



State of Rhode Island and Providence Plantations

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*Patrick C. Lynch, Attorney General*

November 26, 2004

The Honorable Patrick J. Kennedy  
U.S. Representative  
249 Roosevelt Avenue, Suite 200  
Pawtucket, RI 02860

**RE: LNG**

Dear Congressman Kennedy:

I write to seek further assistance in ensuring a full, fair, thorough, and public review of the placement of LNG terminals in both Fall River and Providence. On this occasion, I specifically write regarding a proposal pending in Congress, a copy of which is attached hereto, cited in the Congressional Record for the 108<sup>th</sup> Congress, published November 19, 2004. On page 326 of the Congressional Record, H10560, entitled "Federal Energy Regulatory Commission Salaries and Expenses," there is proposed language which cites as follows:

On March 24, 2004, FERC issued a declaratory order asserting exclusive jurisdiction over the approval and siting of liquefied natural gas (LNG) terminals. FERC concluded that LNG terminals are engaged in foreign commerce and, as such, fall clearly within the authority granted to the FERC under Section 3 of the Natural Gas Act of 1938. The conferees agree on this point and disagree with the position of at least one State government agency that it should be the authority responsible for LNG terminal siting within its boundaries, rather than the FERC.

The Natural Gas Act clearly preempts States on matters of approving and siting natural gas infrastructure associated with interstate and foreign commerce. These facilities need one clear process for review, approval, and siting decisions. Because LNG terminals affect both interstate and foreign commerce, LNG facility development requires a process that also looks at the national public interest, and not just the interests of one State.

The conferees recognize that, as a matter of energy supply, the nation will need to expand its LNG infrastructure over the decades to come to satisfy natural gas demand. Any dispute of LNG siting jurisdictional authority now will be counterproductive to meeting our natural gas needs in the future.

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The proposed language arises from a matter currently pending in court from the State of California's challenge to the siting of an LNG facility. The state agency in California has challenged the placement of such a facility and the court could use the language cited to make its determination. Such language is a direct usurping of a sovereign state's right and ability to control its own destiny on any issue but even more so on an issue of such volatility, such as the placement of LNG terminals.

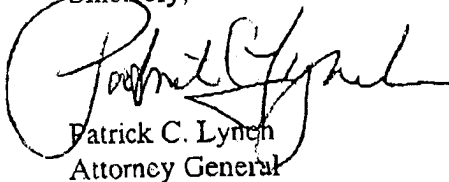
As I am sure you recognize, such language is a threat, not only to the pending litigation in California, but to every state in this nation, and especially to our Ocean State which currently confronts the proposed placement of LNG terminals in both Providence and Fall River. Both of the proposals would allow for delivery of LNG via one thousand foot tankers which would shut down our Ocean State and dissect our bay by cutting through twenty-three communities and laying this explosive material on the doorsteps of two densely populated cities, particularly our Renaissance City, Providence. The proposed language is unfortunately consistent with public comments made by FERC Chairman Patrick Wood in different forums and evidences not only a disregard of state's rights, but particularly on this issue, powerful energy interests stopping at no end in attempting to take away the state's voice in protecting its quality of life and environmental future. Their objective is profit at any cost and expense—at the expense of our environment, safety, and the very quality of life of our Ocean State.

For the reasons previously discussed, and those for which you continue to fight to ensure that the proper analysis is conducted on the placement of such facilities, it is vitally important that this language not become part of our laws. As such, I urge you to make your voice heard so that my voice and the voice of other state officers and any concerned agencies across this nation will have an opportunity to voice their concern, force proper analysis and demand thorough review of such proposals.

Naturally, I am available to provide any comments or information in order to assist you in your consideration. Please contact me should I be able to assist you in that regard.

Thank you in advance for your continued efforts to protect and ensure a high quality of life for all Rhode Islanders.

Sincerely,



Patrick C. Lynch  
Attorney General

PCL/kab  
Enclosures

cc: The Honorable Donald L. Carcieri  
The Honorable Raymond E. Gallison, Jr.