,
2023 and in my testimony, the EIA reference case is consistently
2024 wrong, if you look back at history, and never hits any of the
2025 spot prices. So he ties it to a reference case that just,
2026 you know, that is likely to be wrong going forward. And in

2027 that case, we have analyzed the EIA analysis, and showed that
2028 the implied import price, in their analysis, was around \$12
2029 per million BTU in the long term, and that is consistent with
2030 what Dr. Montgomery uncovers in his analysis, and that is a
2031 big drop from today's prices. So his analysis thinks that
2032 the LNG exports from the U.S. are going to make a big dent.

2033 Mr. {Gardner.} Gentleman's time has expired. I am
2034 going to try to do this better than last time. I think last
2035 time I hit the mute all button. I guess I am going to try
2036 not to do that this time.

2037 To Dr. Montgomery, I had a question for you. Recognize
2038 myself 5 minutes, I apologize. We heard a lot about price
2039 impact, and investments in various industries. If there is
2040 an overabundance of supply of natural gas in the United
2041 States, will that erode capital investment in production
2042 within the United States of natural gas?

2043 Mr. {Montgomery.} Yes. The investment and the, you
2044 know, exploration and production moves very directly with the
2045 price of natural gas. If we find ourselves, again, with a
2046 glut of natural gas, it could lead to collapses temporarily,
2047 as we actually probably saw a couple of years ago. You know,
2048 \$2 per million BTU price of natural gas were, I think,
2049 largely driver by overextension of production on leases that
2050 had to be drilled. But it is all a matter of degree. As we

2051 see additional demand for natural gas exports coming into the
2052 market, that will bring forth production. I will let EIA
2053 defend its own record. I think that Mr. Ditzel seems to
2054 forget that every forecaster misses precise numbers. The
2055 point is that EIA has done a very good job on average of
2056 keeping up with what we are thinking with kind of current
2057 thinking about the future.

2058 But we followed EIA's resource characterization and
2059 supply curves. And what they have concluded, and this is new
2060 in the AEO 2013, and even more so in 2014, is that we can
2061 produce a lot more natural gas without the price going up
2062 very much. That is what keeps the price of natural gas down.
2063 That is why we can get, in most cases, an additional four or
2064 five, six, eight TCF of natural gas, with less than a \$1
2065 increase in the world oil price. It is because production
2066 responds very aggressively to the new demand, and it doesn't
2067 take much of a price increase to get enough natural gas
2068 produced to satisfy all of that demand.

2069 Mr. {Gardner.} And Dr. Montgomery, Dr. Orbán, I think
2070 this question could be addressed to both of you. In your
2071 testimony, when you talk about Russia, you say monopolists
2072 can be restrained as effectively by potential competition as
2073 by actual production by their rivals. Can you please talk
2074 about that in more detail?

2075 Mr. {Montgomery.} Yes. We have many examples in the
2076 United States, and overseas, of companies which may be the,
2077 you know, largest incumbents in a market, but as long as they
2078 can see that there are competitors ready and waiting to come
2079 into the market, with the capacity to, you know, meet their
2080 price, or to provide supplies at competitive prices, then
2081 that is going to discipline their pricing. We call it limit
2082 pricing phenomenon. Don't price any higher than what it
2083 takes to bring somebody else into the market and take it away
2084 from you. I think that is exactly what we see with Russia.

2085 But what is critical to it is that there not be this
2086 overhanging risk that all of a sudden an administration will
2087 decide, no, that is enough exports, and cut them off before
2088 enough exports can flow to take the market away.

2089 Mr. {Gardner.} Dr. Orbán, I want to add to that
2090 question. Have you or your government experienced any issues
2091 with Russian energy supplies, and if you could please explain
2092 that?

2093 Ms. {Orbán.} As you know, there was a case in 2009,
2094 which received us a lot of media attention, where for less
2095 than 2 weeks the supply was stopped entirely on the Ukrainian
2096 pipeline system, which caused serious shortages in Central
2097 Eastern Europe. It affected the different countries
2098 differently. Some countries had very severe problems, like

2099 Slovakia, or Bosnia-Herzegovina, or Bulgaria. Many countries
2100 needed to shut down industries, but there were also countries
2101 that residential heating was affected. After 2009 state
2102 level, as well as the European level, they introduced
2103 numerous measures, and we built numerous new infrastructure
2104 to prepare for a potential new crisis situation to be able to
2105 assist each other based on the principle of solidarity, as
2106 well as to sustain if there is a serious crisis for a longer
2107 period.

2108 Mr. {Gardner.} And the ability for the United States to
2109 export LNG, of course, would help mitigate that as well?

2110 Ms. {Orbán.} Absolutely. As I explained, what we need
2111 is build the internal capacity. The pipeline system and the
2112 internal infrastructure in Europe is lagging behind that of
2113 the United States. That is our homework. We are doing that.
2114 The other which we need is the extra volume to create the gas
2115 to gas competition in the market, and that is where the
2116 United States could be--

2117 Mr. {Gardner.} Mr. Ditzel, is it a fair assumption to
2118 say that the manufacturing renaissance in this country is
2119 because of the price of energy, and the abundance of energy
2120 supply in this nation?

2121 Mr. {Ditzel.} Absolutely.

2122 Mr. {Gardner.} Are you concerned that a lack of

2123 opportunities to export will impact investments within
2124 energy, and drive energy prices up because of a lack of
2125 investment in the energy sector, as wells are shut in, and
2126 production is decreased because of that issue?

2127 Mr. {Ditzel.} My concern is that, with unlimited LNG
2128 exports, it will raise domestic gas prices to a point that it
2129 will end the manufacturing renaissance.

2130 Mr. {Gardner.} Dr. Montgomery, what do you say to those
2131 who say that if there is no limit, that the levels will be
2132 unlimited?

2133 Mr. {Montgomery.} You have to find a buyer, and the U.S.
2134 is not going to find buyers for gas at the levels that Mr.
2135 Ditzel is assuming. You simply have to look at supply and
2136 demand in the global market, and there are far too many
2137 countries out there who could beat us by several dollars a
2138 million BTU in delivering gas if our wellhead price was \$10.
2139 We can't find a scenario in which we sell gas at \$10 a
2140 million BTU because nobody in the world wants it at that
2141 price.

2142 Mr. {Gardner.} Thank you, and my time has expired. Mr.
2143 Green, the gentleman from Texas, is recognized for 5 minutes.

2144 Mr. {Green.} Thank you, Mr. Chairman, and thank both
2145 the Chair and the Ranking Member for having the hearing today
2146 on an issue that is really important to where I come from, an

2147 industrial in East Harris County, chemical plants,
2148 refineries, that are all benefiting from our regionalized
2149 natural gas. Our committee, in 2005, actually federalized
2150 permitting of importing LNG because we thought our chemical
2151 industry in '05, we couldn't compete with North Sea gas, and
2152 we were losing chemical jobs, as you mentioned, Mr.
2153 Montgomery. But now we are seeing expansions.

2154 Of course, my concern is a balance between the producers
2155 needing to be certain they know their gas will have a market,
2156 because right now we are flaring a significant amount in
2157 South Texas, and I know the royalty of owners would love to
2158 see that stop flaring and be able to ship it to someone. But
2159 our manufacturers need to know they have a certainty of the
2160 prices not the skyrocket. And I would love to help our
2161 allies, particularly in Eastern Europe, but even if we pass
2162 the bill today, even--areas not going to export gas until
2163 next year. So even if we streamlined every permit that is in
2164 the line, it is not going to get there very quickly. And
2165 that is, again, depending on the investment that they can
2166 get.

2167 But the American people need to know that they will
2168 continue to benefit from our natural resources that we are
2169 seeing in the renaissance. By eliminating the regulatory
2170 oversight, I am concerned that we should mostly harness the

2171 agency expertise, and we heard that earlier, streamline the
2172 decision-making, which I think is being done right now, and
2173 also define the transparency. And so that is why I am glad
2174 we are having this hearing today.

2175 Mr. Schryver, in your testimony you state that the U.S.
2176 will give up a manufacturing renaissance promised on low
2177 prices, investing in natural gas. You cite an article in the
2178 New York Times that South African investment in a gas and
2179 liquids plant in Louisiana would cost \$14 billion. Do you
2180 believe that the firm relied solely on the NERA study
2181 commissioned by the DOE to invest in that plant in Louisiana?

2182 Mr. {Schryver.} Do I believe the firm that is moving to
2183 Louisiana is relying solely on NERA? No. Actually, there
2184 are a number of factors. I don't want to speak for them, but
2185 I assume there are a number of factors, one of which is the
2186 low cost of natural gas we are enjoying right now.

2187 Mr. {Green.} Well, the CEO of that South African
2188 company stated that the plant becomes economical when U.S.
2189 natural gas prices exceed \$8 per million BTU. Do you believe
2190 that the companies that will invest \$14 billion to build a
2191 new facility without forecasting potential natural gas
2192 increases, that it would be much less than \$8?

2193 Mr. {Schryver.} From APGA's perspective, we are not
2194 sure ultimately how much natural gas is going to be exported,

2195 and every study we have seen has shown that the more natural
2196 gas that is exported, the greater the price impact will be.

2197 Mr. {Green.} Well, even in Texas we have five crackers
2198 that cost a billion dollars each, and these companies relied
2199 on NERA study, and they will invest that billion dollars
2200 without forecasting. Do you believe they would invest that
2201 billion dollars per cracker without forecasting potential
2202 price increases?

2203 Mr. {Schryver.} I am sure they forecasted potential
2204 price increases.

2205 Mr. {Green.} Mr. Ditzel, how is natural gas priced in
2206 different parts of the world? Again, we are used to our U.S.
2207 pricing system, but it is priced in different ways. For
2208 example, Henry Hub, National Balancing Point, Japanese
2209 Clearing, S-Curve Oil Index, when signing contracts, how many
2210 years constitute a long term LNG contract? Could you tell us
2211 if there is a predominant natural gas pricing in the world,
2212 or is it really based on geography?

2213 Mr. {Ditzel.} It is absolutely based on geography in
2214 the U.S. We have a very liquid market, with several trading
2215 hubs, primarily the Henry Hub. Europe is becoming much more
2216 liquid, with the National Balancing Point and the TTF
2217 facility. But in Asia, we see that a lot of the pricing is
2218 around oil because--

2219 Mr. {Green.} Yeah.

2220 Mr. {Ditzel.} --in Japan and Korea, they do not have
2221 domestic production capabilities, so they have to look at the
2222 closest substitute to natural gas, and that is oil. And that
2223 is why you see the gas indexed to oil, because of the
2224 substitution effect.

2225 Mr. {Green.} Okay. And these contracts that have been
2226 signed already for these plants that are exporting, whether
2227 it would be Cheniere and Sabine, or, you know, Chesapeake
2228 Bay, or the one just announced in Oregon, or other ones along
2229 the Texas/Louisiana coast, aren't the average LNG contracts
2230 16 to 20 years?

2231 Mr. {Ditzel.} Many of the contracts are 20 years, and
2232 many of them are take or pay contracts, which means that you
2233 are going to take until you think it is no longer economic,
2234 and want to pay the towing charge, instead of taking the gas.
2235 So they are going to continue to take as long as prices are
2236 economic to them.

2237 Mr. {Green.} Well, I am real familiar in Texas with
2238 take or pay, because we had some issues back in the '70s and
2239 '80s where utility companies had to make those commitments.
2240 And, by the way, most of these contracts, where is their
2241 jurisdiction if there is a legal decision? Do they have
2242 Federal courts in the United States, New York Federal Court,

2243 or is it an international court?

2244 Mr. {Ditzel.} I am sorry, I am not an expert in that
2245 area, so I can't answer.

2246 Mr. {Green.} Okay. Because I know oftentimes if it is
2247 an international contract, and it is not in a U.S. court,
2248 again, having practiced law, sometimes you can get home-
2249 towned in a country that might not be as beneficial for our
2250 exporting partners. Does your analysis include any shifting
2251 in contracting from Asia, for example?

2252 Mr. {Gardner.} Gentleman from Texas, I have given you
2253 an extra 45 seconds here.

2254 Mr. {Green.} Okay. Thank you.

2255 Mr. {Gardner.} Time is expiring.

2256 Mr. {Green.} Just some movement of contracting once we
2257 get into the export market in the United States?

2258 Mr. {Ditzel.} In the analyses that I have looked at
2259 thus far, I have assumed, based on unconstrained exports from
2260 the U.S., that we would remain at about 80 percent of the
2261 Brent price, which is where prices have trended over the last
2262 few years, and there is a number of drivers to support that
2263 trend going forward, mainly because Japan is likely going to
2264 take a slow re-start to its nuclear facilities, Germany is
2265 abandoning its nuclear facilities, and as the BG Group
2266 forecasts, a major player in the LNG market, that the market

2267 in general will be tight through the end of the decade.

2268 Mr. {Green.} Thank you, Mr. Chairman, for your
2269 patience.

2270 Mr. {Gardner.} Gentleman's time has expired. The
2271 gentleman from Virginia, Mr. Griffith, recognized for 5
2272 minutes.

2273 Mr. {Griffith.} Thank you, Mr. Chairman. Let me start
2274 off by responding to some of the comments I heard earlier
2275 today about, you know, we can't do any good immediately
2276 because it will take a while to build. And I am reminded
2277 that they believe that there is a lot of natural gas, maybe
2278 some oil, off the coast of Virginia, and that in 2004, when I
2279 was a member of the Virginia House of Delegates, we begged,
2280 let us start on the research, let us get going, and the
2281 criticism then was it would take 6 to 7 years, it is not
2282 going to do any good. We are still waiting. If we had
2283 started in 2004, like we had requested, and we sent the
2284 request to the governor to ask for the ability for him to ask
2285 for the President to give us that authority, we would already
2286 be getting natural gas, and hopefully some oil off the
2287 Virginia coast. So when I heard that argument I am reminded,
2288 you know, well, it will never happen if you don't start at
2289 some point.

2290 Also, in response to recent questioning, although I

2291 think you answered it earlier, Dr. Orbán, you said that the
2292 time is now because not only do you need to get started if
2293 you are going to do these kinds of things, but the contracts
2294 are coming up in a few years, and if they see that a
2295 competitor is on the way, that that will affect the
2296 negotiations, and the discussions, and whether or not natural
2297 gas is used by a weapon by the Russians. Am I correct in my
2298 assessment of your previous testimony? Okay. And let me let
2299 you all know that I represent an area that produces coal and
2300 natural gas.

2301 So, Mr. Ditzel, let me ask you this. For a vibrant
2302 manufacturing sector, wouldn't we also be well advised to not
2303 strangle our coal industry by regulations? Wouldn't you
2304 agree with that as well? I assume you are pro-coal, as well
2305 as pro-natural gas usage?

2306 Mr. {Ditzel.} I am not pro-coal or pro-gas. I just
2307 want to say specifically, to address your point, that for the
2308 coal industry, it is going to be hamstrung by the EPA, by
2309 MATS. We are going to see a number of retirements, and the
2310 EPA has a number of proposals ready to affect the coal
2311 industry even further on carbon pollution. And coal is a
2312 backstop for natural gas, so if there are not a lot of
2313 options, the gas prices will rise as a result, because there
2314 is no backstop to relieve the gas. And specifically in the

2315 electricity market, it is nuclear and wind, and those are
2316 expensive options.

2317 Mr. {Griffith.} Well, even in manufacturing of certain
2318 products, certain plastics and so forth, you could use oil,
2319 natural gas, or coal, and so we are negatively impacting the
2320 market that way. And would you also advocate that we not
2321 export coal for that same reason, so we have a greater supply
2322 in the United States?

2323 Mr. {Ditzel.} Well, to address your point about coal,
2324 and the use of coal for chemical processes, we have seen that
2325 in China, and China has put our technology in the U.S. to
2326 good use. And their chemical industry is built primarily on
2327 U.S. technology using coal, but we can't do that here in the
2328 U.S. because of a lot of the regulations associated with
2329 using coal in industry.

2330 Mr. {Griffith.} And I appreciate that, and we certainly
2331 don't want to hurt our manufacturing sector if we can help
2332 it, but clearly it is under assault from a number of
2333 different directions.

2334 Dr. Montgomery, if I could ask you, previously, in some
2335 of your testimony back in April of 2013, you indicated that
2336 it looked like prices, if we exported, might rise 25, 50
2337 cents, somewhere in that range. I think you said today it
2338 looks like it might be a dollar. Is that accurate, somewhere

2339 in that range, if we export?

2340 Mr. {Montgomery.} Yes. If we export, across most of
2341 the scenarios that we looked at, we either had no price
2342 increase, because it didn't turn out to be economic to
2343 export. Certainly if we had \$8 gas in the United States,
2344 nobody would want to buy it overseas. That actually is the
2345 EIA low oil and gas resource case. So doesn't much matter
2346 what we do about exports in that case, nobody is going to
2347 want to buy it, and the manufacturing industry is going to be
2348 killed off, probably by our excessive regulation of natural
2349 gas. So, got to look at the scenario, but the only cases in
2350 which we found that we have high levels of exports of natural
2351 gas are ones where it is so cheap to produce that the price
2352 of gas stays lower than--

2353 Mr. {Griffith.} All right, and I am running out of
2354 time, so let me ask you this, because my gas folks tell me
2355 back home that we have so much natural gas in this country
2356 that we haven't even tapped into yet, that if the price
2357 remains above \$4, in the \$5 range, that there will be more
2358 production, which then offsets any price increase. Is that
2359 what you are basically saying, is that the production
2360 capabilities in this country are so great that there won't be
2361 an increase of any significant amount in the price because
2362 they will produce more, because they can still make a profit

2363 at four--

2364 Mr. {Montgomery.} Yes.

2365 Mr. {Griffith.} --\$5, \$6?

2366 Mr. {Montgomery.} That is exactly what I am saying,
2367 that we will see that most of the exports are satisfied by
2368 increased production. There won't be much of a price
2369 increase, and whatever price increase there is is going to be
2370 far less than the cost advantage manufacturing already has
2371 over those poor rivals who have to import the gas, and pay as
2372 much to move it to their countries, as it costs us to buy it
2373 here.

2374 Mr. {Griffith.} I appreciate that. And, Mr. Chairman,
2375 I yield back. I do have additional questions to submit into
2376 the record, and I assume that we will do that at the end of
2377 the hearing.

2378 Mr. {Gardner.} Absolutely will, thank you. And the
2379 gentleman from New York is recognized for 5 minutes.

2380 Mr. {Tonko.} Thank you, Mr. Chair. Mr. Ditzel, in your
2381 summary you state that the concerns you have raised about
2382 finding the right level of natural gas exports were submitted
2383 to DOE, but the DOE public interest determination process,
2384 and I quote, ``continues in a manner that is opaque for both
2385 sides of the issue.''' Please elaborate on that statement.
2386 What would make the public interest determination more

2387 transparent?

2388 Mr. {Ditzel.} Sure. I think you saw the answer by Dr.
2389 Gant earlier that it was opaque, that you couldn't get a
2390 straight answer, and it is one of the complaints on both
2391 sides. There is a lot of uncertainty around the process, and
2392 businesses would like to make decisions. What would make it
2393 more transparent would be to look at the NERA study and first
2394 do a peer review. I have peer reviewed it, I have given my
2395 comments, and mentioned many of my concerns. I think a
2396 serious peer review needs to be given again. Also, in
2397 determining the public interest, it is not just simply the
2398 economic interest. It is also the environmental interest,
2399 and it is also national security interest, and there are no
2400 criteria that are set forth that you can gauge or measure,
2401 and publicly see and understand, in any of part of the DOE
2402 process.

2403 Mr. {Tonko.} Thank you. And your testimony states that
2404 you believe the NERA analysis used flawed assumptions, and
2405 the wrong modeling approach. It is my understanding that
2406 NERA relied on information and procedures used by the Energy
2407 Information Agency, or the EIA. The EIA's projections,
2408 especially projections of prices of natural gas, have often
2409 been wrong. In March 2012 EIA released a retrospective study
2410 they did of their projections from '94 through 2011, a period

2411 of 17 years. An energy policy form article summarized some
2412 of those findings of that analysis. The findings do not give
2413 me confidence that DOE's conclusion about the net economic
2414 benefits, let alone the broader public interest, is very
2415 robust.

2416 During the 17 year period, that 17 year period, EIA
2417 overestimated crude oil production 62 percent of the time.
2418 They overestimated natural gas production 70.8 percent of the
2419 time, and natural gas consumption 69.6 percent of the time.
2420 I would also point out that in 2003, just 11 years ago, EIA's
2421 analysis of the LNG market was anticipating we would be
2422 importing natural gas, and there were plans for a number of
2423 LNG import facilities. If DOE allows too much export, we may
2424 be creating a situation like the one we now face with
2425 propane, where, in spite of the abundant domestic production,
2426 our consumers and our domestic manufacturers are paying very
2427 high prices, and seeing no benefit from the increased
2428 domestic production.

2429 DOE is granting export allowances for 20 years. That is
2430 a long time in a business cycle. Do we need a more flexible
2431 approach that would allow us to pull back if we have granted
2432 too much export authority, or if conditions here in our
2433 country change?

2434 Mr. {Ditzel.} Well, first I want to address the EIA

2435 comments that you made in the reference case, and how
2436 consistently wrong it has been. Dr. Montgomery made a good
2437 point earlier that there are scenarios around the reference
2438 case. The problem is that you have to pick a reference case,
2439 and not just blindly choose it. You have to step back and
2440 say, is it the right reference case? The biggest issue with
2441 the EIA analysis is that they rely on a domestic supply and
2442 demand curve. So if you take the supply curve from EIA, and
2443 you layer on LNG exports, I agree you would get the prices
2444 that EIA projects.

2445 But the problem is we leave the domestic demand and
2446 supply curve when we enter into the global market. We enter
2447 the global LNG supply and demand curve, and that is where you
2448 get netback pricing. EIA does not have a global gas trade
2449 model. They have admitted it. I have heard them say that,
2450 so their approach is invalid when you are looking at LNG
2451 exports. And on the second question, do you mind repeating
2452 it, Representative?

2453 Mr. {Tonko.} Well, the second thing is if we have
2454 granted too much export authority, or if conditions in the
2455 U.S. change, should we have a more flexible approach?

2456 Mr. {Ditzel.} Well, I think it would be challenging to
2457 pull back on multibillion dollar investments, and leave
2458 things stranded. But if, in a transparent process, if LNG

2459 exports are determined to be beneficial to the economy, and
2460 not opportunity costs to other parts of the economy, I think
2461 you have to put in a certain amount of consumer protections,
2462 and those would be using the gas as leverage to negotiate
2463 free trade agreements, also considering reducing taxes for
2464 those who would be affected most. Also investing in
2465 technologies, for example, advanced catalytic technologies,
2466 that would reduce our need for natural gas, and improve our
2467 efficiency. And, fourth, I think we need to reconsider some
2468 of the efforts by EPA, because we do not have the backstop in
2469 place for coal to come through and substitute for natural
2470 gas.

2471 Mr. {Tonko.} Thank you very much. Mr. Chair, I have
2472 exhausted my time, so--

2473 Mr. {Gardner.} Gentleman yields back. The gentleman
2474 from West Virginia, Mr. McKinley, is recognized for 5
2475 minutes.

2476 Mr. {McKinley.} Thank you, Mr. Chairman. I have been
2477 curious a little bit about the issue of if, when we export
2478 natural gas, we are going to see an increased price. And I
2479 am not an economist, I am an engineer, but I would probably
2480 like to see a little bit more statistics about that, why that
2481 would occur, because, as you know, we have been exporting 15
2482 percent of the coal production, and we haven't seen coal

2483 prices increase as a result of that. So I am interested in
2484 the disconnect, why coal prices aren't going up, but gas
2485 prices will under the scenario.

2486 But more importantly, the other question I have is that,
2487 under Article I, Section 9, Paragraph 5 of the Constitution,
2488 there is the prohibition about putting duties and tariffs on
2489 exports. And that has been clarified, if I might, in 1996,
2490 in the IBM Decision, in which it went on to say something to
2491 the effect that that same protection extends to services and
2492 activities closely related to the export process, so my
2493 question has to do with the permitting process.

2494 If it takes 3 years to get a permit for natural gas, I
2495 know coal has been longer than 3 years trying to get the
2496 permit approved over in the State of Washington, in
2497 Bellingham, to put a coal terminal there, trying to prevent
2498 exporting by use of government authority. What is the
2499 difference between imposing a tariff, but yet imposing a slow
2500 walk permitting process to prevent something from happening
2501 in an expeditious way? How can that be justified? How is
2502 that constitutional, I should say, what they are doing?

2503 Mr. {Montgomery.} I would like to get Mr. Bacchus to
2504 answer this, but he is a lawyer, and I notice that he is
2505 being reticent. And I am an amateur reader of law journals,
2506 but I think I am pretty--

2507 Mr. {Bacchus.} I am just waiting to be asked a
2508 question.

2509 Mr. {Montgomery.} I am sorry. Then I will recede.

2510 Mr. {Bacchus.} Congressman, you raise a very good
2511 point. As we have all learned in this country in the past
2512 few years, sometimes it is hard to tell a tax from a fee, or
2513 a tax from something else that may have the effect of a tax.
2514 And it may be that, under the U.S. Constitution, there might
2515 be some issues raised by the lengthy delays in this
2516 permitting process.

2517 As I advised the Chairman at the outset, I am here today
2518 not to advise on policy, but on law, and specifically
2519 international law. And from a legal perspective, I am
2520 fascinated by this debate, because, as a matter of
2521 international law, we have long since made this decision that
2522 we are talking about today, when we signed the WTO treaty.
2523 We concluded then that it was presumably in our public
2524 interest, in agreeing to this treaty, that we would impose
2525 restrictions on exports only in some very limited exceptional
2526 circumstances permitted by that treaty. And I have heard no
2527 circumstances discussed today that fit those exceptions in
2528 that treaty.

2529 As a matter of international law, right now, with no
2530 action whatsoever by this Congress, we have a legal

2531 obligation to export natural gas unrestricted to her country,
2532 and other countries in Central and Eastern Europe that are
2533 members of the WTO, period. The only reason that we are not
2534 doing so at this point is because they are friends of ours,
2535 and they haven't bothered to sue us in the WTO. But somebody
2536 could do so. At the same time, as I mentioned, our valiant
2537 trade negotiators and trade lawyers in the Administration
2538 are, at this very moment, arguing in the WTO in not one, but
2539 two cases against China that they cannot do what these laws
2540 we are discussing, that we have in place today do. And they
2541 are winning those cases, as they rightly should.

2542 Meantime, more than 1/3 of WTO members, under the
2543 threats of the current financial situation, are imposing more
2544 and more export restrictions. This is a form of economic
2545 nationalism and protectionism that is illegal as a matter of
2546 international law, and the United States, on a bipartisan
2547 basis, has been leading the charge against this in the WTO,
2548 and should.

2549 Mr. {McKinley.} Thank you. Maybe you can stop. I
2550 would like to carry on this conversation regarding the
2551 constitutionality of that. The third question I have is, do
2552 you think that this Supreme Court Decision yesterday about
2553 the Spruce Mine, allowing the EPA to retroactively withdraw a
2554 permit that they have given, could that have an impact on our

2555 LNG exports? If someone can build the facility, which could
2556 be a billion dollars or more, and the EPA withdraw that
2557 permit 2 or 3 years later, is that an appropriate gesture, or
2558 what has happened in the law that allowed that to happen?

2559 Mr. {Bacchus.} I haven't read the opinion, Congressman,
2560 so I couldn't advise you on that at this time. I will be
2561 happy to--

2562 Mr. {McKinley.} But you are aware of the Spruce Mine, 4
2563 years after it had been granted, 4 years afterwards, did the
2564 EPA pull the permit that they had been granted by the Corps
2565 of Engineers? That is a chilling effect for anyone in any
2566 business, not just coal, steel. Anyone that has a water
2567 permit, they have that permit pulled, I am concerned about
2568 what it is going to have on LNG. Thank you. Yield back my
2569 time.

2570 Mr. {Gardner.} Gentleman yields back, and we will go a
2571 couple more questions. Both Mr. Rush and I have just a few
2572 follow-up questions for you. Mr. McKinley, you are welcome
2573 to stay, if you would like, for that. But the question I
2574 have is, following up on this last question and conversation,
2575 how often has the U.S. pursued cases before the WTO regarding
2576 trade disputes with other countries? How often have we
2577 pursued trade disputes before the WTO with other countries?

2578 Mr. {Bacchus.} Very often. It is the appropriate way

2579 for resolving inevitable trade disputes with our trading
2580 partners.

2581 Mr. {Gardner.} Even if Russia is a WTO, nothing in this
2582 legislation requires trade with Russia?

2583 Mr. {Bacchus.} We have the option, if you so desire, in
2584 your proposed legislation, to carve out an exception for
2585 Russia. Russia a member of the WTO, but one of the limited
2586 exceptions I mentioned to WTO rules is for national security.
2587 If national security interests, essential national security
2588 interests, are at stake in a time of emergency in
2589 international relations, we can impose a trade restriction.
2590 So you could--

2591 Mr. {Gardner.} Mr. Bacchus, if you could cut it short
2592 real quick? Mr. Rush has one final question for Dr. Orbán
2593 real quickly. Thank you.

2594 Mr. {Bacchus.} Of course, sir.

2595 Mr. {Rush.} Thank you. I panicked, because I saw you
2596 gathering your stuff, but I have one question. So far, DOE
2597 has ran seven export applications, and my understanding is
2598 that the export terminals--export this LNG have already
2599 signed long term contracts to supply LNG to China, Japan,
2600 Korea, and India, where natural gas prices are higher than in
2601 Europe. And the question is, is there any reason to believe
2602 that LNG exported from the U.S. will go to Europe, rather

2603 than to Asia?

2604 Ms. {Orbán.} Thank you, Ranking Member Rush. Yes,
2605 there is. Of course, the more gas on the market is the
2606 better for us. It has already indirect impact. But the
2607 Asian market's absorption capacity is also limited,
2608 obviously, and as soon as it reaches its limit in terms of
2609 price difference, the European market comes next. And don't
2610 forget that our countries are ready to pay a surplus for
2611 energy security, which is above, of course, market price. So
2612 we have every reason to believe that if either the expediting
2613 process is expedited, the process is expedited, or we have
2614 the law, then we would have a contract to supply the European
2615 market with U.S. energy.

2616 Mr. {Gardner.} Thank you, Dr. Orbán. I know you have
2617 an important meeting, as reported in the newspapers this
2618 morning, to attend, so please. Mr. Bacchus, if you would
2619 like to finish where we left off? I apologize for
2620 interrupting, but I know Dr. Orbán had a meeting. Thank you.

2621 Mr. {Bacchus.} Of course. Good job.

2622 Mr. {Gardner.} I cut you off. I don't know if you
2623 would like to continue that, and then we will be--

2624 Mr. {Bacchus.} That is all right, and I appreciate it,
2625 Mr. Chairman. As I said earlier, I think it is important
2626 that the committee consider WTO obligations before enacting

2627 legislation, rather than learn about them afterwards. And I
2628 commend you for doing just that. Conceivably, the United
2629 States, and other members of the WTO, could impose trade
2630 restrictions, and indeed a trade embargo, on Russia, even
2631 though Russia is a member of the WTO. This need not be
2632 limited to natural gas or other energy products. It could
2633 include other products.

2634 This would be ordinarily in violation of WTO
2635 obligations. It could be challenged by Russia and WTO
2636 dispute settlement. But if the Russians did challenge it, we
2637 would then have a defense. The defense would be under
2638 Article 21 of the GAT, which deals with national security,
2639 and is a general exception to general obligations, such as
2640 the one on not imposing restrictions on exports. This
2641 general defense has never been the subject of much jurist
2642 prudence in the WTO. One of my great accomplishments as a
2643 Judge there was that I was able to get out of Geneva alive
2644 without having to say what it meant.

2645 But, presumably, we would have this defense. It clearly
2646 is in the GAT, and I can't imagine that a Judge using the WTO
2647 would question any country's assertion of its national
2648 security interest, nor can I imagine that they would not see
2649 a national security concern here, especially if we did not
2650 proceed alone, but proceeded along with a number of our

2651 trading partners.

2652 Mr. {Gardner.} Thank you, Mr. Bacchus. And to the
2653 panelists, thank you very much for your time here today.

2654 That concludes today's hearing. Members are reminded that
2655 they will have 10 business days to submit questions for the
2656 record and other material. Anything else?

2657 Mr. {Rush.} Mr. Chairman?

2658 Mr. {Gardner.} Yes?

2659 Mr. {Rush.} Mr. Chairman, I ask unanimous consent to
2660 place in the record a letter from the Industrial Energy
2661 Consumers of America, strongly opposing H.R. 6.

2662 Mr. {Gardner.} Without objection.

2663 Mr. {Rush.} Thank you, Mr. Chairman.

2664 Mr. {Gardner.} That concludes today's hearing. Thank
2665 you for your participation.

2666 [Whereupon, at 4:34 p.m., the Subcommittee was
2667 adjourned.]