Calvin Zuelow

From:	Dianne Blumer <[redacted]>
Sent:	Monday, May 5, 2025 6:03 PM
To:	House Resources
Cc:	Casey E Sullivan
Subject:	HB 208
Attachments:	2025 FERC Exemption one pager HB 208.pdf

Dear House Resource Committee Members,

Please find attached concerns brought forward by Marathon Petroleum.

Also, please reference the meeting in Senate Resources on 5/5 where the Chair of the Regulatory Commission of Alaska testified that this bill is "not necessary" and the RCA does not gain any authority with the repeal of this language, it currently has the jurisdiction to regulate contracts related to cost of rates. This was also, articulated in the recent Enstar filing with the RCA.

We would be happy to answer any questions or set up a meeting to discuss this matter further.

Senate Resources Committee
ktoo.org

Dianne Blumer
NavigateAK
dba Blumer & Associates

HB208: Repeal May Create Federal / State Regulatory Conflict over LNG Import Terminals

OVERVIEW:

In 2024 the Alaska Legislature considered and passed policies that recognized and regulated additional natural gas storage to support the Cook Inlet by the Regulatory Commission of Alaska. The bills were SB 220 and HB 294. Ultimately, HB 394 was rolled into HB 50 at the end of the 2024 Legislature.

HB 394 had multiple hearings that included industry, the RCA and others to discuss and deliberate this policy. As a part of these extensive hearings, members of the legislature felt it was important to clarify that above ground LNG Import Terminals (eg Kenai LNG Terminal) were separated from the underground natural gas storage pools, and recognized they are wholly under the jurisdiction of the Federal Energy Regulatory Commission, and efforts to apply RCA was unwarranted,

AS 42.05.711 (v) As written clarifies Federal Law preemption, eliminates potential Federal/State oversight conflict, does not create unnecessary (and unwanted) regulatory burden for RCA.

In 2025, HB 208 was introduced to repeal 42.05.711(v). To date HB208 has had no significant information provided by the RCA, FERC legal experts, or other industry members to understand the implications if this provision is repealed. Given that there are a lot of moving parts in the private sector around LNG Imports, it seems prudent that legislature should be in the information gathering stages around HB 208 before making quick decisions that may have unintended consequences.

Who Regulates LNG Import Facilities?

The FERC Has Preemptive Authority Over LNG Import Terminals. This authority is clarified in AS 42.05.711 (v)**.** If removed, the FERC still has jurisdiction.

Background:

In 2005, Congress to enact the Energy Policy Act of 2005 (“EPAct 2005”), which added language to the Natural Gas Act (“NGA”) to address some of the pressing issues surrounding LNG terminals at the time.

In particular, Subsection (e) of Section 3 was an entirely new provision that grants FERC exclusive jurisdiction over the siting, construction, expansion, and operation of an LNG terminal.

12415 USC § 717b(e)(1). The NGA defines an LNG terminal to include: “[A]ll natural gas facilities located onshore or in State waters that are used to receive, unload, load, store, transport, gasify, liquify, or process natural gas that is imported to the United States from a foreign country, exported to a foreign country from the United States, or transported in interstate commerce by waterborne vessel . . . .” 15 USC § 717a(11).

In addition, EPAct 2005 added language to NGA Section 3(e)(3)(B), which indicates FERC was not to regulate terminal services prior to 2015 but could afterward. The KLNG Terminal permit is post 2015. These services include

Should the RCA Regulate LNG Import Terminals under fERC Jurisdiction?

During the House Resource Committee deliberations on HB 394, Regulatory Commission of Alaska Chairman Robert Doyle was asked should RCA regulate the Kenai LNG Import Facility. He was clear in his response:

> "Based on FERC exemptions I am aware of, I would oppose it [removing the exemption], I don't believe the RCA should be regulating and I think the carve out is appropriate."

How will Natural Gas sold by the KLNG Import Terminal be Regulated?

Any potential sales of natural gas that may originate from the LNG Import terminal to the public is already contemplated and covered by the RCA. When the natural gas leaves the facility, the RCA oversight begins there.

> RCA Commissioner Doyle again on This topic: "Regardless of whether the production is coming from currently producing fields [or new] the negotiated agreements for LNG and the fair market price would be set by those parties that negotiate those agreements not by the regulation. We would review the final to ensure they are fair and justifiable rates."

What about amendments allowing opening the door for dual regulation?

Subjecting the RCA to a whole new class of facilities that it will need to rate regulate is an unnecessary and additional burden for the RCA. We believe it's a solution in search of a problem.