

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

Memorandum

Date: June 14, 2007

To: The Commission
(Meeting of June 21, 2007)

From: Delaney Hunter, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **SB 412 (Simitian) - State Energy Resources Conservation and Development Commission: natural gas**
As amended: May 24, 2007

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: OPPOSE

SUMMARY OF BILL: This bill would enact the Liquefied Natural Gas (LNG) Project Evaluation Act, and would require the California Energy Commission (CEC), in consultation with the CPUC and State Air Resources Board, to adopt and submit the LNG Needs Evaluation Report of 2008 to the Legislature and Governor.

This report would assess whether or not California's projected natural gas demand through 2017 can be met without the importation of LNG, and the relative greenhouse gas emissions of LNG compared with natural gas produced in North America. Until and unless such an assessment concluded that imports of LNG were necessary, the CPUC would be prohibited from approving a public utility from entering into a contract for a supply of LNG, and the Governor (for offshore LNG plants outside of state waters for which (s)he has veto power under the Deepwater Ports Act) and state entities are prohibited from allowing any LNG Project from being constructed or permitted, including any pipelines from LNG facilities to instate pipelines.

The bill would also establish, on September 1, 2008, the Renewable Energy and Fossil Fuel Assessment Council, including the CPUC President, heads of numerous state agencies, and specified legislators, to compile a biennial integrated energy policy report and review, which would evaluate the greenhouse gas emissions of all potential energy sources for California, and continually evaluate whether California's energy needs could be met without importing LNG to a terminal onshore or offshore of California, or "without importing liquefied natural gas from a terminal or facility sited outside of California."

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

The bill's prohibition on CPUC authority to approve LNG gas supply contracts would unreasonably impinge on the ability of the state to assure reliable and affordable natural gas supplies to Californians. Further, most of SB 412 is pre-empted by federal law, either the EPCRA of 2005, or long standing federal jurisdiction over interstate pipelines, interstate commerce, and approvals of imports of natural gas.

DIVISION ANALYSIS (Energy/Legal Division):

- Proposed Public Resources Code Section 25571.2 (g) would require the California Energy Commission (CEC), in consultation with the CPUC and State Air Resources Board, to "include a finding ... as to whether California's projected natural gas demand, through the year 2017, can be met without importing liquefied natural gas from a terminal or facility sited onshore or offshore of the California coast." The LNG Needs Evaluation Report of 2008 – a formal addendum to the Integrated Energy Policy Report due November 1, 2007 -- shall also include a finding "... as to whether California's projected natural gas demand, through the year 2017, can be met without importing liquefied natural gas from a terminal or facility sited outside of California."
- The report would be adopted by the CEC and submitted by July 1, 2008, and proposed Section 25571.2 (j) would allow any interested party to challenge the adoption of the LNG Needs Evaluation Report in Superior Court.
- Proposed Section 25571.4(a) would bar the CPUC from authorizing any public utility "to supply liquefied natural gas to California entities or consumers until the adoption of the LNG Needs Evaluation Report of 2008 pursuant to Section 25571.2".

Based on the above, the CPUC would be barred from approving any public utility contracts for LNG supply until the adoption of the LNG Needs Evaluation Report no earlier than July 1, 2008, and such adoption could be challenged in Superior Court without any fixed time limit. Moreover, arguably the CPUC could not approve any purchase by a public utility of "LNG" after the report is adopted if the report does not affirmatively conclude that the state requires regasified LNG. Currently the CPUC's process for approving (or rejecting) utility natural gas procurement decisions follows D.04-09-022, which requires the state's gas utilities to hold firm transportation contracts for minimum amounts based on historical usage of gas for core customers in times of peak demand.

- Proposed Section 25571.4(b) would bar the Governor or any state or local official from issuing a “permit to construct, or operate, or both construct and operate, a liquefied natural gas facility in California or operate and construct a pipeline from a liquefied natural gas facility outside of California, to an existing or new in-state natural gas pipeline, until the adoption of the LNG Needs Evaluation Report of 2008 pursuant to Section 25571.2.”

Part of this section is preempted by federal authority over interstate pipelines such as the North Baja Pipeline, the El Paso Natural Gas Pipeline, and the Kern River Pipeline that would conceivably be characterized as from an LNG facility outside of California. To the extent that regasified LNG commingled with North American-sourced gas transported in interstate commerce, state regulations to bar regasified LNG would likely run afoul of the Interstate Commerce Clause. State regulations may be able to limit gas supplies based on gas characteristics, such as Wobbe level and other aspects of natural gas that contribute to air pollution, but could not likely directly bar regasified “LNG,” and LNG itself can often be processed, albeit at high costs, to fit many such regulations. Finally, even as to in-state pipelines that could directly import regasified LNG from other states, such as in-state pipeline facilities in SDG&E’s service territory potentially importing regasified LNG from Mexico through Otay Mesa, authority to approve the importation of such gas belongs to the federal government, and as above the state could not directly bar regasified LNG based on that status alone.

- Proposed Section 25571.10 would bar a state or local agency from approving or carrying out “a project involving construction or operation of an offshore facility or onshore facility or terminal to import natural gas into the state” if the LNG Needs Evaluation Report found that the state’s natural gas demand could be met “without importing liquefied natural gas to an onshore or offshore terminal or facility.”
- The bill’s attempts to control “LNG” imports and transportation are mostly beyond the state’s jurisdiction. Recent amendments to the Natural Gas Act preempt the state’s authority to approve LNG import terminal facilities in California, and the Federal government has the authority to approve imports of natural gas from Mexico and to regulate gas traveling in interstate commerce. Although the bill attempts to regulate imports of “LNG” from Mexico and other states, in fact the state does not import LNG from Mexico or other states – LNG is regasified prior to being transported in pipelines, and such gas is commingled together with North American produced natural gas.

Thus, regasified LNG could not be barred by the state from transportation in interstate commerce over interstate pipelines under the Interstate Commerce Clause or from the state’s jurisdictional pipelines if they are carrying gas in interstate commerce from other states, as in most situations it would be impossible to determine if gas transported in interstate commerce entirely comes from regasified LNG.

Moreover, if neighboring states such as Arizona do not bar purchases of regasified LNG, such gas will almost inevitably flow into California for operational reasons even if California could bar regasified LNG from being transported into the state.

- The bill's standard for allowing the CPUC to approve in the future gas supply contracts from regasified LNG puts the "burden of proof" on policymakers in the LNG Needs Evaluation Report of 2008 and subsequent reports to show that LNG is necessary for the state's natural gas supply by 2017, and would allow parties to delay adoption of a report making such a conclusion through a simple appeal to Superior Court. Drought potential and other extreme weather events, and the declining supplies of North American natural gas – which has allowed LNG to compete economically with North American gas – would make it almost impossible for any reasonable evaluation to conclude that the state could absolutely guarantee it would not need regasified LNG.
- The CPUC currently has the necessary expertise and authority to assess whether regasified LNG contracts are reasonable for the state, and should not have such authority curtailed, perhaps indefinitely, as the bill would establish.

PROGRAM BACKGROUND:

- The CPUC submitted safety-related testimony in opposition to the Sound Energy Solutions LNG terminal, but has not otherwise expressed any preference for any specific LNG terminal or number of terminals.
- As part of its 2005 Energy Action Plan, the CPUC and CEC stated that California must promote natural gas infrastructure enhancements, such as additional pipeline and storage capacity, and diversify supply sources to include liquefied natural gas (LNG).
- The CPUC developed its policy on LNG responsibility for utility infrastructure upgrades in the context of a major gas supply and infrastructure rulemaking, R.04-01-025.
- Changes to Federal Law:
 - In Section 311 of the Energy Policy Act of 2005 ("EPAct 2005"), Congress amended section 1(b) and section 3 of the Natural Gas Act to provide exclusive jurisdiction to the Federal Energy Regulatory Commission (FERC) to regulate the siting of onshore LNG import terminals and approve applications for such terminals ("The Commission shall have the exclusive authority to approve or deny an application for the siting, construction, expansion, or operation of an LNG terminal." 15 U.S.C. § 717b(e)(1)).

Thus, California can no longer lawfully process applications for onshore LNG import terminals pursuant to Chapter 6 (commencing with Section 25500) of the Public Resources Code. Much of this current legislation runs afoul of this limit on California's jurisdiction – for example, proposed section 25571.4(b) could not directly apply to the Governor or state or local officials assessing LNG import terminals located onshore or offshore of California, because for the most part state officials cannot issue permits to construct and/or operate LNG terminals. The EAct 2005 did leave room for state agencies with authority under the Coastal Zone Management Act of 1972, such as the California Coastal Commission, to additionally review siting of LNG terminals under its auspices, but such a review does not replace the main siting review conducted by the FERC and the state does not issue permits to construct and/or operate LNG terminals.

LEGISLATIVE HISTORY:

- SB 1081 of 1977 authorized the Commission to issue a permit for the construction and operation of an LNG terminal at a remote site to be determined by the California Coastal Commission. This legislation was subsequently repealed in 1987.
- SB 426 failed passage in the Assembly last year. SB 426 would have required the CEC to evaluate and rank each proposed LNG terminal. Under this bill's requirements, the Governor would have been required to reject any application that was not ranked as the top two choices by the CEC.

FISCAL IMPACT:

The bill would compel the CPUC to contribute considerable additional resources to the initiation, creation and adoption of the LNG Needs Evaluation Report of 2008, between November 1, 2007 and July 1, 2008, and to assist in the CPUC's President's participation in future biennial integrated energy policy reports from 2009 on. Such participation would require the hiring of an additional staff member (PURA V) dedicated to working on this report.

Total fiscal impact would be approximately \$111,908.

STATUS:

SB 412 was approved by Senate Energy, Utilities & Commerce Committee 5-3 on April 24, 2007; was approved by Senate Appropriations Committee 10-6 on May 31, 2007; and was approved by the full Senate 23-14 on June 4, 2004.

SB 412 was referred to both the Assembly Utilities & Commerce Committee and the Assembly Natural Resources Committee. No hearing date has been set in either Committee.

SUPPORT/OPPOSITION: (as of 6/1/07)

Support:

California Coastal Protection Network (sponsor)
Environmental Defense Center
Pacific Environment
Planning and Conservation League
Sierra Club California

Oppose:

None on file

STAFF CONTACTS:

Sean H. Gallagher
Director - Energy Division

shg@cpuc.ca.gov
(415) 703-2059

Richard A. Myers
Staff - Energy Division

ram@cpuc.ca.gov
(415) 703-1228

David R. Effross
Staff - Energy Division

dre@cpuc.ca.gov
(415) 703-1567

Jonathan A. Bromson
Staff - Legal Division

jab@cpuc.ca.gov
(415) 703-12362

Date: June 13, 2007

DLH:cdl

BILL LANGUAGE:

BILL NUMBER: SB 412 AMENDED
BILL TEXT

AMENDED IN SENATE MAY 24, 2007
AMENDED IN SENATE APRIL 16, 2007

INTRODUCED BY Senator Simitian

FEBRUARY 21, 2007

An act to amend, repeal, and add Sections 25302 and 25303 of, and to add Chapter 6.5 (commencing with Section 25571) to Division 15 of the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 412, as amended, Simitian. State Energy Resources Conservation and Development Commission: ~~liquefied~~ natural ~~gas terminals.~~ gas.

~~The existing~~

(1) The Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission) and requires the commission to prepare a biennial integrated energy policy report containing specified information related to major energy trends and issues facing the state, as well as a biennial energy policy review. The act requires the commission to certify sufficient sites and related facilities that are required to provide a supply of electricity sufficient to accommodate projected demand for power statewide.

This bill would enact the Liquefied Natural Gas ~~Terminal~~ Project Evaluation Act and would require, upon the adoption of the integrated energy policy report on November 1, 2007, the ~~commission~~ Energy Commission, in consultation with the Public Utilities Commission and the State Air Resources Board, to ~~make a liquefied natural gas (LNG) needs~~ adopt and submit to the Legislature and the Governor, on or before July 1, 2008, the LNG Needs Evaluation Report of 2008 that is to be an addendum to that integrated energy policy and would contain an assessment ~~study that assesses demand and supply for~~ of natural gas ~~and alternatives to natural gas to meet energy demands, and to determine the number of LNG terminals, if any, needed to meet the state's projected natural gas demand. The act would require the LNG needs assessment study to be completed no later than November 1, 2008, and incorporated into the commission's biennial integrated energy policy report~~ supplies that includes, a greenhouse gas emission evaluation, a finding on whether California's projected natural gas demand through the year 2017 can be met without the importation of liquefied natural gas (LNG) from a terminal or facility, the impact of reducing electricity derived from coal, and the impacts of new fossil fuel infrastructures. The

commission would be required to solicit public comments in the preparation of the report and to hold 2 public hearings, one in Los Angeles and other in the San Francisco Bay area to consider the results of the LNG needs assessment study and to provide an opportunity for public comment. ~~All costs of the LNG needs assessment study for the implementation of these requirements, including costs for any temporary personnel or consultants, would be funded from fees charged to persons or entities applying for permits to build and operate a LNG terminal.~~

The commission would be required to provide a notice of hearing to the Public Utilities Commission, the State Air Resources Board, and the chairpersons of the specified committees of the Legislature.

The bill would prohibit the ~~commission~~ Public Utilities Commission from ~~issuing a certificate to build and operate a~~ authorizing an entity under its jurisdiction to enter into a contract with an entity to supply LNG ~~terminal unless the proposed facility meets certain criteria, findings, and determinations~~ to the state. The Governor and state and local officials would be prohibited from issuing a permit to construct or operate, or both construct and operate, a LNG facility within the state or a pipeline from a LNG facility outside the state to an existing instate natural gas pipeline until the LNG Needs Evaluation Report of 2008 has been adopted. By requiring a local official to determine whether the LNG Needs Evaluation Report of 2008 has been adopted, the bill would increase the level of service provided by a local agency, thereby imposing a state-mandated local program.

The bill would prohibit a state or local entity from approving a project to construct or operate a facility to import LNG to the state unless the project applicant files with the Energy Commission a specified memorandum of understanding between the project applicant and the United States Department of Defense. On or after January 1, 2008, a state or local agency would be prohibited from approving or carrying out a project involving the construction or operation of an onshore or offshore facility or terminal to import natural gas into the state if either of the specified conditions is met. By requiring a local agency to determine whether a specified condition is met before approving these projects, the bill would increase the level of service provided by a local agency, thereby imposing a state-mandated local program.

The ~~commission~~ Energy Commission would be required by February 1, 2008, to create a matrix on its Internet Web site ~~and to require an applicant for a certificate to build and operate a LNG terminal to provide the commission with updated information at least once every month containing specified information related to the construction and operation of an LNG facility project and would require quarterly updates.~~

~~The bill would require the Governor to disapprove an applicant for a license pursuant to the Governor's authority under the federal Deepwater Port Act of 1974, to construct and operate a liquefied natural gas terminal unless the project meets this act's requirements. The bill would prohibit the Governor from allowing a permit to build or operate a LNG terminal or to connect to infrastructure located within the state unless the commission certifies that this act's requirements have been met.~~

~~—The bill would provide that these requirements are applicable to every LNG terminal to be constructed or operating in California, irrespective of whether an application has been submitted for the construction or operation of the terminal to any federal, state, or local entity prior to January 1, 2008.~~

This bill would establish, on September 1, 2008, the Renewable Energy and Fossil Fuel Assessment Council consisting of specified members. The council, instead of the Energy Commission, would be required to compile and adopt the biennial integrated energy policy report and biennial energy policy review. The council, in its adoption of the integrated energy policy report, would be required to include an LNG need evaluation report containing specified information. The council would be required to solicit public comments in the preparation of the report and to hold 2 public hearings, one in Los Angeles and the other in the San Francisco Bay area to consider the results of the report and to provide an opportunity for public comment.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~ yes .

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) It is the policy of the state to meet California's energy growth by optimizing energy conservation and resource efficiency and by reducing per capita demand to ensure a clean, safe, and reliable supply of energy for California.

(b) It is the policy of the state to be sensitive to the impact of the state's energy policy on global climate change and ~~environmental impacts in host countries that export natural gas.~~
to conduct life-cycle energy analyses in determining the composition of the state's energy portfolio.

(c) It is the policy of the state to accelerate the use of renewable energy resources wherever feasible and to ensure a diverse and affordable portfolio of fuel sources to minimize the opportunity for supply interruptions.

(d) The state has a critical role in decisions regarding the siting and design of new onshore and offshore infrastructure for the importation of liquefied natural gas that results in impacts to public health, safety, and the environment.

(e) Laws and regulations enacted by the state to address consumer, community, public health, safety, and environmental impacts of new onshore and offshore imported liquefied natural gas infrastructure, where more protective, should not be preempted by weaker, less protective federal laws and regulations.

~~—(f) Decisions regarding the importation of liquefied natural gas should be based on a comprehensive review of current and projected natural gas supply and demand in California, and alternative sources~~

~~of supply.~~

~~—(g) Construction and operation of liquefied natural gas onshore and offshore infrastructure could commence after completion of a rigorous evaluation that analyzes the need for additional supplies of natural gas and the relative merits of pending and future proposals with respect to business, consumer, community, public health, safety, and environmental impacts.~~

(f) The possible importation of liquefied natural gas should be reviewed as part of the state's integrated energy policy report, which contains an overview of major energy trends and issues facing the state, including, but not limited to, supply, demand, pricing, reliability, efficiency, conservation, and impacts on public health and safety, the economy, resources, and the environment.

SEC. 2. Section 25302 of the Public Resources Code is amended to read:

25302. (a) Beginning November 1, 2003, and every two years thereafter, the commission shall adopt an integrated energy policy report. This integrated report shall contain an overview of major energy trends and issues facing the state, including, but not limited to, supply, demand, pricing, reliability, efficiency, conservation and renewable energy supplies, and impacts on public health and safety, the economy, resources, and the environment. Energy markets and systems shall be grouped and assessed in three subsidiary volumes:

- (1) Electricity and natural gas markets.
- (2) Transportation fuels, technologies, and infrastructure.
- (3) Public interest energy strategies.

(b) The commission shall compile the integrated energy policy report prepared pursuant to subdivision (a) by consolidating the analyses and findings of the subsidiary volumes in paragraphs (1), (2), and (3) of subdivision (a). The integrated energy policy report shall present policy recommendations based on an indepth and integrated analysis of the most current and pressing energy issues facing the state. The analyses supporting this integrated energy policy report shall explicitly address interfuel and intermarket effects to provide a more informed evaluation of potential tradeoffs when developing energy policy across different markets and systems.

(c) The integrated energy policy report shall include an assessment and forecast of system reliability and the need for resource additions, efficiency, and conservation that considers all aspects of energy industries and markets that are essential for the state economy, general welfare, public health and safety, energy diversity, and protection of the environment. This assessment shall be based on determinations made pursuant to this chapter.

(d) Beginning November 1, 2004, and every two years thereafter, the commission shall prepare an energy policy review to update analyses from the integrated energy policy report prepared pursuant to subdivisions (a), (b), and (c), or to raise energy issues that have emerged since the release of the integrated energy policy report. The commission may also periodically prepare and release technical analyses and assessments of energy issues and concerns to provide timely and relevant information for the Governor, the Legislature, market participants, and the public.

(e) In preparation of the report, the commission shall consult with the following entities: the Public Utilities Commission, the ~~Office~~ Division of Ratepayer Advocates, the State Air Resources Board, the Electricity Oversight Board, the

Independent System Operator, the Department of Water Resources, the California Consumer Power and Conservation Financing Authority, the Department of Transportation, *the California Coastal Commission, the State Lands Commission,* and the Department of Motor Vehicles, and any federal, state, and local agencies it deems necessary in preparation of the integrated energy policy report. To assure collaborative development of state energy policies, these agencies shall make a good faith effort to provide data, assessment, and proposed recommendations for review by the commission.

(f) The commission shall provide the report to the Public Utilities Commission, the Office of Ratepayer Advocates, the State Air Resources Board, the Electricity Oversight Board, the Independent System Operator, the Department of Water Resources, the California Consumer Power and Conservation Financing Authority, *the California Coastal Commission, the State Lands Commission,* and the Department of Transportation. For the purpose of ensuring consistency in the underlying information that forms the foundation of energy policies and decisions affecting the state, those entities shall carry out their energy-related duties and responsibilities based upon the information and analyses contained in the report. If an entity listed in this subdivision objects to information contained in the report, and has a reasonable basis for that objection, the entity shall not be required to consider that information in carrying out its energy-related duties.

(g) The commission shall make the report accessible to state, local, and federal entities and to the general public.

(h) *This section shall become inoperative on September 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.*

SEC. 3. *Section 25302 is added to the Public Resources Code , to read:*

25302. (a) Beginning September 1, 2008, there is hereby established the Renewable Energy and Fossil Fuel Assessment Council consisting of the following members:

(1) The Secretary of the California Environmental Protection Agency.

(2) The Secretary of the Resources Agency.

(3) The chairperson of the commission.

(4) The Chairperson of the State Air Resources Board.

(5) The President of the Public Utilities Commission.

(6) A Member of the Senate, who shall be appointed by the Senate Committee on Rules and serve as an ex officio nonvoting member.

(7) A Member of the Assembly, who shall be appointed by the Speaker of the Assembly and serve as an ex officio nonvoting member.

(b) Beginning November 1, 2009, and every two years thereafter, the council shall adopt an integrated energy policy report. This integrated report shall contain an overview of major energy trends and issues facing the state, including, but not limited to, supply, demand, pricing, reliability, efficiency, conservation and renewable energy supplies, and impacts on public health and safety, greenhouse gas emissions on a life-cycle emissions basis, the economy, resources, and the environment. Energy markets and systems shall be grouped and assessed in three subsidiary volumes as follows:

(1) Electricity and natural gas markets.

(2) Transportation fuels, technologies, and infrastructure.

(3) Public interest energy strategies.

(c) The council shall compile the integrated energy policy report prepared pursuant to subdivision (b) by consolidating the analyses and findings of the subsidiary volumes in paragraphs (1), (2), and (3) of subdivision (b). The integrated energy policy report shall present policy recommendations based on an in-depth and integrated analysis of the most current and pressing energy issues facing the state. The analyses supporting this integrated energy policy report shall explicitly address interfuel and intermarket effects to provide a more informed evaluation of potential tradeoffs when developing energy policy across different markets and systems.

(d) The integrated energy policy report shall include an assessment and forecast of system reliability and the need for resource additions, efficiency, and conservation that considers all aspects of energy industries and markets that are essential for the state economy, general welfare, public health and safety, energy diversity, and protection of the environment. This assessment shall be based on determinations made pursuant to this chapter.

(e) The council shall solicit public testimony and evidence during preparation of the report.

(f) Prior to final adoption of the integrated energy policy report, the council shall hold two public hearings, one in Los Angeles and the other in the San Francisco Bay area, during which a draft report shall be available for at least 30 days for review and comment by the public and additional evidence and comment shall be solicited.

(g) The integrated energy policy report shall include a greenhouse gas emissions evaluation of California's energy use, including a life-cycle emissions analysis of the liquified natural gas, domestic natural gas supplies, coal, and other fossil fuels that are part of, or likely to become part of the portfolio of fossil fuels utilized in California for energy production.

(h) The integrated energy policy report shall include a finding based on the entirety of the testimony and evidence submitted as to whether natural gas supplies projected as necessary to meet California's energy needs pursuant to the integrated energy policy report of 2009 can be met without importing liquefied natural gas to a terminal or facility sited onshore or offshore of the California coast. The integrated energy policy report shall also include a finding based on the entirety of the testimony and evidence submitted as to whether California's projected natural gas demand, through the year 2017, can be met without importing liquefied natural gas from a terminal or facility sited outside of California.

(i) Beginning November 1, 2008, and every two years thereafter, the council shall prepare an energy policy review to update analyses from the Integrated Energy Policy Report prepared pursuant to subdivisions (b), (c), and (d), or to raise energy issues that have emerged since the release of the integrated energy policy report. The council may also periodically prepare and release technical analyses and assessments of energy issues and concerns to provide timely and relevant information for the Governor, the Legislature, market participants, and the public.

(j) (1) In preparation of the report, the council shall consult with all of the following entities:

(A) The Public Utilities Commission.

(B) The Division of Ratepayer Advocates in the Public Utilities Commission.

- (C) *The State Air Resources Board.*
- (D) *The Electricity Oversight Board.*
- (E) *The Independent System Operator.*
- (F) *The Department of Water Resources.*

(G) *The California Consumer Power and Conservation Financing Authority.*

- (H) *The Department of Transportation.*
- (I) *The California Coastal Commission.*
- (J) *The State Lands Commission.*

(K) *Any other federal, state, and local agencies it deems necessary in preparation of the integrated energy policy report.*

(2) *To assure collaborative development of state energy policies, the state agencies specified in subparagraphs (A) to (J), inclusive, of paragraph (1) shall make a good faith effort to provide data, assessment, and proposed recommendations for review by the council.*

(k) *The council shall provide the report to the Public Utilities Commission, the Department of Ratepayer Advocates at the Public Utilities Commission, the State Air Resources Board, the Electricity Oversight Board, the Independent System Operator, the Department of Water Resources, the California Consumer Power and Conservation Financing Authority, the California Coastal Commission, the State Lands Commission, and the Department of Transportation. For the purpose of ensuring consistency in the underlying information that forms the foundation of energy policies and decisions affecting the state, those entities shall carry out their energy-related duties and responsibilities based upon the information and analyses contained in the report. If an entity listed in this subdivision objects to information contained in the report, and has a reasonable basis for that objection, the entity shall not be required to consider that information in carrying out its energy-related duties.*

(l) *The council shall make the report accessible to state, local, and federal entities and to the general public.*

(m) *An interested person may challenge the adoption of the integrated energy policy report by filing a petition for a writ of mandate for relief pursuant to Sections 1085 and 1094.5 of the Code of Civil Procedure in the Superior Court of Sacramento County.*

(n) *This section shall be operative on September 1, 2008.*

SEC. 4. Section 25303 of the Public Resources Code is amended to read:

25303. (a) *The commission shall conduct electricity and natural gas forecasting and assessment activities to meet the requirements of paragraph (1) of subdivision (a) of Section 25302, including, but not limited to, all of the following:*

(1) *Assessment of trends in electricity and natural gas supply and demand, and the outlook for wholesale and retail prices for commodity electricity and natural gas under current market structures and expected market conditions.*

(2) *Forecasts of statewide and regional electricity and natural gas demand including annual, seasonal, and peak demand, and the factors leading to projected demand growth including, but not limited to, projected population growth, urban development, industrial expansion and energy intensity of industries, energy demand for different building types, energy conservation and efficiency, and other factors influencing demand for electricity. With respect to long-range forecasts of the demand for natural gas, the report shall include an evaluation of average conditions, as well as best and worst case scenarios, and an evaluation of the impact of*

the increasing use of renewable resources on natural gas demand.

(3) (A) Evaluation of the adequacy of electricity and natural gas supplies to meet forecasted demand growth. Assessment of the availability, reliability, and efficiency of the electricity and natural gas infrastructure and systems including, but not limited to, natural gas production capability both in and out of state, natural gas interstate and intrastate pipeline capacity, storage and use, and western regional and California electricity and transmission system capacity and use.

(B) *Projected impacts from changes in California energy policy as mandated by statutes that became effective on and after January 1, 2006, related to climate change including, but not limited to, the California Global Warming Solutions Act of 2006, Division 25.5 (commencing with Section 38500) of the Health and Safety Code.*

(4) Evaluation of potential impacts of electricity and natural gas supply, demand, and infrastructure and resource additions on the electricity and natural gas systems, public health and safety, the economy, resources, and the environment.

(5) Evaluation of the potential impacts of electricity and natural gas load management efforts, including end-user response to market price signals, as a means to ensure reliable operation of electricity and natural gas systems.

(6) Evaluation of whether electricity and natural gas markets are adequately meeting public interest objectives including the provision of all of the following: economic benefits; competitive, low-cost reliable services; customer information and protection; and environmentally sensitive electricity and natural gas supplies. This evaluation may consider the extent to which California is an element within western energy markets, the existence of appropriate incentives for market participants to provide supplies and for consumers to respond to energy prices, appropriate identification of responsibilities of various market participants, and an assessment of long-term versus short-term market performance. To the extent this evaluation identifies market shortcomings, the commission shall propose market structure changes to improve performance. *In proposing the market structure changes, the commission shall consider comments and recommendations of members of the public and interested agencies, including, but not limited to, federal and state agencies participating in the Liquefied Natural Gas Interagency Working Group established by the Resources Agency.*

(7) Identification of impending or potential problems or uncertainties in the electricity and natural gas markets, potential options and solutions, and recommendations.

(8) (A) Compilation and assessment of existing scientific studies that have been performed by persons or entities with expertise and qualifications in the subject of the studies, to determine the potential vulnerability, to a major disruption due to aging or a major seismic event, of large baseload generation facilities, of 1,700 megawatts or greater.

(B) The assessment specified in subparagraph (A) shall include an analysis of the impact of a major disruption on system reliability, public safety, and the economy.

(C) The commission may work with other public entities and public agencies, including, but not limited to, the California Independent System Operator, the Public Utilities Commission, the Department of Conservation, and the Seismic Safety Commission as necessary, to gather and analyze the information required by this paragraph.

(D) Upon completion and publication of the initial review of the information required pursuant to this paragraph, the commission shall perform subsequent updates as new data or new understanding of potential seismic hazards emerge.

(9) Evaluation of consumer protection including market features that may facilitate or impair the functioning of California's electricity and natural gas markets, such as the potential for withholding capacity, exercising market power, or otherwise engaging in market manipulation practices or monopolistic behavior.

(b) Commencing November 1, 2003, and every two years thereafter, to be included in the integrated energy policy report prepared pursuant to Section 25302, the commission shall assess the current status of the following:

(1) The environmental performance of the electric generation facilities of the state, to include all of the following:

(A) Generation facility efficiency.

(B) Air emission control technologies in use in operating plants.

(C) The extent to which recent resource additions have, and expected resource additions are likely to, displace or reduce the operation of existing facilities, including the environmental consequences of these changes.

(2) The geographic distribution of statewide environmental, efficiency, and socioeconomic benefits and drawbacks of existing generation facilities, including, but not limited to, the impacts on natural resources including wildlife habitat, air quality, and water resources, and the relationship to demographic factors. The assessment shall describe the socioeconomic and demographic factors that existed when the facilities were constructed and the current status of these factors. In addition, the report shall include how expected or recent resource additions could change the assessment through displaced or reduced operation of existing facilities.

(c) In the absence of a long-term nuclear waste storage facility, the commission shall assess the potential state and local costs and impacts associated with accumulating waste at California's nuclear powerplants. The commission shall further assess other key policy and planning issues that will affect the future role of nuclear powerplants in the state. The commission's assessment shall be adopted on or before November 1, 2008, and included in the 2008 energy policy review adopted pursuant to subdivision (d) of Section 25302.

(d) This section shall become inoperative on September 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. Section 25303 is added to the Public Resources Code , to read:

25303. (a) The council shall conduct electricity and natural gas forecasting and assessment activities to meet the requirements of paragraph (1) of subdivision (b) of Section 25302, including, but not limited to, all of the following:

(1) Assessment of trends in electricity and natural gas supply and demand, and the outlook for wholesale and retail prices for commodity electricity and natural gas under current market structures and expected market conditions.

(2) Forecasts of statewide and regional electricity and natural gas demand including annual, seasonal, and peak demand, and the

factors leading to projected demand growth including, but not limited to, projected population growth, urban development, industrial expansion and energy intensity of industries, energy demand for different building types, energy efficiency, and other factors influencing demand for electricity. With respect to long-range forecasts of the demand for natural gas, the report shall include an evaluation of average conditions, as well as best and worst case scenarios, and an evaluation of the impact of the increasing use of renewable resources on natural gas demand.

(3) (A) Evaluation of the adequacy of electricity and natural gas supplies to meet forecasted demand growth. Assessment of the availability, reliability, and efficiency of the electricity and natural gas infrastructure and systems including, but not limited to, natural gas production capability both in and out of state, natural gas interstate and intrastate pipeline capacity, storage and use, and western regional and California electricity and transmission system capacity and use.

(B) Projected impacts from changes in California energy policy as mandated by statutes that became effective on and after January 1, 2006, related to climate change including, but not limited to, the California Global Warming Solutions Act of 2006, Division 25.5 (commencing with Section 38500) of the Health and Safety Code.

(4) Evaluation of potential impacts of electricity and natural gas supply, demand, and infrastructure and resource additions on the electricity and natural gas systems, public health and safety, the economy, resources, and the environment.

(5) Evaluation of the potential impacts of electricity and natural gas load management efforts, including end-user response to market price signals, as a means to ensure reliable operation of electricity and natural gas systems.

(6) Evaluation of whether electricity and natural gas markets are adequately meeting public interest objectives including the provision of all of the following: economic benefits; competitive, low-cost reliable services; customer information and protection; and environmentally sensitive electricity and natural gas supplies. This evaluation may consider the extent to which California is an element within western energy markets, the existence of appropriate incentives for market participants to provide supplies and for consumers to respond to energy prices, appropriate identification of responsibilities of various market participants, and an assessment of long-term versus short-term market performance. To the extent this evaluation identifies market shortcomings, the council

shall propose market structure changes to improve performance. In proposing the market structure changes, the council shall consider comments and recommendations of members of the public and interested agencies, including, but not limited to, federal and state agencies participating in the Liquified Natural Gas Interagency Working Group established by the Resources Agency.

(7) Identification of impending or potential problems or uncertainties in the electricity and natural gas markets, potential options and solutions, and recommendations.

(8) (A) Compilation and assessment of existing scientific studies that have been performed by persons or entities with expertise and qualifications in the subject of the studies, to determine the potential vulnerability, to a major disruption due to aging or a major seismic event, of large baseload generation facilities, of 1,700 megawatts or greater.

(B) The assessment specified in subparagraph (A) shall include an analysis of the impact of a major disruption on system reliability, public safety, and the economy.

(C) The council may work with other public entities and public agencies, including, but not limited to, the California Independent System Operator, the Public Utilities Commission, the Department of Conservation, and the Seismic Safety Commission as necessary, to gather and analyze the information required by this paragraph.

(D) Upon completion and publication of the initial review of the information required pursuant to this paragraph, the council shall perform subsequent updates as new data or new understanding of potential seismic hazards emerge.

(9) Evaluation of consumer protection including market features that may facilitate or impair the functioning of California's electricity and natural gas markets, such as the potential for withholding capacity, exercising market power, or otherwise engaging in market manipulation practices or monopolistic behavior.

(b) Commencing November 1, 2009, and every two years thereafter, to be included in the integrated energy policy report prepared pursuant to Section 25302, the council shall assess the current status of the following:

(1) The environmental performance of the electric generation facilities of the state, to include all of the following:

(A) Generation facility efficiency.

(B) Air emission control technologies in use in operating plants.

(C) The extent to which recent resource additions have, and expected resource additions are likely to, displace or reduce the operation of existing facilities, including the environmental consequences of these changes.

(2) The geographic distribution of statewide environmental, efficiency, and socioeconomic benefits and drawbacks of existing generation facilities, including, but not limited to, the impacts on natural resources including wildlife habitat, air quality, and water resources, and the relationship to demographic factors. The assessment shall describe the socioeconomic and demographic factors that existed when the facilities were constructed and the current status of these factors. In addition, the report shall include how expected or recent resource additions could change the assessment through displaced or reduced operation of existing facilities.

(c) In the absence of a long-term nuclear waste storage facility, the council shall assess the potential state and local costs and impacts associated with accumulating waste at California's nuclear powerplants. The council shall further assess other key policy and planning issues that will affect the future role of nuclear powerplants in the state. The council's assessment shall be adopted on or before November 1, 2008, and included in the 2008 energy policy review adopted pursuant to subdivision (i) of Section 25302.

(d) This section shall become operative on September 1, 2008.

~~SEC. 2.~~ SEC. 6. Chapter 6.5 (commencing with Section 25571) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 6.5. LIQUIFIED NATURAL GAS ~~TERMINAL~~
PROJECT EVALUATION ACT

25571. This chapter shall be known and may be cited as the

Liquefied Natural Gas ~~Terminal~~ Project
Evaluation Act.

25571.1. For purposes of this chapter, the following definitions apply:

(a) "Applicant" means a person who files a request for certification, pursuant to Chapter 6 (commencing with Section 25500) to build and operate ~~on~~ an LNG ~~terminal~~ project in this state.

(b) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account all of the following:

(1) Economic, environmental, social, technological, safety, and reliability factors.

(2) Gas supply and demand forecasts.

(3) Alternative sources of ~~natural gas~~ energy .

(c) "Liquefied natural gas" or "LNG" means natural gas cooled to minus 259 degrees Fahrenheit so that it forms a liquid at approximately atmospheric pressure.

(d) "Liquefied natural gas terminal," "terminal," or "LNG terminal," means facilities designed to receive liquefied natural gas from oceangoing vessels, including those facilities required for storage and regasification of the liquefied natural gas , *marine vessels associated with these facilities*, and those pipelines and facilities necessary for the transmission of the regasified natural gas to the point of interconnection with existing pipelines.

(e) "Person" means an individual, organization, partnership, or other business association or corporation, the federal government, the state government, any local government, and any agency or instrumentality of any of those entities.

(f) (1) "Life-cycle emissions analysis" means assessment of greenhouse gas emissions of energy fuel sources from the wellhead to the end use.

(2) For North American natural gas supplies, this analysis shall include consideration of greenhouse gas emissions from extraction at the natural gas wellhead, transportation, and combustion.

(3) For a liquefied natural gas project, this analysis shall include the consideration of the greenhouse gas emissions from extraction at the natural gas wellhead to the end use, including liquefaction, transportation, regasification, storage, combustion, and other relevant energy consumption.

25571.2. (a) Upon adoption on November 1, 2007, of the integrated energy policy report pursuant to Section 25302, the commission, in consultation with the Public Utilities Commission and the State Air Resources Board shall begin a further assessment of natural gas supplies available in California from domestic production, or imported into the state through interstate pipelines, or both domestic production and importation, as well as supplies available or likely to become available from foreign production and imported into the state through liquefied natural gas terminals located in California, or international pipelines from Mexico and Canada, or both state and international pipelines, including any liquefied natural gas terminal proposed to be built outside the state that would be the source for natural gas imported into the state.

(b) The assessment shall be an addendum to the Integrated Energy Policy Report of 2007 and shall be entitled the LNG Needs Evaluation Report of 2008.

(c) The commission shall solicit public testimony and evidence during preparation of the assessment.

(d) (1) Prior to final adoption of the LNG Needs Evaluation Report of 2008, the commission shall hold two public hearings, one in Los Angeles and the other in the San Francisco Bay area, during which a draft report shall be available for at least 30 days for review and additional evidence and testimony shall be solicited and accepted.

(2) The commission shall provide notice of the meeting required pursuant to paragraph (1) to the Public Utilities Commission, the State Air Resources Board, and the chairpersons of the Senate Energy and Public Utilities Committee and the Assembly Utilities and Commerce Committee.

(e) On or before July 1, 2008, the commission shall adopt and submit to the Governor and the Legislature the LNG Needs Evaluation Report of 2008.

(f) The LNG Needs Evaluation Report of 2008 shall include a greenhouse gas emissions evaluation, including a life-cycle emissions analysis of LNG, domestic natural gas supplies, coal, and other fossil fuels that are part of, or likely to become part of the portfolio of fossil fuels utilized in California for electricity production or other uses. The LNG Needs Evaluation Report of 2008 shall not duplicate work completed pursuant to Article 6.5 (commencing with Section 43865) of Chapter 4 of Part 5 of Division 26 of the Health and Safety Code for the transportation sector.

(g) The LNG Needs Evaluation Report of 2008 shall include a finding based on the entirety of the evidence submitted as to whether California's projected natural gas demand, through the year 2017, can be met without importing liquefied natural gas from a terminal or facility sited onshore or offshore of the California coast. The LNG Needs Evaluation Report of 2008 shall also include a finding based on the entirety of the evidence submitted as to whether California's projected natural gas demand, through the year 2017, can be met without importing liquefied natural gas from a terminal or facility sited outside of California.

(h) The LNG Needs Evaluation Report of 2008 shall consider the impact of reducing electricity derived from coal pursuant to Chapter 3 (commencing with Section 8340) to Division 4.1 of the Public Utilities Code, and the potential of demand reduction opportunities, including, but not limited to, the upgrading and retrofitting of energy infrastructure, the role of renewable energy, and greater efficiency in building codes.

(i) The report shall include an analysis of what impact new fossil fuel infrastructure will have on investor owned utilities' mandates under any provision of law, including, but not limited to, the California Renewables Portfolio Standard Program, Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.

(j) An interested party may challenge the adoption of the LNG Needs Evaluation Report of 2008 by filing a petition for a writ of mandate for relief pursuant to Sections 1084 and 1094.5 of the Code of Civil Procedure in the Superior Court of Sacramento County.

(k) On and after September 1, 2008, the Renewable Energy and Fossil Fuel Assessment Council established pursuant to subdivision (a) of Section 25302 shall, in its adoption of the integrated energy policy report pursuant to subdivision (b) of Section 25302, include an LNG need evaluation report that contains all of the following:

(1) A greenhouse gas emissions evaluation specified in subdivision

(f).

(2) A finding based on the entirety of the evidence submitted as to whether California's projected natural gas demand for 10 years following the adoption of the integrated energy policy report can be met without importing liquefied natural gas from a terminal or facility sited onshore or offshore of the California coast. The report shall also include a finding based on the entirety of the evidence submitted as to whether California's projected natural gas demand for 10 years following the adoption of the integrated energy policy report can be met without importing liquefied natural gas from a terminal or facility sited outside of California.

(3) Consideration specified in subdivision (h).

(4) An analysis specified in subdivision (i).

25571.4. (a) The Public Utilities Commission shall not authorize an entity under its jurisdiction to enter into a contract with an entity to supply liquefied natural gas to California entities or consumers until the adoption of the LNG Needs Evaluation Report of 2008 pursuant to Section 25571.2.

(b) The Governor or a state or local official shall not issue a permit to construct, or operate, or both construct and operate, a liquefied natural gas facility in California or operate or construct a pipeline from a liquefied natural gas facility outside of California, to an existing or new instate natural gas pipeline, until the adoption of the LNG Needs Evaluation Report of 2008 pursuant to Section 25571.2.

25571.6. (a) On or before February 1, 2008, the commission shall create a matrix on its Internet Web site that meets all of the following requirements:

(1) The matrix shall be in a format that allows the public to contrast and compare the progress of each applicant for approval to build and operate a liquefied natural gas terminal in attaining each of the criteria required pursuant to this chapter.

(2) For each proposed land-based or offshore liquefied natural gas terminal project, the matrix shall include all of the following information:

(A) Project location.

(B) Project owner.

(C) Project's Internet Web site.

(D) Project contact.

(E) Average natural gas production capacity in cubic feet per day.

(F) The peak natural gas production capacity in cubic feet per day.

(G) LNG and natural gas storage capacity, if any.

(H) The approximate project cost.

(I) Projected online date.

(J) Any federal, state, and local permits or approvals required to site, construct, and operate the project.

(K) The environmental components, such as projected air emissions associated with terminal operations.

(L) The status of the project.

(M) The sources of information used to create the matrix.

(3) The matrix shall also include all of the following information:

(A) The estimated greenhouse gas emissions on an annual basis from each facility, assessed on a full life-cycle emissions basis, LNG and natural gas storage capacity, if any.

(B) Estimates of criteria air pollutant emissions associated with construction and operation of the project, including emissions from marine vessels operating within California Coastal Waters as defined in Section 39037.1 of the Health and Safety Code.

(C) Proposed control technologies to minimize project air pollutant emissions and any other measures identified to reduce potential air quality impacts.

(D) A description of the quality of the imported natural gas, including the heating value.

(E) Estimates of water pollutant discharges associated with construction and operation of the project, including discharges from marine vessels.

(F) Proposed control technologies to minimize water pollutant discharges and any other measures identified to reduce potential water quality impacts.

(G) Description of the capacity of federal, state and local emergency teams to respond to an incident at the project, including estimates of response times and procedures for warning vessels in the area.

(H) Quantitative descriptions of proposed artificial lighting systems, including predicted visibility range and lighting minimization measures.

(I) Graphical depiction of proposed approach and departure routes for LNG carriers, and proposed measures to avoid or prevent collisions with protected marine species.

(J) Quantitative estimates of predicted underwater noise emissions for construction and standard operational activities, including zones of influence (isopleths) for relevant sound intensity thresholds, quantitative estimates for LNG carrier shipping noise, and noise mitigation measures.

(K) Estimated seawater intake volumes for a proposed project, including all vessels and carrier ships associated with a proposed terminal.

(L) Well-supported estimates of special status biological resources in the area to be affected by a proposed project, supplemented by site-specific surveys should existing data be insufficient to draw sound conclusions.

(M) Any other information relevant to identifying and evaluating a project's potential environmental impacts.

(4) The matrix shall include information regarding features of each project that may facilitate or impair the functioning of California's natural gas markets, such as the potential for withholding capacity, exercising market power, or otherwise engaging in market manipulation practices or monopolistic behavior.

(5) The matrix shall be updated as information becomes available and no less than quarterly and shall include the major project components and the potential environmental impacts associated with each land-based and offshore liquefied natural gas terminal project proposal that has filed an application or has publicly announced plans to build a land-based or offshore terminal.

(6) The commission shall post a new application for approval to build and operate an LNG terminal in the state to the matrix within 30 days after the filing of the application.

25571.8. A state or local entity shall not approve a project to construct or operate a facility to import LNG into California unless the applicant files with the commission a memorandum of understanding with the United States Department of Defense indicating that the

applicant has consulted with the United States Department of Defense and has reached agreement with the United States Department of Defense on means to mitigate impacts on United States Department of Defense operations with regard to impacts upon national security, including potential impacts on the land, sea, and airspace identified by the Department of Defense, any of its component armed services, or the United States Coast Guard, for conducting operations, training, or for the development and testing of weapons, sensors, and tactics.

25571.10. (a) For a project involving construction or operation of an onshore or offshore facility or terminal to import natural gas into the state that has not received a permit to operate by a local, state, or federal agency on or before January 1, 2008, a state or local agency shall not approve or carry out the project if either of the following conditions are met:

(1) The report adopted pursuant to subdivision (d) of Section 25571.2 or the most recently report adopted pursuant to Section 25302, contains a finding that the state's projected natural gas demand can be met without importing liquefied natural gas to an onshore or offshore terminal or facility.

(2) The lead agency, as defined in Section 21067, finds that the construction and operation of the project would not have the least environmental impact when compared to other known technologies for constructing and operating a liquefied natural gas terminal, including associated marine vessels, and the environmental impact report prepared pursuant to Division 13 (commencing with Section 21000) for the project evaluates known alternative technologies to construct and operate a liquefied natural gas terminal, including associated marine vessels.

(b) This section shall not be construed as a limitation on the power of a public agency to otherwise disapprove the project pursuant to any other provision of law.

~~— 25571.2. (a) The commission shall make a study of the need for liquefied natural gas terminals to meet the state's energy demands. This study shall be known as the LNG Needs Assessment Study and shall assess all of the following:~~

~~— (1) The future demand for natural gas in the state.~~

~~— (2) The future supply of natural gas in the state available from domestic production and imported into the state through interstate pipelines, supply available from domestic production within the state, and supply available from foreign production and imported into the state through international pipelines from Mexico and Canada, including any liquefied natural gas terminal proposed to be built outside the state that would be the source for natural gas imported into the state.~~

~~— (3) All supplemental sources of natural gas and natural gas alternatives that can reasonably be expected to be available to meet the projected demand for natural gas, including, but not limited to, conservation and energy efficiency programs, steps to increase production and importation of natural gas from other states, Mexico, and Canada, steps to increase available supply from federally owned or federally regulated supplies, and steps to increase energy supplies available from renewable energy resources, including solar, wind, geothermal, and biomass.~~

~~— (b) The LNG Needs Assessment Study shall determine the projected quantity of additional natural gas necessary for the state's expected future demand and whether it is economically feasible to meet the~~

~~state's future natural gas needs without constructing one or more liquefied natural gas terminals.~~

~~— (1) The LNG Needs Assessment Study shall be commenced by January 1, 2008, and shall be completed no later than November 1, 2008, and shall be incorporated into the integrated energy policy report prepared pursuant to Section 25302.~~

~~— (c) The commission shall hold at least two public hearings to consider the results of the LNG Needs Assessment Study and to provide an opportunity for public comment. At least one public hearing shall be held in any city or county that is the proposed site for which an application for a certificate has been filed with the commission to build and operate a liquefied natural gas terminal. If the terminal is not proposed to be located within a city or county, the hearings shall be in the city or county nearest the proposed location.~~

~~— (d) All costs incurred by the commission for the implementation of this chapter, including costs for any temporary personnel or consultants, shall be funded by fees charged to persons or entities applying for a certificate to build and operate a liquefied natural gas terminal.~~

~~— (e) The commission shall make public all information required for the LNG Needs Assessment Study using the commissions' Internet Web site, except as follows:~~

~~— (1) If an applicant for a certificate that has been filed with the commission to build and operate a liquefied natural gas terminal claims that any data or information that the commission requires pursuant to this section is proprietary, the applicant shall submit to the commission a summary of that required data and information, along with an explanation as to the proprietary nature of the required data and information.~~

~~— (2) On or before 30 days after receiving a claim that data or information is propriety pursuant to paragraph (1), the commission shall determine whether the data and information is proprietary. If the commission determines that the data and information is proprietary, the summary description of that data and information shall be provided on the commissions' Internet Web site. If the commission determines that the data and information is not proprietary, and the applicant refuses to provide the full data and information, the commission shall stop all review of the project and notify any other agency authorized to review the project to stop that review.~~

~~— (3) An applicant may appeal the decision of the commission on the proprietary nature of the data and information subject to this subdivision to the Superior Court in Sacramento County within 30 days after a decision by the commission determining that the information requested is not proprietary in nature. The court shall review the commissions, decision on a de novo basis.~~

~~— 25571.3. (a) The commission, in consultation with the Public Utilities Commission, the California Coastal Commission, the State Air Resources Board, the State Water Resources Control Board, and the Department of _____ Fish and Game shall evaluate each proposed LNG project for which a certificate has been filed with the commission to build and operate a liquefied natural gas terminal to determine whether the project meets all of the requirements specified in subdivision (b). The commission shall request the Office of Homeland Security, the Federal Energy Regulatory Commission, the Department of Defense and its component armed services, and the United States Coast Guard, to also evaluate~~

~~each proposed LNG project to determine whether the project meets the requirements specified in subdivision (b).~~

~~— (b) The commission shall not issue a certificate to build and operate a liquefied natural gas terminal in the state unless the commission determines the proposed facility meets all of the following requirements:~~

~~— (1) The facility is necessary to meet the future energy needs of California.~~

~~— (2) The supply of natural gas identified for use by the project is reliable and sustainable.~~

~~— (3) The State Air Resources Board determines that the project is carbon neutral.~~

~~— (4) The State Water Resources Control Board finds that the project will not result in decreases in water quality.~~

~~— (5) The California Coastal Commission finds that the project will not negatively impact the coastal zone, including view sheds.~~

~~— (6) The project requires a coast keeper to be appointed either separately or by identifying an existing local entity or agency to monitor compliance with environmental laws and regulations.~~

~~— (7) The coast keeper is funded by the project applicant at a level set by the Department of Finance.~~

~~— (8) The California Coastal Commission certifies that the project is in compliance with the Marine Mammal Protection Act (Chapter 31 (commencing with Section 1361) of Title 16 of the United States Code).~~

~~— (9) The project meets design criteria to mitigate long term coastal impact should the project stop operating for any reason.~~

~~— (10) The project meets postclosure requirements, including the financial assurances established by the commission.~~

~~— (11) The project reserves 20 percent of capacity for open source supply of natural gas.~~

~~— (12) Natural gas supply contracts for the project are transparent and available for review by the public.~~

~~— (13) If the commission determines that any of the requirements specified in paragraphs (1) to (12), inclusive, are not feasible, the project applicant demonstrate that it is using the best available technology at the time the application is filed.~~

~~— (14) The applicant files with the commission a memorandum of understanding with the Department of Defense indicating that the applicant has consulted with the Department of Defense and has reached agreement with the Department of Defense on means to mitigate impacts on Department of Defense operations with regard to impacts upon national security, including potential impacts on the land, sea, and airspace identified by the Department of Defense, any of its component armed services, or the United States Coast Guard, for conducting operations, training, or for the development and testing of weapons, sensors, and tactics.~~

~~— (15) The applicant enters into a contract with the state to provide cost reimbursement for monitoring, compliance, safety, environmental training, and emergency response requirements.~~

~~— (16) The Secretary for Environmental Protection certifies that the project contains reasonable mitigation measures to offset impacts to low income and minority communities that would be affected by the project.~~

~~— (17) The commission determines, based on the record, that among the available technologies for producing natural gas through a liquefied natural gas process, a particular technology chosen for a~~

~~particular site will have the minimum adverse public health, safety, and environmental impacts among the technologies available at the time an application is received by the commission.~~

~~— 25571.4. (a) On or before February 1, 2008, the commission shall create a matrix on its Internet Web site that meets all of the following requirements:~~

~~— (1) The matrix shall be in a format that allows the public to contrast and compare the progress of each applicant for a certificate to build and operate a liquefied natural gas terminal in attaining each of the criteria required pursuant to this chapter.~~

~~— (2) The matrix shall be updated monthly.~~

~~— (3) The commission shall post a new application for a certificate to build and operate an LNG terminal in the state to the matrix within 30 days after the date the commission receives an application.~~

~~— (b) (1) Each applicant for a certificate to build and operate an LNG terminal in the state shall provide the commission updated information at least once every month regarding each of the required criteria.~~

~~— (2) If an applicant does not provide the information specified in paragraph (1), all agencies involved in the required review of the project may discontinue the review until that information is provided.~~

~~— 25571.5. This chapter does not limit any existing authority of state government pursuant to Division 13 (commencing with Section 21000) as that division read on January 1, 2008.~~

~~— 25571.6. (a) In furtherance of, and in conformance with, the Deepwater Port Act of 1974 (33 U.S.C. Sec. 1501 et seq.), as amended, the Governor pursuant to Section 1508 of Title 33 of the United States Code shall disapprove an application for a license to build and operate a liquefied natural gas terminal unless the project meets the requirements specified in subdivision (b) of Section 25571.3.~~

~~— (b) The Governor may not allow a permit to construct or operate an LNG terminal or to connect to infrastructure located within the state unless the commission certifies that the project meets the requirements specified in subdivision (b) of 25571.3.~~

~~— 25571.7. (a) The requirements of this chapter are applicable to every LNG terminal to be constructed or operating in the state, irrespective of whether an application has been submitted for the construction or operation of the terminal to any federal, state, or local entity prior to January 1, 2008.~~

~~— (b) Nothing in this chapter shall be construed as an absolute prohibition on the construction of a LNG terminal on or off the California coast. It is the intent of the state to facilitate a comprehensive and efficient review of applications for liquefied natural gas terminals and their related infrastructure in the state.~~

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.