

# LNG Allies—News & Insight

Numerous important energy related developments have occurred in Washington, DC, over the past few days...

## THE LEAD: FERC DOWN TO TWO COMMISSIONERS

Earlier today (Jan. 26), President Trump named commissioner Cheryl LaFleur to be the acting chairwoman of the Federal Energy Regulatory Commission (FERC). [FERC, as you know, oversees the U.S. electric grid, hydropower projects, interstate natural gas pipelines, and liquefied natural gas (LNG) export terminals.] LaFleur—a Democrat and former utility executive—is in her second term on the commission and served as FERC chairwoman until she was replaced by Norman Bay in Aug. 2014. LaFleur's term expires in the summer of 2019.

Within hours of the LaFleur announcement, Bay tendered his resignation effective on Feb. 3. When Bay departs, the FERC will be left with only two Democratic commissioners. It will be up to President Trump to nominate three Republican commissioners, one of whom will be the new chair. (By law, FERC is to be comprised of five commissioners, no more than three from the same political party.) Since FERC rules require a minimum of three members as a quorum to conduct business, media reports are stating that the agency "will not be able to make high-profile decisions, like rule-makings until at [least one] new commissioner is nominated and confirmed [by the U.S. Senate]."

## PRESIDENTIAL ENERGY ORDERS, MEMORANDA, ETC.

In other news, President Trump has been busy on several fronts since his inauguration six days ago. Not surprisingly, energy and trade issues have been center-stage:

- **America First Energy Plan.** Shortly after the presidential oath of office was administered (Jan. 20), the White House website was totally revamped. Under "Issues," there is now an "[America First Energy Plan](#)." The narrative reads in relevant part: "*The Trump Administration will embrace the shale oil and gas revolution to bring jobs and prosperity to millions of Americans. We must take advantage of the estimated \$50 trillion in untapped shale,*



*oil, and natural gas reserves, especially those on federal lands that the American people own. We will use the revenues from energy production to rebuild our roads, schools, bridges, and public infrastructure."*

- **Keystone XL and Dakota Access Pipelines.** The president signed memoranda (Jan. 24) that would encourage construction of two oil pipelines that have been the subject of controversy (and seemingly infinite media attention). The memoranda can be accessed through the following hyperlinks: [Keystone XL Memorandum](#) and [Dakota Access Memorandum](#).
- **"American" Pipelines.** In addition to the memoranda described above, the president issued a directive to the Secretary of Commerce (Jan. 24) to: "develop a plan under which all new [U.S. pipelines] as well as retrofitted, repaired, or expanded pipelines... use materials and equipment produced in the United States, to the maximum extent possible... and permitted by law." The Secretary shall submit the plan to the President within 180 days. See: [American Pipelines Memorandum](#).

- **Domestic Manufacturing.** As if the memoranda signed on Tuesday (Jan. 24) couldn't get more interesting, the President also directed "executive departments and agencies to support the expansion of manufacturing in the United States through expedited reviews of and approvals for proposals to construct or expand manufacturing facilities and through reductions in regulatory burdens affecting domestic manufacturing." Presumably, this includes LNG export facilities. The memorandum also direct the Commerce Secretary to coordinate with the Secretary of Energy (and others) to ascertain "the impact of federal regulations on domestic manufacturing." Public comments are to be solicited during a 60-day period and the Commerce Secretary will then have an additional 60 days to submit a report to the president "setting forth a plan to streamline federal permitting processes for domestic manufacturing and to reduce regulatory burdens affecting domestic manufacturers." See: [Domestic Manufacturing Memorandum](#).
- **High Priority Infrastructure Projects.** Along with the memoranda discussed above, President Trump also issued an Executive Order (Jan. 24) relating to "high priority infrastructure projects." Noting that "too often, infrastructure projects in the United States have been routinely and excessively delayed by agency processes and procedures" the EO sets forth a new policy stating that the executive branch shall "streamline and expedite—in a manner consistent with law—environmental

reviews and approvals for all infrastructure projects, especially projects that are a high priority for the nation, such as improving the U.S. electric grid and telecommunications systems and repairing and upgrading critical port facilities, airports, pipelines, bridges, and highways." With respect to infrastructure projects for which federal reviews and approvals are required, governors of states or federal department/agency heads can petition the chairman of the White House Council on Environmental Quality (CEQ) to designate an infrastructure project as "high priority." The CEQ chair will then have 30 days to act on each petition and if approved, "shall coordinate with the head of the relevant agency to establish—in a manner consistent with law—expedited procedures and deadlines for completion of environmental reviews and approvals for such projects. All agencies shall give highest priority to completing such reviews/approvals by the established deadlines." *Although the executive order is aimed primarily at the areas enumerated above, presumably a LNG export facility (which requires federal reviews and approvals) might also be designated a "high priority infrastructure project" if a governor or agency head so requests.* Read: [Full Text of the Executive Order](#).

#### TRANSPACIFIC TRADE & INVESTMENT PARTNERSHIP

Yet another decision announced by President Trump this week (Jan. 23) was a directive to the United States Trade Representative "to withdraw the United States as a signatory to the Trans-Pacific Partnership (TPP), to permanently withdraw the United States from TPP negotiations, and to begin pursuing—wherever possible—bilateral trade negotiations to promote American industry, protect American workers, and raise American wages." Hyperlink: [TPP Memorandum to USTR](#)

Existing law requires the Secretary of Energy to approve applications to export U.S. natural gas to nations that have a free trade agreement (that includes the national treatment of natural gas) without delay or modification. Applications for LNG exports to nations without FTA status are presumed to be "in the public interest" but are subject to a formal review process where "interested parties" (such as the Sierra Club) are allowed to intervene.



#### ABOUT US

LNG Allies is a nonprofit organization working to expedite and maximize U.S. LNG exports to create U.S. jobs and economic growth, enhance the energy security of America's allies, and improve human and environmental conditions worldwide.

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Had the TPP agreement been ratified by the United States, it would have meant that U.S. LNG export applications to the 11 other TTP nations (Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam) would have fallen automatically into the "FTA" basket.

However, it must be noted that Australia and Peru are LNG exporters; Canada, Chile, Mexico, and Singapore already have FTAs with the United States; and Brunei and New Zealand are not yet LNG importers. That leaves only Japan, Malaysia, and Vietnam as potential TPP beneficiaries of U.S. LNG exports (with Japan the most important). Nonetheless, some have said that U.S. withdrawal from TPP would materially limit U.S. LNG exports to Japan, Malaysia, and Vietnam.

*We do not share that view:*

- First, many Japanese utilities and gas trading companies have already purchased long-term U.S. LNG supply contracts and there will be ample opportunity to expand such contracts either from projects that have received their FERC and DOE licenses or those that will receive such licenses within the next two or three years.
- Second, unless U.S. law is changed to eliminate the FTA/non-FTA distinction, LNG export project sponsors will continue to pursue both FTA and non-FTA applications with or without TPP. Moreover, the Secretary of Energy has issued non-FTA permits routinely once the requisite licenses have been obtained from the federal agency with jurisdiction over LNG project siting, construction, and operations (most often FERC).

*While we hope that the Trump administration will issue non-FTA LNG licenses at the earliest, legally-defensible opportunity (such as 30 days after the final FERC environmental documents), we believe that a higher priority is ensuring that FERC and "cooperating agencies" (such as the Environmental Protection Agency, Army Corps of Engineers, Forest Service, Bureau of Land Management, etc.) act on LNG export applications as quickly as possible.*

#### TILLERSON (STATE) & PERRY (DOE) CONFIRMATIONS

The Senate Foreign Relations Committee voted earlier this week (Jan. 23) to approve the nomination of former ExxonMobil CEO Rex Tillerson to be Secretary of

State. The vote—on strict party-lines—was 11 to 10. The full Senate is likely to vote on the nomination next week. Meanwhile, the Senate Energy and Natural Resources (SENR) Committee postponed until next week a vote on the nomination of former Texas Governor Rick Perry to be Secretary of Energy. The SENR normally conducts its business meetings on Wednesdays, so a vote on the Perry nomination may occur mid-week (Feb. 1) with full Senate action shortly thereafter.

#### FEDERAL HIRING FREEZE COULD IMPACT FERC

One issue that surfaced this week that has the potential to impact the pace at which FERC considers LNG export project applications was the memorandum issued by the White House on Monday (Jan. 23) ordering a "freeze on the hiring of federal civilian employees to be applied across the board in the executive branch." As part of the announced freeze, "no vacant positions existing at noon on January 22, 2017, may be filled and no new positions may be created, except in limited circumstances."

What does this mean—exactly—for FERC? According to some observers, this independent agency is already a little low on staff (especially engineers) and even though the agency recovers all of its costs through fees imposed on applicants, the language of the Jan. 23 memorandum seems to clearly indicate that FERC is subject to the hiring freeze because it "applies to all executive departments and agencies regardless of the sources of their operational and programmatic funding, excepting military personnel."

*Obviously, this is another issue that we will be monitoring very closely.*

Hyperlink: [Federal Hiring Freeze Memorandum](#)



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## GOV. RICK PERRY'S CONFIRMATION HEARING

Former Texas Governor Rick Perry appeared before the Senate Energy and Natural Resources (SENR) Committee today in the first step towards confirmation as Secretary of Energy. Perry was introduced by two senators—one from each party—who emphasized Perry's long tenure (14 years) as chief executive of the State of Texas. Sen. John Cornyn (R-Texas) noted that Perry, "is not a status quo kind of guy... he is a leader, an innovator, and [a problem-solver]." Sen. Joe Manchin (D-West Virginia) said that he got to know Perry when they were both governors and that during the aftermath of the 2005 Gulf hurricanes Perry, "had thousands of people depending upon him... and 'he never missed a beat.' During those challenging times his resourcefulness and managerial skills were on full display."

In his introductory remarks, Perry also emphasized his executive experience in managing "the twelfth largest economy in the world" (meaning Texas, of course). He also touched upon the various missions of the Department of Energy (DOE), from maintaining the U.S. nuclear weapons stockpile, cleaning up Cold War-era nuclear waste, maintaining America's national laboratories, and "advancing U.S. energy in all forms."

## RESPONSES TO QUESTIONS

Perry fielded questions from SENR members on a range of parochial and broader issues. The committee hearing was webcast live and is also available in archive form. A quick recap of the questions related to natural gas and liquefied natural gas (LNG) issues follows:

In response to a query from Sen. John Hoeven (R-North Dakota), Perry noted that both Texas and North Dakota were altered "in a life-changing way by hydraulic fracturing... a technology that had its genesis at the Department of Energy" and "I will continue to support a [robust DOE R&D program] that will benefit people around the world."

The first question about LNG came from Sen. John Barrasso (R-Wyoming): "I want to turn to [LNG]. There's certainly a lot of [natural gas] in Wyoming and Texas, and



since 2010, the department's permitting process for LNG exports has been 'unpredictable.' Last Congress, some of us on this committee worked in a bipartisan way... to expedite the department's permitting process... and both the Senate and House passed our legislation with strong bipartisan support... If confirmed will you commit to acting on the pending LNG export applications—because they are all piled up there—and do it in a timely manner?" Perry replied: "Senator, I will follow the laws and I will follow the clear instruction that I see as Congress goes forward, obviously working with the administration. My understanding from having conversations with president-elect Trump is that he truly is an 'all-of-the-above' supporter of American energy and that he will support, develop, and promote our energy resources, with liquefied natural gas being one of those." Barrasso followed up by saying, "we are going to reintroduce the legislation and I would

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hope that you would work with us in a bipartisan way to ensure that not just you, but your successors, act on LNG applications in a timely manner. We have such an abundance of natural gas in this country [and other nations] use energy as a geopolitical weapon... We are an energy force in this country and I believe we should be acting as the international energy force that we are, and I would like to ask for your help with legislation so that your successors also follow the law." A smiling Perry responded, "I will be available to work with you on any given day."

Sen. Debbie Stabenow (D-Michigan) asked Perry about an article in *The Hill* (Jan. 19) saying that the incoming administration is considering major DOE budget cuts and possible elimination of certain DOE offices, including the Offices of Renewable Energy and Fossil Energy. Perry responding by saying, "I can't answer whether that's true or not, but what I can tell you is that I know that—from my perspective—moving America forward on [energy R&D], is vital for the country's security and I have no concerns about whether the Trump administration will be supportive of keeping America strong and free and the technologies that come out of DOE will play a very important role... I will be an advocate for that and I will be in the room advocating for these types of things. I'm not going to tell you that I'm going to be 1,000 percent successful, but I can assure you that I [will continue to try to bring science and economics together.]"

Several other senators also asked Perry about *The Hill* story concerning rumored DOE budget cuts and office eliminations. Sen. Angus King (I-Maine), for example,

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asked Perry if he would be "lion-hearted in this endeavor to protect your agency?" Perry responded saying, "Senator, I have a rather interesting background—not unlike yours—of defending budgets, both from those who are 'in the know' and sometimes people who don't know... Sen. King gently interrupted, saying, "It's hard for me to believe that the people who are recommending these cuts are in any kind of 'know.' Perry nodded his head "yes" and said, "I will allow your statement to stand."

King then turned to LNG exports, saying: "Here's what's of concern to me... The total production of natural gas in the country is about 75 [billion cubic feet] bcf per day. We've already approved 14 bcf (which is about 20 percent of the total production) for export. And, in the 'queue' is 71 percent of the production for export. If that happens, there is no way in the world that this Congress can repeal the law of supply and demand and there is no way in the world that will not drastically and significantly effect domestic prices, which has been one of our advantages *vis-a-vis* the rest of the world in terms of bringing manufacturing back and sustaining our economy. The Natural Gas Act back in 1938 says that if the Department of Energy is to issue a permit, it has to 'be in the public interest.' My request of you is to be sure that the 'public interest' definition includes effect on domestic prices. Will you give me that commitment?"

Perry responded: "Senator, what I will commit to is finding ways to make sure that we don't artificially affect supply and demand. What I will suggest to you is that there are decisions that have been made in Washington, DC, that have artificially affected supply and demand and it has been on the supply side. I would ask the EPA [Environmental Protection Agency] and the Department of Interior and the Congress—when it is on the tax and regulatory side that they can affect—to make sure that we have the ability to fill the supply, because the demand is going to be there. And, if we produce it in America, it makes abundant good sense to me for us to sell it to the world."

King replied: "Unless doing so significantly increases domestic prices, which is exactly what happened in Australia where they are now exporting almost all of their natural gas and their [domestic prices] nearly tripled. That would be a disaster for the economy of this country." Perry: "I totally understand that, but my point is that when we look at



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this entire issue globally, we need to make sure that we're not making decisions here that affect the ability to supply so that you can keep the demand addressed in a thoughtful and fair way that does not drive up cost to where a manufacturing base—for instance, where we are trying to bring America back in a strong and powerful way—would be affected in a negative way” King then said, “Low priced natural gas is an advantage that I would hesitate to lose.”

