

ENERGY POLICY ACT 2005

Subtitle B: Natural Gas - (Sec. 311) Amends the Natural Gas Act to extend its jurisdiction to: (1) importation or exportation of natural gas in foreign commerce and to persons engaged in it; and (2) liquefied natural gas (LNG) terminals, including all facilities located onshore or in state waters that are used to receive, unload, load, store, transport, gasify, liquefy, or process natural gas that is imported to the United States from a foreign country, exported to a foreign country from the United States, or transported in interstate commerce by waterborne tanker.

Prescribes procedural guidelines governing FERC authorization of siting, construction, expansion, or operation of liquefaction or gasification of natural gas terminals.

Grants FERC exclusive authority to approve or deny, according to specified procedures, an application for the siting, construction, expansion, or operation of a liquefied natural gas (LNG) terminal.

Directs FERC to require a LNG terminal operator to develop an Emergency Response Plan, include a cost-sharing plan, in consultation with the United States Coast Guard and state and local agencies prior to FERC approval to begin construction.

(Sec. 312) Authorizes FERC to permit a natural gas company to provide storage and storage-related services at market-based rates for new storage capacity related to a specific facility placed in service after enactment of this Act, notwithstanding the fact that the company is unable to demonstrate that it lacks market power.

(Sec. 313) Designates FERC as the lead agency for coordinating federal permits and other authorizations and compliance with the National Environmental Policy Act of 1969 (NEPA). Directs FERC to establish a schedule for all federal authorizations.

(Sec. 314) Sets forth increased criminal and civil penalties for violations of the Natural Gas Act and of the Natural Gas Policy Act of 1978.

(Sec. 315) Prohibits manipulative or deceptive service in connection with the purchase or sale of natural gas or the purchase or sale of transportation services subject to FERC jurisdiction.

(Sec. 316) Directs FERC to facilitate price transparency in markets for the sale or transportation of physical natural gas in interstate commerce.

(Sec. 317) Directs the Secretary to convene up to three federal-state LNG forums.

(Sec. 318) Authorizes the court to prohibit from trading and serving as officers of a natural gas company any individuals engaged in violation of the Natural Gas Act .

SEC. 316. NATURAL GAS MARKET TRANSPARENCY RULES.

The Natural Gas Act (15 U.S.C. 717 et seq.) is amended by inserting after section 22 the following: “NATURAL GAS MARKET TRANSPARENCY RULES

“SEC. 23. (a)(1) The Commission is directed to facilitate price transparency in markets for the sale or transportation of physical natural gas in interstate commerce, having due regard for the public interest, the integrity of those markets, fair competition, and the protection of consumers.

“(2) The Commission may prescribe such rules as the Commission determines necessary and appropriate to carry out the purposes of this section. The rules shall provide for the dissemination, on a timely basis, of information about the availability and prices of natural gas sold at wholesale and in interstate commerce to the Commission, State commissions, buyers and sellers of wholesale natural gas, and the public.

“(3) The Commission may—

“(A) obtain the information described in paragraph (2) from any market participant; and

“(B) rely on entities other than the Commission to receive and make public the information, subject to the disclosure rules in subsection (b).

“(4) In carrying out this section, the Commission shall consider the degree of price transparency provided by existing price publishers and providers of trade processing services, and shall rely on such publishers and services to the maximum extent possible. The Commission may establish an electronic information system if it determines that existing price publications are not adequately providing price discovery or market transparency.

“(b)(1) Rules described in subsection (a)(2), if adopted, shall exempt from disclosure information the Commission determines would, if disclosed, be detrimental to the operation of an effective market or jeopardize system security.

“(2) In determining the information to be made available under this section and the time to make the information available, the Commission shall seek to ensure that consumers and competitive markets are protected from the adverse effects of potential collusion or other anticompetitive behaviors that can be facilitated by untimely public disclosure of transaction-specific information.

“(c)(1) Within 180 days of enactment of this section, the Commission shall conclude a memorandum of understanding with the Commodity Futures Trading Commission relating to information sharing, which shall include, among other things, provisions ensuring that information requests to markets within the respective jurisdiction of each agency are properly coordinated to minimize duplicative information requests, and provisions regarding the treatment of proprietary trading information.

“(2) Nothing in this section may be construed to limit or affect the exclusive jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.).

“(d)(1) The Commission shall not condition access to interstate pipeline transportation on the reporting requirements of this section.

“(2) The Commission shall not require natural gas producers, processors, or users who have a de minimis market presence to comply with the reporting requirements of this section.

“(e)(1) Except as provided in paragraph (2), no person shall be subject to any civil penalty under this section with respect to any violation occurring more than 3 years before the date on which the person is provided notice of the proposed penalty under section 22(b).

“(2) Paragraph (1) shall not apply in any case in which the Commission finds that a seller that has entered into a contract for the transportation or sale of natural gas subject to the jurisdiction of the Commission has engaged in fraudulent market manipulation activities materially affecting the contract in violation of section 4A.