

FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON, D. C. 20426

OFFICE OF THE GENERAL COUNSEL

OCT 29 2019

Dominic Mancini
Acting Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
725 17th Street NW
Washington, D.C. 20503

Re: Emergency Extension of the FERC-539 Information Collection

Dear Mr. Mancini,

Under the Paperwork Reduction Act (PRA) and OMB's implementing regulations at 5 CFR 1320.13, the Federal Energy Regulatory Commission (Commission or FERC) is requesting a three-month extension for FERC-539 (Gas Pipeline Certificates: Import and Export Related Applications, OMB Control No. 1902- 0062). The OMB expiration date is October 31, 2019; we are requesting an extension to January 31, 2020. FERC is requesting that OMB issue its decision on this extension request by October 30, 2019.

FERC-539 includes the filing requirements under 18 CFR Part 153: (a) to obtain authorization under section 3 of the Natural Gas Act for the siting, construction, operation, place of entry for imports or place of exit for exports; and (b) to apply for a Presidential Permit, or an amendment to an existing Presidential Permit, for border facilities.

Continuation of the FERC-539 is essential to the mission of the Commission and to the country. Without this information, public harm is reasonably likely to result. We are requesting this emergency extension to ensure the critical information requirements in FERC-539 remain valid during completion of the normal PRA renewal process that cannot be completed before October 31, 2019, due to an unanticipated event.

The Commission has taken steps to consult with agencies and members of the public by publishing a 60-day PRA Notice in Docket No. IC19-33 (84 FR 46005, September 3, 2019). This Notice solicits public comments on the three-year PRA renewal request for the current FERC-539. Public comments are due November 4, 2019.

Section 3 of the Natural Gas Act (NGA)¹, the Secretary of the Energy's Delegation Order, and Executive Order Nos. 10485 and 12038, authorize the Commission to issue

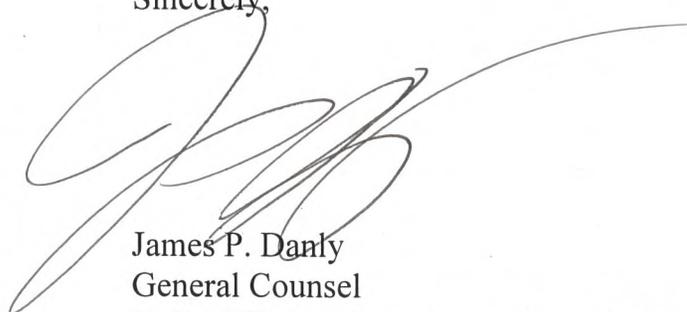
¹ 15 U.S.C. 717-717w

Presidential Permits for natural gas facilities which cross an international border of the United States. The Commission requires the FERC-539 information for statutory purposes.

The enclosure provides additional background on the Commission's responsibilities and the FERC-539.

Please have your staff contact Ellen Brown (202-502-8663) or Jolinda Murray (202-502-8342) if they need additional information.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'J. Danly', with a long horizontal flourish extending to the right.

James P. Danly
General Counsel
Federal Energy Regulatory Commission

cc: Elke Hodson Marten, OMB
Christina Handley, FERC CIO

Enclosure

Background on the Commission's Responsibilities and FERC-539

Section 3 of the Natural Gas Act (NGA);² Secretary of Energy, Department of Energy (DOE) Delegation Order;³ and Executive Order Nos. 10485 and 12038, authorize the Commission to issue Presidential Permits for natural gas facilities which cross an international border of the United States. The natural gas companies file the necessary information (in FERC-539) required by Section 3 of the NGA and the Commission's implementing regulations at 18 CFR Part 153. The NGA, in part states, "...no person shall export any natural gas from the United States to a foreign country or import any natural gas from a foreign country without first having secured an order from the Commission authorizing it to do so." (The DOE approves the importation or exportation of the natural gas commodity.)

The 1992 amendments to Section 3 of the NGA concern importation or exportation from/to a nation which has a free trade agreement with the United States and requires that such importation or exportation:

- (1) shall be deemed to be a "first sale" (i.e. not a sale for a resale)
- (2) shall be deemed to be consistent with the public interest, and applications for such importation or exportation shall be granted without modification or delay

The regulatory functions of Section 3 are shared by the Commission and the Secretary of Energy, DOE. The Commission has the authority to approve or disapprove the construction and operation of facilities, the site at which such facilities will be located, and, with respect to natural gas that involves the construction of new domestic facilities, the place of entry for imports or exit for exports.

FERC-539

The FERC-539 reporting requirements include: a detailed description of the proposal; descriptions of the facilities utilized in the proposed export or import of natural gas; state, foreign, or other Federal governmental licenses or permits for the construction, operation, or modification of facilities in the United States, Canada, or Mexico; and the status of any state, foreign, or other Federal regulatory proceedings; and statements demonstrating that the proposal is in the public interest. If the proposal is to import or export Liquefied Natural Gas

² 15 U.S.C. 717-717w

³ See Secretary of DOE's current delegation of authority to the Commission relating to import and export facilities. The delegated authority was renewed by the Secretary's Delegation Order No. 00-004.00A, effective May 16, 2006.

(LNG), FERC-539 requires evidence that an appropriate and qualified concern will properly and safely receive or deliver such LNG, including a report containing detailed engineering and design information. For applicants proposing to construct, operate, maintain or connect facilities at the borders of the United States and Canada or Mexico for importing or exporting natural gas, a request for issuance of a Presidential Permit is also required.

Continuation of the FERC-539 reporting requirements is critical to the mission of the Commission and to the country. Without this information and the Commission's ability to analyze and decide on the application request, public harm is reasonably likely to result. We are requesting this emergency extension to avoid public harm and to ensure the critical reporting requirements in FERC-539 remain valid until completion of the normal PRA renewal process, that cannot be completed before October 31, 2019.