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FERC Suspends Review Of Embattled LNG Project In California

BY JOHNATHAN RICKMAN

The Federal Energy Regulatory Commission this week said it was suspending its review of the liquefied natural gas terminal planned by SES Terminal LLC at Long Beach, California, saying the company has been unable to resolve a dispute with local officials about the proposed site for the facility.

FERC officials said they could not proceed with their review because the project sponsors--Sound Energy Solutions, a wholly owned subsidiary of Mitsubishi Corp., and ConocoPhillips—had failed over the past year to get a lease from local officials for the proposed site for the facility in Long Beach Harbor.

FERC noted the Long Beach Board of Harbor Commissioners sent SES a Jan. 22, 2007, letter declining to enter into the lease, and the situation had not changed over the last year.

“We are suspending our review of SES Terminal LLC’s
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USTR Warns Against Import Provisions In Climate Change Bill

BY CHRIS HOLLY

In a stark warning on a key issue for House lawmakers developing climate change legislation, a senior Bush administration official said this week that a Senate proposal to ensure that a national cap-and-trade program for greenhouse gas emissions will not hurt U.S. global competitiveness could be a “blunt and imprecise instrument of fear” that could spark ruinous international trade wars.

In a Tuesday letter to senior members of the House Energy and Commerce Committee, U.S. Trade Representative Susan Schwab said she has “serious concerns” with the Senate proposal, which calls for U.S. importers to purchase allowances reflecting the emissions associated with the production of goods imported from countries that the president has determined are not taking steps to reduce emissions comparable to U.S. emission reduction efforts.

The proposal, developed by American Electric Power Co. (AEP) and the International Brotherhood of Electrical Workers

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NNSA: RRW Makes Return To Nuke Testing Less Likely

The National Nuclear Security Administration,

BY GEORGE LOBSENZ

seeking to resurrect its new warhead plan in the face of a skeptical Democratic-controlled Congress, is suggesting that development of the “reliable replacement warhead” would make it less likely that it would have to resume underground nuclear testing than if it continues piecemeal refurbishment of the nation’s existing Cold War-era warheads.

That was the new pitch made last week for the so-called RRW by the head of the semi-autonomous Energy Department nuclear weapons agency in testimo-

ny to a House panel that also revealed that NNSA

was beginning efforts this year to increase plutonium pit production capacity at Los Alamos National Laboratory to 30 to 50 pits per year by 2012-2014, up from the current 10 per year.

Congress last year halted funding for continued RRW design studies, saying the Bush administration had failed to provide a detailed strategic justification for developing a new warhead. Lawmakers ordered the administration to deliver a report this year explaining its overall nuclear weapons strategy and

how the RRW would help meet the nation’s future national security needs.

In his February 27 remarks on the new warhead before the House Armed Services Committee’s strategic forces subcommittee, Thomas D’Agostino, head of the National Nuclear Security Administration (NNSA), said his agency would soon deliver the requested report justifying the RRW. And he said Congress needed to provide new funding for further RRW design studies to answer questions about the feasibility of the new warhead—and concerns that an unproven weapon would be hard to certify without a return to underground testing, which the United States stopped in the early 1990s as a nonproliferation measure.

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Long Beach LNG import project based on the fact that SES does not have access to or control of its proposed LNG import terminal site," FERC's director of energy projects, J. Mark Robinson, told SES in a March 3 letter.

The snafu with local officials follows a long battle between SES and California officials over the state's effort to block the facility, which SES had initially hoped to begin building on a 25-acre site at the Port of Long Beach in early 2006. State officials contended the LNG facility posed safety and environmental hazards that posed unacceptables to the already busy port.

Over FERC objections, California argued it had jurisdiction over the LNG facility because it would connect only to an intrastate pipeline, as opposed to an interstate pipeline that would fall under FERC's purview.

FERC rejected California's claim of authority over the project, and the commission was further backed by provisions in the Energy Policy Act of 2005 clarifying FERC's authority.

Shortly thereafter, the project ran into difficulties with the

Long Beach harbor commissioners, who stopped working on an environmental impact review (EIR) of the proposed terminal in January 2007.

SES filed a lawsuit shortly thereafter against the city of Long Beach in relation to the project. A hearing on the matter is scheduled for March 17.

Thomas Giles, SES Terminal's executive vice president, told *The Energy Daily* Wednesday that local officials were out of line in stopping their review.

"A 2006 draft EIR approved by both the [harbor] board and FERC stated the site was safe," said Giles. "The company filed a petition for a writ of mandate instructing the Port of Long Beach to conclude the EIR. We said under California law you can't do that."

The proposed terminal is to have a capacity to import about 5 million tons of LNG per year, but further delays in the project could fatally damage its competitive prospects given multiple other LNG terminals going up on the West Coast. The SES project was launched in 2002.

RRW Makes Return To Nuke Testing Less Likely... (Continued from p. 1)

But in a striking new argument clearly aimed at countering those perceptions, D'Agostino said NNSA's nuclear weapons laboratories believe that continuing to refurbish older warheads would make a return to nuclear testing more likely than development of the RRW.

He said that while the performance of existing warheads has been verified through past underground testing, growing questions about their reliability are being raised as more of their aging components are replaced.

"Our laboratory directors are concerned that our current path—successive refurbishments of existing warheads developed during the Cold War—may pose unacceptable risks to maintaining high confidence in warhead performance over the long term absent nuclear testing," D'Agostino said in his written testimony to the subcommittee.

While monitoring shows the existing stockpile remains reliable, "concerns arise as we move further and further away from designs certified with underground nuclear testing, resulting from inevitable accumulations of small changes from a continuous process of aging and refurbishment of aging components."

At the same time, D'Agostino said NNSA experts were more confident about their ability to certify the reliability of the RRW using the new computer-based methods developed in the agency's "stockpile stewardship" program to monitor and evaluate old warheads. He also noted the RRW would be based on warhead designs that had been verified through past testing. Further, he said that, unlike the old Cold War warheads, the RRW could be designed to be certified without additional testing.

In sum, he said: "Our experts' best technical judgment today is that it will be less likely that we would need nuclear testing to maintain the safety, security and reliability into the future of the nuclear stockpile if we pursue a reliable replacement path employing all the tools of the stockpile stewardship program... than if we

continue to rely on today's legacy warheads."

D'Agostino said he gave Congress classified information in December substantiating those claims, and that NNSA was seeking \$10 million from Congress in fiscal 2009 to refine the RRW's design so it could answer certification and feasibility questions about the new warhead. NNSA also is seeking \$20 million for "advanced certification" research on aging warheads and the RRW.

The agency has struggled to persuade lawmakers that the RRW can be certified as reliable without underground testing—particularly after a panel of independent nuclear weapons experts known as the JASONS last year issued a report saying there were gaps in NNSA's certification analyses for the RRW.

The RRW also was set back by another JASONS report that said plutonium pits in Cold War-era warheads were not deteriorating as fast as NNSA has suggested in the past, meaning they would not need replacement for decades.

NNSA says the RRW is needed to provide a more reliable, secure and safer nuclear deterrent than can be achieved by continuing to monitor and refurbish Cold War-era warheads, which the agency says are increasingly vulnerable to breakdown. NNSA says the RRW will be less prone to failure, can be built out of materials that are less toxic than those used in existing warheads and can incorporate new security devices that will better protect against diversion threats by terrorists or other unauthorized or accidental detonations.

However, key Democratic and Republican lawmakers say that in addition to questions about the RRW's reliability and cost, development of a new warhead would be provocative and undermine the credibility of U.S. nonproliferation efforts.

NNSA officials have strenuously argued that the RRW would help nonproliferation because its reliability benefits would enable the United States to reduce the size of its nuclear arsenal even further than current plans.

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USTR Warns Against Import Provisions In Bill... (Continued from p. 1)

(IBEW), is part of legislation (S. 2181) by Sens. Joseph Lieberman (I-Conn.) and John Warner (R-Va.) and separate legislation by Senate Energy and Natural Resources Committee Jeff Bingaman (D-N.M.) and Sen. Arlen Specter (R-Pa.)

The AEP-IBEW proposal is seen by many U.S. manufacturers, utilities and lawmakers as a crucial component of global warming legislation because it is intended to protect manufacturers from unfair competition from countries that are not participating in an international climate change accord and thus have no obligation to cut their emissions.

In its current form, the language would apply only to large emitters of greenhouse gases, such as China, and the import provisions would not take effect until eight years after a U.S. emissions cap begins. That waiting period is intended to give the United States time to conclude negotiations on the import provisions with all affected countries—a necessity if the United States is to win an inevitable challenge on the issue before the World Trade Organization.

But Schwab said the proposal could backfire and end up harming U.S. consumers and manufacturers by provoking retaliatory sanctions by U.S. trading partners.

“...[W]e have serious concerns with some ideas that are currently circulating—particularly the enthusiasm for using import provisions that might be perceived as unilateral trade restrictions directed against other countries to push them to move rapidly to reduce their emissions of greenhouse gases,” Schwab said. “We believe that this approach could be a blunt and imprecise instrument of fear—rather than one of persuasion—that will take us down a dangerous path and adversely affect U.S. manufacturers, farmers and consumers.”

The letter was released Wednesday by Rep. Joe Barton (Texas), senior Republican on the House Energy and Commerce Committee, during a hearing before the panel’s Subcommittee on Energy and Air Quality on how to address competitiveness issues in climate change legislation the subcommittee is developing.

The letter emerged as AEP Chairman, President and Chief Executive Officer Michael Morris politely butted heads with former Rep. Jim Slattery (D-Kan.)—now an attorney at the law firm of Wiley Rein LLP, which represents U.S. steelmaker Nucor Corp.—over Slattery’s proposal to exempt steelmakers from a national carbon cap and require them instead to meet a carbon intensity standard.

The standard would apply to all steel consumed in the United States, whether produced domestically or in foreign steel mills. The proposal is aimed primarily at China, which is dramatically expanding its steelmaking capacity, adding capacity every two years in an amount equivalent to the total U.S. capacity, according to Slattery.

Slattery suggested setting the standard at a level attainable by 90 percent of U.S. steelmakers, and giving foreign producers who don’t meet the standard several years to come into compliance. He said the standard would launch “a race to the top” among China and other steel-producing countries eager to continue their access to the U.S. market.

Morris, responding to an invitation from subcommittee Chairman Rick Boucher (D-Va.) to critique Slattery’s proposal, said a standard based on carbon intensity likely would not result in the level of emissions reductions needed to make a significant impact on combating global warming. In addition, Morris noted, Slattery’s proposal is aimed “at a pretty limited group

of carbon-intensive manufacturing processes,” while the AEP-IBEW proposal would address all U.S. imports whose production resulted in greenhouse gas emissions.

“We’re impressed and pleased that both Lieberman-Warner and Bingaman-Specter have included that concept, and it will be developed over time, and clearly we believe ours is the superior proposal and we would hope that you include it in the House materials as well,” Morris said.

Slattery, citing Environmental Protection Agency figures, said U.S. steel industry process-related CO₂ emissions dropped from 86.2 million metric tons in 1990 to 46.2 million metric tons in 2005 while steel production increased by 7 percent over the period.

However, Slattery acknowledged to *The Energy Daily* that “a large percentage” of the emission reductions were due to a Nucor-led industry shift to electric arc furnaces, which are used to melt scrap metal to make new steel. The shift to these furnaces, however, effectively transferred the steel industry’s emissions to the utility companies that provide the power to operate the furnaces.

Steelmakers and other energy-intensive industries are eligible under S. 2181 for free emission allowances, which they can sell to utilities to offset the higher electricity prices expected to result from a nationwide carbon cap.

Morris told *The Energy Daily* that it is “illogical” for companies such as Nucor to also expect credits available in the legislation for companies that moved to reduce emissions in advance of a U.S. emissions cap. “We believe early-mover credits ought to be there,” he said. “However, if you started your business as a metal melter, and you were never a metal producer, I don’t know how you can claim that you ought to get some credits.”




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Don't Let Cap-And-Trade Become Cap-and-Evade

COMMENTARY

BY LEW HAY

Recently, Jim Rogers of Duke Energy wrote a commentary on climate legislation in these pages. Jim is to be commended for all his efforts to bring attention to global warming, despite running the third largest CO₂-emitting company in the nation. I also commend him on calling for aggressive, mandatory, economy-wide CO₂ reduction targets, and for substantial and immediate investment in the RD&D to achieve them.

But he and I have a major difference of opinion on the climate change bill introduced by Sens. Joe Lieberman (I-Conn.) and John Warner (R-Va.). Jim thinks electric power companies should be permitted to emit carbon into the atmosphere for free. I think they should have to pay for every ton of carbon that goes up the smokestack. His approach—granting a disproportionate amount of free allowances to the biggest emitters—allows those who contribute the most to global warming to reap a massive financial windfall. Mine requires them to bear the cost.

I agree that we should not punish companies for taking actions consistent with past public policy. But coal plants built in the mid-1960s and earlier are now fully depreciated, paid for many times over, and beyond their intended lives. These facilities contribute a disproportionately high share of CO₂ emissions (even among other coal plants) and need to be retired soon. Regardless of the final form of allowance allocations, none of these facilities should receive allowances for free. Moreover, basing allocations on historical emissions creates a perverse incentive to continue operating old, inefficient, high-emitting plants long past their intended lives—all in the hope of one day receiving a windfall in the form of a long-term annuity of free allowances.

Make no mistake—coal is an abundant, strategic resource important to our energy security and needs to be included in our future national energy portfolio, even after the advent of stricter environmental regulations. We must develop advanced clean coal technologies, and the best way to fund this is with a real price on carbon. Even the coal industry itself has proposed a surcharge on coal to pay for R&D supporting clean-coal technologies.

Even so, a number of electric power companies such as FPL Group, PG&E and others recognized the need to reduce CO₂ emissions years ago and began to clean up their act. They shuttered old, inefficient plants, repowered with newer, more efficient generation, built new plants with more efficient, lower-carbon technologies (like combined cycle natural gas), uprated their zero-carbon nuclear facilities, deployed aggressive energy conservation and load management programs, and added renewable sources such as wind, solar and geothermal. These aren't immature laboratory technologies. They are proven and in commercial use today.

As a result, the customers of these forward-thinking power providers have been paying higher rates than those of their coal-based brethren. For example, customers in the predominantly natural gas-fired states of Florida and California pay rates 30 percent to 135 percent higher than those in coal-based Kentucky, Ohio and Indiana. In other words, customers of cleaner electric companies such as FPL already have been paying and continue to pay their fair share for reducing carbon emissions.

That's worth remembering when you hear coal-based utilities decry the cost increases their customers would see under a cap-and-trade program that auctions allowances. It also sheds a completely different light on the argument of coal-based customers "paying twice." It is actually the clean energy customers who would take a double hit, once for paying the higher energy prices they pay already, and a second time to subsidize free allowances for the companies continuing to spew CO₂ into the atmosphere.

In fact, even with a 100 percent allowance auction that yields carbon prices as high as \$30 per ton, electricity consumers in the vast majority of coal-based states would still pay much less than those in cleaner states. To be sure, some low-income customers in all states would find the added costs onerous. For these consumers, a portion of the auction proceeds should be recycled

to provide cost assistance.

If we're honest, though, we must acknowledge that most consumers and companies need to see the price of carbon reflected in their electricity prices, as well as the price of the goods and services they purchase. This is what will ultimately drive true behavioral change. As such, the right way to target free allowances, to the extent they are needed at all, is with a rifle and not a shotgun. The companies that truly need free allowances are those in key industries that will become cost-disadvantaged because they face international competitors who operate without parallel climate regulation.

The best way to minimize disruption to the economy is not with free allowances into the distant future. It is with a safety valve that would kick in when the price of allowances reaches a level that threatens economic harm. To protect the economy, we need a ceiling on the price of allowances to ensure they don't rise too high. And to protect the environment and to provide certainty to those investors funding clean technology developments, we need a floor on the price of allowances to ensure they don't fall too low.

It is ironic that I find myself in the role of defender of cap-and-trade. After all, my personal preference—and that of most economists—is that we address the challenge of climate change with a simple fee on carbon that starts at a modest level and increases over time. But the approach before Congress at the moment is cap-and-trade, and the Lieberman-Warner bill is at the center of an intense tug of war between clean energy companies who are willing to pay for their emissions allowances and big-emitting companies who want them for free.

My view is this: the whole idea of cap-and-trade is to let the market put a price on carbon so that companies have a powerful incentive to emit less of it. Saying you favor free allowances is the same as saying companies should be allowed to pollute for free. The right response to the challenge of global climate change is cap-and-trade, not cap-and-evade.

—Lew Hay is chairman and chief executive officer of Florida-based FPL Group Inc.