

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Texas LNG Brownsville LLC

Docket No. CP16-116-004

NOTICE OF REQUEST FOR EXTENSION OF TIME

(May 31, 2024)

Take notice that on May 24, 2024, Texas LNG Brownsville LLC (Texas LNG) requested that the Commission grant an extension of time, until November 22, 2029, to construct and place into service its proposed liquefied natural gas (LNG) terminal on the north side of the Brownsville Ship Channel (Project) located in Cameron County, Texas as authorized by the Commission in Docket No. CP16-116-000.¹ The Order required Texas LNG to complete construction of the Project and make it available for service within five years of the date of the Order, or by November 22, 2024.

Texas LNG states that the Project has been delayed due to extenuating circumstances outside of its control, specifically, litigation challenging the Commission's underlying orders authorizing the Project and other permits for the Project. Specifically, Texas LNG states that on August 3, 2021, the D.C. Circuit remanded the Commission's authorization and rehearing orders back to the Commission to re-analyze the Project's impacts on environmental justice communities and to reconsider its determination of public interest under section 3 of the NGA.² On April 21, 2023, the Commission issued the Remand Order addressing the issues that the D.C. Circuit identified and affirming that the Project "is not inconsistent with the public interest."³

Additionally, Texas LNG states that it was forced to defend a challenge to the air permit issued by the Texas Commission on Environmental Quality. After an extended litigation process, on July 21, 2023, the appeals court rendered a decision in Texas LNG's favor.⁴ Texas LNG further affirms that it has worked diligently to secure and defend all

¹ *Texas LNG Brownsville LLC*, 169 FERC ¶ 61,130 (2019) (Order).

² *Vecinos*, 6 F.4th at 1331-32.

³ *Texas LNG Brownsville LLC*, 183 FERC ¶ 61,047 (2023).

⁴ *Tex. Comm'n on Envtl. Quality v. Vecinos Para El Bienestar De La Comunidad Costera*, No. 03- 21-00395-CV (Tex. 3d Ct. of Appeals July 21, 2023).

necessary federal authorizations to begin construction, in compliance with Environmental Condition No. 9 of the Order⁵ and completing the Project's permitting efforts required for a final investment decision.

Finally, Texas LNG asserts that it is making significant progress on the commercialization of its Project. Therefore, Texas LNG requests an extension of time until November 22, 2029, to complete the construction of the Project and place the facilities into service.

This notice establishes a 15-calendar day intervention and comment period deadline. Any person wishing to comment on Texas LNG's request for an extension of time may do so. No reply comments or answers will be considered. If you wish to obtain legal status by becoming a party to the proceedings for this request, you should, on or before the comment date stated below, file a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. 385.214 or 385.211) and the Regulations under the Natural Gas Act (NGA) (18 C.F.R. 157.10).

As a matter of practice, the Commission itself generally acts on requests for extensions of time to complete construction for NGA facilities when such requests are contested before order issuance. For those extension requests that are contested,⁶ the Commission will aim to issue an order acting on the request within 45 days.⁷ The Commission will address all arguments relating to whether the applicant has demonstrated there is good cause to grant the extension.⁸ The Commission will not consider arguments that re-litigate the issuance of the certificate order, including whether the Commission properly found the project to be in the public convenience and necessity and whether the Commission's environmental analysis for the certificate complied with the National Environmental Policy Act (NEPA).⁹ At the time a pipeline requests an extension of time,

⁵ On January 25, 2024, Texas LNG obtained U.S. Army Corps of Engineers Section 10 and Section 404 permits for the Project, as well as approval from the Railroad Commission of Texas under the Coastal Zone Management Act of 1972.

⁶ Contested proceedings are those where an intervenor disputes any material issue of the filing. 18 C.F.R. 385.2201(c)(1).

⁷ *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at P 40 (2020).

⁸ *Id.* at P 40.

⁹ Similarly, the Commission will not re-litigate the issuance of an NGA section 3 authorization, including whether a proposed project is not inconsistent with the public interest and whether the Commission's environmental analysis for the permit order complied with NEPA.

orders on certificates of public convenience and necessity are final and the Commission will not re-litigate their issuance.¹⁰ The Director of the Office of Energy Projects, or his or her designee, will act on all of those extension requests that are uncontested.

In addition to publishing the full text of this document in the Federal Register, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (<http://www.ferc.gov>). From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. E-mail the Public Reference Room at public.referenceroom@ferc.gov.

The Commission strongly encourages electronic filings of comments in lieu of paper using the "eFile" link at <http://www.ferc.gov>. In lieu of electronic filing, you may submit a paper copy which must reference the Project docket number.

To file via USPS:
Debbie-Anne A. Reese, Acting Secretary
Federal Energy Regulatory Commission
888 First Street NE
Washington, DC 20426

To file via any other courier:
Debbie-Anne A. Reese, Acting Secretary
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12225 Wilkins Avenue
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The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For

¹⁰ *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at P 40 (2020).

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public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or OPP@ferc.gov.

Comment Date: 5:00 pm Eastern Time on **June 17, 2024**.

Debbie-Anne A. Reese,
Acting Secretary.

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