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MEMORANDUM

April 22, 2026

SUBJECT: Additional analysis on RCA regulation of AKLNG Project
(SB 275; Work Order No. 34-LS1241\H)

TO: Senator Cathy Giessel
Chair of the Senate Resources Committee
Attn: Sonja Kawasaki

THROUGH: Emily Nauman
Director

FROM: Ian E. Walsh 
Legislative Counsel

This memorandum follows up on the analysis given in the prior memorandum to your office dated March 24, 2026, relating to regulation of the Alaska LNG Project (AKLNG) by the Regulatory Commission of Alaska (RCA). After the distribution of that memorandum, our office has identified another legal issue that is relevant to your inquiry.

The prior memorandum to your office explained that FERC evaluated AKLNG as one project, including the pipeline, liquefaction facilities, and export facilities together, and in deciding to exercise exclusive jurisdiction over the entire project, FERC relied on the fact that the pipeline would transport natural gas for export. The memorandum also pointed out that FERC did not consider the now-planned phased approach where the first phase seems to consist of constructing and operating an intrastate pipeline that will not initially transport natural gas for export. It remains unclear, as noted in the prior memorandum, whether FERC would have reached a different conclusion about its jurisdiction over the pipeline if FERC had considered the now-planned phrased approach, because the pipeline will not initially transport natural gas for export.

There is another wrinkle to the analysis that the prior memorandum did not identify. The prior memorandum stated that FERC has discretion to cede authority over the in-state portion of a pipeline, citing an opinion from the United States Court of Appeals for the D.C. Circuit.¹ However, that D.C. Circuit opinion did not involve an LNG terminal; it only involved a pipeline. This distinction may be important because federal law explicitly states that FERC has "the exclusive authority to approve or deny an application for the

¹ *Sierra Club v. FERC*, 145 F.4th 74, 79 (D.C. Cir. 2025).

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siting, construction, expansion, or operation of an LNG terminal."² The D.C. Circuit opinion suggested in a footnote that, unlike FERC's jurisdiction over a pipeline without an LNG terminal (where FERC may cede jurisdiction to a state regulator), FERC may not be able to cede jurisdiction over an in-state pipeline that is part of an LNG terminal.³ The analysis of this issue in the D.C. Circuit's opinion is limited, and I am not aware of any other court decisions that address this issue.

Please let me know if I may be of further assistance.

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² 15 U.S.C. 717b(e)(1).

³ *Sierra Club*, 145 F.4th, at 83 n.8 ("[A] separate statutory provision vests FERC with exclusive jurisdiction over 'all natural gas facilities located onshore that are used to transport natural gas' to liquified-natural-gas terminals for export abroad." (cleaned up) (quoting 15 U.S.C. 717a(11)) (citing 15 U.S.C 717b(e))).