

AMENDED IN ASSEMBLY JULY 13, 2005

AMENDED IN ASSEMBLY JUNE 16, 2005

AMENDED IN SENATE MAY 27, 2005

AMENDED IN SENATE APRIL 13, 2005

SENATE BILL

No. 1003

Introduced by Senator Escutia

February 22, 2005

An act to add Chapter ~~6.5~~ 6.6 (commencing with Section 25570) to Division 15 of the Public Resources Code, relating to the State Energy Resources Conservation and Development Commission.

LEGISLATIVE COUNSEL'S DIGEST

SB 1003, as amended, Escutia. Energy resources: liquefied natural gas terminals.

(1) ~~Existing law, until January 1, 1988, authorized the Public Utilities Commission to issue a permit for the construction and operation of a liquefied natural gas terminal pursuant to a prescribed permit procedure.~~ *The existing Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission), and requires the Energy Commission to prepare a biennial integrated energy policy report. The act requires the Energy 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. The act grants the Energy Commission the exclusive authority to certify any stationary or floating electrical generating facility using any source of*

thermal energy, with a generating capacity of 50 megawatts or more, and any facilities appurtenant thereto.

The existing Public Utilities Act defines a gas corporation as including, with certain exceptions, every corporation or person owning, controlling, operating, or managing any gas plant for compensation within the state, and defines a gas plant as including all real estate, fixtures, and personal property, owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, underground storage, or furnishing of gas, natural or manufactured, except propane, for light, heat, or power. The act prohibits any gas corporation from beginning the construction of, among other things, a line, plant, or system, or of any extension thereof, without having first obtained from the Public Utilities Commission (CPUC) a certificate of public convenience and necessity as a determination that the present or future public convenience and necessity require or will require that construction. The act requires that the CPUC consider certain factors in determining whether to issue a certificate of public convenience and necessity, including community values, recreational and park areas, historical and aesthetic values, and influence on the environment. In issuing a certificate of public convenience and necessity for additional natural gas pipeline capacity proposed for construction within the state, the CPUC is required to consider the state's need to provide sufficient and competitively priced natural gas supplies for both present and anticipated future residential, industrial, commercial, and utility demands.

This bill would enact the Liquefied Natural Gas Evaluation and Terminal Permitting Act. The bill would establish a permitting process for the construction and operation of liquefied natural gas terminals, as defined, and would require the ~~State Energy Resources Conservation and Development~~ Commission to implement the permitting process, as specified.

The bill would provide that a permit may contain conditions necessary or appropriate to ensure the public health, safety, and welfare and other terms and conditions, as provided. *The bill would further provide that the issuance of a permit by the Energy Commission does not invalidate any approval for the construction or operation of an LNG terminal issued by any other state agency, as defined, or a local agency, as defined, and absent a material modification, as defined, issuance of a permit by the Energy*

Commission is not a basis for requiring a new approval from the state agency or local agency.

(2) The bill would provide that it is to become operative only if SB 426 of the 2005-06 Regular Session is also enacted and becomes operative on or before January 1, 2006.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) Liquefied natural gas may need to be imported into this
4 state in order to meet consumer demand for natural gas at
5 reasonable prices, which would require the construction of one or
6 more liquefied natural gas terminals and associated
7 infrastructure.

8 (2) Several liquefied natural gas terminals have been proposed
9 to serve natural gas consumers in this state.

10 (3) It is in the public interest for the state to conduct an orderly
11 and comprehensive public assessment of the impacts of the
12 construction and operation of liquefied natural gas terminals on
13 the economy, consumers, communities, the environment, and
14 public health and safety.

15 (4) Public assessment of these impacts is a matter of statewide
16 concern, and existing law reserves authority for that assessment
17 to the state.

18 (b) It is the intent of the Legislature, in enacting this act, to
19 establish clear statutory procedures by which the state may
20 exercise its duties and authority with respect to the assessment
21 and permitting of proposed liquefied natural gas terminals.

22 SEC. 2. Chapter ~~6.5~~ 6.6 (commencing with Section 25570) is
23 added to Division 15 of the Public Resources Code, to read:

1 CHAPTER ~~6.5~~ 6.6. LIQUEFIED NATURAL GAS EVALUATION
2 AND TERMINAL PERMITTING ACT

3
4 Article 1. General Provisions

5
6 25570. This chapter shall be known and may be cited as the
7 Liquefied Natural Gas Evaluation and Terminal Permitting Act.

8 25570.1. For purposes of this chapter, the following
9 definitions apply:

10 (a) “Feasible” means capable of being accomplished in a
11 successful manner within a reasonable period of time, taking into
12 account all of the following:

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

15 (2) Gas supply and demand forecasts.

16 (3) Alternative sources of natural gas.

17 (b) “Liquefied natural gas” or “LNG” means natural gas
18 cooled to minus 259 degrees Fahrenheit so that it forms a liquid
19 at approximately atmospheric pressure.

20 (c) “Liquefied natural gas terminal,” “terminal,” or “LNG
21 terminal,” means facilities designed to receive liquefied natural
22 gas from ocean-going vessels, including those facilities required
23 for storage and regasification of the liquefied natural gas and
24 those pipelines and facilities necessary for the transmission of the
25 regasified natural gas to the point of interconnection with
26 existing pipelines.

27 (d) “Permit” means the ~~single~~ authorization provided pursuant
28 to this chapter to construct and operate an LNG terminal in this
29 state.

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

34 25570.2. A person shall not construct or operate an LNG
35 terminal without obtaining a permit pursuant to this chapter.

36 25570.4. The commission shall charge each person who
37 applies for a permit pursuant to this chapter a fee, which shall be
38 sufficient to reimburse the commission for all costs of review
39 pursuant to this chapter.

1 25570.5. All state agencies shall cooperate with ~~and, at the~~
2 ~~request of the commission, shall execute interagency agreements~~
3 ~~the commission~~ to assist the commission ~~in~~ with evaluating a site
4 identified pursuant to Article 2 (commencing with Section
5 25571). The costs incurred by a state agency as the result of an
6 interagency agreement shall be paid by the commission and shall
7 be reimbursed from fees collected pursuant to Section 25570.4.

8 25570.7. If any provision of this chapter or the application
9 thereof to any person or circumstances is held invalid, that
10 invalidity shall not affect other provisions or applications of this
11 chapter that can be given effect without the invalid provision or
12 application, and to this end the provisions of this chapter are
13 severable.

14
15 Article 3. Application for Permit
16

17 25572. The permit application shall contain the following
18 information:

19 (a) Maps, pictorial, and written descriptions of present and
20 proposed development for the site, and relevant geological,
21 archeological, aesthetic, ecological, seismic, marine transport,
22 and population data.

23 (b) A detailed description of the proposed engineering design
24 features, proposed methods of construction, and proposed
25 operating procedures for the terminal, and the proposed plan for
26 marine operations, including shipping routes and control
27 procedures.

28 (c) An analysis of accident possibilities, consequences, and
29 risks for the terminal.

30 (d) A description of safety and public protection features,
31 including compatibility with defense and homeland security
32 objectives, fire protection measures, marine navigational
33 systems, emergency systems for shutting down the terminal, and
34 other contingency plans for accidents.

35 (e) The cost of the terminal, fuel consumption by operating
36 terminal equipment, service life of the terminal, and capacity of
37 the terminal.

38 (f) The source of liquefied natural gas, including the
39 contractual terms for the delivery of gas supplies.

(g) A description of all proposed and existing natural gas transmission lines related to the proposed terminal, including a map, in suitable scale, of the routing that shows details of the right-of-way in the vicinity of populated or developed areas, parks, and recreational areas; the justification for the route; and a preliminary statement of the effect of any proposed natural gas transmission line on the environment.

(h) A description of contingency plans for transmitting equivalent volumes of natural gas in the event of both short- and long-term interruptions of the LNG supply system for the proposed terminal.

(i) A description of the proposed method of financing the terminal and analysis of the costs of the terminal on natural gas consumers in this state.

(j) The result of the commission's ranking pursuant to Article 2 (commencing with Section 25571).

(k) Evidence of approvals required by any other state or local agency for the construction and operation of the terminal.

(l) Any other information that the applicant deems necessary or desirable to support its application and better inform the commission and the public.

25572.1. At any time after the filing of the application, the commission may require the applicant to furnish additional, relevant information as may be necessary to carry out the purposes of this chapter.

Article 4. Permit to Construct and Operate an LNG Terminal

25576. The commission shall issue a decision on an application for a permit to construct and operate an LNG terminal pursuant to this article.

25576.1. (a) The commission shall not issue a permit for construction and operation of a terminal at a site that is not evaluated and ranked pursuant to Article 2 (commencing with Section 25571).

(b) The commission shall not issue a permit for construction and operation of a terminal unless the terminal has received all other approvals ~~otherwise required by law~~. *required by federal, state, and local law. A permit or approval issued by a federal, state, or local entity responsible for enforcing a law shall be*

1 *accepted by the commission as conclusive that the terminal has*
2 *received approval, unless and until the permit or approval is set*
3 *aside in a court of law or revoked by the federal, state, or local*
4 *entity issuing the permit or approval.*

5 (c) If the commission issues a permit, the commission shall
6 issue a permit for construction and operation at the site
7 designated as the highest ranked site, unless the commission
8 determines that construction and operation of the highest ranked
9 site is not feasible, and that issuance of a permit to the next
10 highest ranked site is necessary and consistent with this chapter.

11 ~~25576.6.~~

12 25576.3. (a) Prior to issuance of a permit to construct and
13 operate a terminal, the commission shall hold at least one public
14 hearing in the city or county where the terminal is proposed to be
15 located.

16 (b) To the greatest extent possible, the commission shall
17 expeditiously provide information to that city or county and
18 cooperate with requests for information to enable the city or
19 county to develop and present recommendations in a timely
20 fashion.

21 (c) The city or county within whose jurisdiction the terminal is
22 proposed to be located may hold public hearings on the proposed
23 terminal.

24 (d) The city or county may make appropriate
25 recommendations to the commission, including, but not limited
26 to, recommendations regarding safety, protection of the
27 environment, and local land use.

28 25576.5. *The issuance of a permit by the commission does not*
29 *invalidate any approval for the construction or operation of an*
30 *LNG terminal issued by any other state agency, or a local*
31 *agency, and, absent a material modification, issuance of a permit*
32 *by the commission is not a basis for requiring a new approval*
33 *from the state agency or local agency. For purposes of this*
34 *section, the following terms have the following meanings:*

35 (a) *“Local agency” means a county or city, whether general*
36 *law or chartered, a city and county, and a special or other*
37 *district.*

38 (b) *“Material modification” means a substantial change in the*
39 *plans for construction or operation of the LNG terminal facility*

1 *from those previously approved by the state agency or local*
2 *agency.*

3 (c) *“State agency” means any agency, board, or commission*
4 *of state government, and includes an air pollution control district*
5 *and an air quality management district.*

6 25580. Notwithstanding any other provision of law, any
7 responsible agency for an application to construct and operate an
8 LNG terminal shall consider that application within 180 days
9 from the date of ~~the certification by the lead agency of an~~
10 ~~environmental impact report prepared pursuant to Section 21000~~
11 ~~or 21151.~~ *receipt of the completed application by the responsible*
12 *agency.*

13 SEC. 3. This act shall become operative only if Senate Bill
14 426 of the 2005-06 Regular Session is also enacted and becomes
15 operative on or before January 1, 2006.