



FEDERAL ENERGY REGULATORY COMMISSION

Office of Commissioner Chang

December 6, 2024

The Honorable Jeff Duncan
Chair
Subcommittee on Energy, Climate, and Grid Security
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Diana DeGette
Ranking Member
Subcommittee on Energy, Climate, and Grid Security
U.S. House of Representatives
Washington, D.C. 20515

Dear Chair Duncan and Ranking Member DeGette:

Thank you for your November 1, 2024, letter regarding the Fiscal Year 2025 Federal Energy Regulatory Commission Budget hearing. Below are my responses to the questions from you and your colleagues.

Questions from the Honorable Jeff Duncan:

- 1. Under the Natural Gas Act, Congress made it clear that there is a public interest in the interstate transportation of natural gas, and it gave FERC the role of reviewing and approving proposed interstate natural gas pipelines. In your opinion, does FERC have the expertise needed to review applications to construct such pipelines and process them in a timely fashion, including the review of potential environmental impacts?**

Yes, I believe that FERC has the staff expertise needed to review and process applications to construct interstate natural gas pipelines in a timely fashion, including the review of potential environmental impacts.

- 2. I have supported legislation to restore the balance of the Natural Gas Act by bringing water quality impact reviews under the FERC-led NEPA process. Communities that need reliable and affordable energy should no longer be denied the opportunity to build natural gas pipelines - or worse - forced to import foreign natural gas to meet their basic energy needs. Is it the opinion of FERC that the agency should prioritize pipeline projects that enable Americans ability to access affordable, clean, American natural gas instead of gas from countries like Russia, Trinidad and Tobago and others?**

Natural gas pipelines can help provide reliable, affordable energy. I intend to evaluate each matter before the Commission based on the specific facts and circumstances and will make decisions based on careful deliberation after considering those facts and the relevant legal authority. If new



legislation expands the Commission's authority over activities that were previously regulated by other federal agencies or the states, I would look forward to promptly reviewing and implementing any new oversight authority when reviewing natural gas pipeline projects.

Question from the Honorable Greg Pence:

- 1. The Commission's issuance of Order 1920, in its Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection proceeding (FERC Docket No. RM21-17), shines a spotlight on a related FERC proceeding on Transmission Planning and Cost Management (FERC Docket No. AD22-8). The objectives of the latter proceeding—enhancing cost management measures and greater transparency and oversight to ensure just and reasonable transmission rates—take on greater importance in the context of the anticipated transmission build-out to support our changing generation mix and growing electricity needs. Order 1920 deferred to the Cost Management proceeding many issues crucial to minimizing the burden on consumers.**

Joint ownership of transmission is one of those issues. In Order 1920, the Commission declined to finalize its proposal to promote such arrangements through a conditional right of first refusal, but committed to continue to consider such reforms, noting the Cost Management proceeding. The Joint Concurrence of Chairman Phillips and then-Commissioner Clements confirmed that “the Commission will continue to evaluate other potential actions to incentivize joint ownership, including considering in the Commission’s Cost Management proceeding whether to provide a right of first refusal or other mechanisms to encourage its use.” In particular, the Joint Concurrence focused on potential actions to incentivize transmission owner joint ownership with public power and cooperatives in their footprint, which “can provide many benefits and should be encouraged.” It describes how such arrangements “can reduce costs for customers in the footprint” and “leverage additional sources of capital, including those that do not typically invest in transmission facilities, which can itself have significant benefits for customers,” citing record evidence documenting substantial consumer savings.

What priority should the Commission give to promoting arrangements, such as joint transmission ownership arrangements with public power and cooperatives, that reduce the cost burden imposed on consumers due to needed grid expansion?

Joint ownership arrangements for new transmission projects between investor-owned utilities and public power and cooperatives already occur today, and I am not aware of any impediments to those collaborations and joint transmission ownership arrangements. The Commission has a responsibility to contain the cost of transmission while the development of beneficial transmission infrastructure continues across the country, and I support the Commission's



ongoing work on cost containment, including considering whether proposed joint ownership arrangements can help reduce costs of beneficial transmission projects.

Questions from the Honorable Randy K. Weber:

- 1. The U.S. LNG export industry is regulated by multiple federal, state, and local agencies. I am concerned about FERC's overlapping, duplicative, and sometimes conflicting requirements with these entities. For example, Section 717b-1 of the Natural Gas Act requires LNG operators to prepare an Emergency Response Plan (ERP) in consultation with the U.S. Coast Guard and State and local agencies. However, in recent issuances, FERC appears to be conditioning LNG Authorizations on operators implementing ERPs along the waterway that go beyond what is required by the U.S. Coast Guard—the Federal agency responsible for, and has expertise over, waterway safety. FERC also appears to be requiring operators to put ERPs in place that would impinge upon the jurisdiction of State and local governments.**

The Coast Guard has rules and regulations in place that protect the safety of the waterway. These regulations have been enforced for over three decades. Has FERC issued LNG Authorizations that impose waterway safety conditions that exceed the requirements of the U.S. Coast Guard?

I am advised by the Commission's Office of Energy Projects that the Commission has not imposed waterway safety conditions that exceed Coast Guard requirements. Section 717b-1 of the NGA requires the Commission to review and approve the ERP prepared by the terminal operator in consultation with the Coast Guard and state and local agencies. As required by the NGA, the ERP is to address security and safety at the LNG terminal and in proximity to vessels that serve the terminal. Accordingly, the Commission relies on the Coast Guard to establish the measures needed to ensure the safety and security of the waterway. For example, each Commission authorization for an LNG project with new or increased capacity of LNG marine vessels typically includes a condition that prohibits commencement of service until determination is made by the Coast Guard that appropriate measures on the waterway and at the facility have been put into place.

- 2. If so, please thoroughly explain why FERC's requirements are more stringent. If not, please thoroughly explain your reasoning citing to specific conditions in LNG Authorizations issued in 2023 and that are no longer subject to FERC's *ex parte* regulations.**

I am advised by the Commission's Office of Energy Projects that the Commission has not issued requirements more stringent than the Coast Guard's for waterway safety and security. The



Coast Guard has advised Commission staff that the Coast Guard does not have jurisdiction over onshore emergency response in proximity to LNG marine vessels and does not have the authority to implement onshore measures related to public notification, public evacuation, or public shelter-in-place. Those authorities rest with state and local agencies. Environmental Condition #21 from the Commission's order on Port Arthur Phase II is representative of the specific requirement the Commission uses to ensure that a terminal operator is consulting and coordinating with the Coast Guard; state, county, and local emergency planning groups; fire departments; and state and local law enforcement in the development of the ERP.¹

3. Does FERC consider conditions for an ERP on a case-by-case basis, or does FERC apply the same conditions for an ERP to all LNG projects? If it applies the same conditions to all projects, how does FERC account for local project-specific differences?

I am advised by the Commission's Office of Energy Projects that although the wording may differ in each Commission order, the Commission imposes the requirement in all LNG project authorizations for the terminal operator to develop pre-incident response plans with the Coast Guard; state, county, and local emergency planning groups; fire departments; and state and local law enforcement agencies. This approach allows the terminal operator to develop the ERP along with agencies that have local knowledge and to tailor the plan's conditions around the needs of each terminal, the waterway, and the onshore areas along the waterway.

4. What happens if a State or local authority disagrees with FERC's ERP conditions? How should the LNG operator manage the competing desires of State/local authorities against FERC's ERP directives?

I am advised by the Commission's Office of Energy Projects that the NGA requires an LNG terminal operator to engage in pre-incident planning and coordination with the local first responder agencies. The Commission's implementation of this Congressional mandate ensures that the terminal operator works with the local emergency providers to identify resource needs based on the hazards that could be present due to the terminal and the ship transit along the waterway. The result is pre-incident planning to establish procedures, training, and capabilities that would be available to first responders. During an incident, decisions regarding response tactics, evacuation, sheltering in place, and public notification would be made by local emergency responders according to the conditions and needs as assessed by those responders at the time of the incident.

¹ See Appendix A of *Port Arthur LNG Phase II, LLC & PALNG Common Facilities Company, LLC*, 184 FERC ¶ 61,184 (2023).



Thank you again for your letter and the opportunity to respond. If I or my staff can be of further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, which appears to read "Judy Chang", is positioned below the word "Sincerely,".

Judy W. Chang

Commissioner