



Transcontinental Gas Pipe Line Company, LLC
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April 27, 2023

Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426
Attn: Kimberly D. Bose, Secretary

Re: Transcontinental Gas Pipe Line Company, LLC
Docket No. CP17-101
Request for Extension of Time

Ladies and Gentlemen:

Transcontinental Gas Pipe Line Company, LLC (Transco) hereby requests a two-year extension of time, until May 3, 2025, to construct and place into service its Northeast Supply Enhancement Project (NESE), which was authorized by the Federal Energy Regulatory Commission (Commission) by order issued on May 3, 2019 in Docket No. CP17-101-000 (Certificate Order).¹ As more fully described below, Transco submits that good cause exists to grant the requested extension.

I. Background

Under the NESE project, Transco is authorized to construct and operate an incremental expansion of its existing pipeline system to provide up to 400,000 dekatherms per day of firm transportation capacity to Brooklyn Union Gas Company and KeySpan Gas East Corporation (collectively referred to as National Grid) to serve National Grid's residential and commercial customers in the New York City area. Ordering Paragraph (B)(1) of the Certificate Order required Transco to complete the authorized construction of the expansion facilities and make them available for service within two years of the date of the Certificate Order, *i.e.*, by May 3, 2021.

In order to provide more time for Transco to construct NESE, on March 19, 2021 Transco filed with the Commission a request for a two-year extension of time, until May 3,

¹ *Transcontinental Gas Pipe Line Company, LLC*, 167 FERC ¶ 61,110 (2019). By order issued April 16, 2020, the Commission denied rehearing of the Certificate Order. *Transcontinental Gas Pipe Line Company, LLC*, 171 FERC ¶ 61,031 (2020). On July 16, 2020, the Commission issued an order in Docket No. CP20-49-000 approving Transco's application to amend the certificate of public convenience and necessity for the Project to extend and use an existing road to access its proposed Compressor Station 206 in Somerset County, New Jersey, in lieu of constructing a new, permanent access road to the station.

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2023, to construct and place NESE in service. By order issued May 20, 2021,² the Commission granted Transco's request.³

II. Request for Second Extension

Transco respectfully requests a second extension of two years to construct and place in service the NESE project facilities. Extending the certificate of public convenience and necessity for NESE will allow the project to maintain its status and place in the queue as an approved, timely, cost-effective, and practical energy infrastructure solution for the provision of natural gas service to meet the current and future needs of National Grid and its customers in New York City—service that is proving to be even more critical to meeting those needs as permitting delays continue to impede gas projects needed by National Grid.

The Commission's regulations do not establish any particular timeframe during which certificated gas pipeline construction must be completed and placed in service. Instead, Section 157.20(b) of the Commission's regulations provides that the appropriate period of time is to be specified by the Commission in its order issuing the certificate.⁴ The Commission is free to establish an appropriate period of time for construction and completion of authorized facilities and to extend that timeframe as circumstances warrant. If a certificate holder files for an extension of time within a timeframe during which the environmental and other public interest findings underlying the Commission's authorization can be expected to remain valid, the Commission, or staff exercising delegated authority, generally will grant an extension of time if the movant demonstrates good cause.⁵

For the reasons set forth herein, good cause exists to grant a second extension of time to construct the NESE facilities. Transco continues to review the scope of work under NESE to not only meet National Grid's firm transportation capacity needs but also to address water quality concerns raised by New York and New Jersey in their respective denials of water quality certification for the project under Section 401 of the Clean Water Act (CWA).⁶ The proposed extension of time will have no environmental impacts beyond those which the Commission evaluated and found acceptable in issuing the Certificate Order. Nor will the extension have any effect on the Commission's findings in the Certificate Order that the project is in the public interest and consistent with the Certificate Policy Statement, including its finding of adequate market need for NESE, which was based on the Precedent Agreements

² *Transcontinental Gas Pipe Line Co., LLC*, 175 FERC ¶ 61,148 (2021).

³ Upon the Commission's receipt of this request for an extension of time, the May 3, 2023 deadline for completing construction of the NESE project will be tolled pending Commission action on this request. *See Algonquin Gas Transmission LLC*, 170 FERC ¶ 61,144 at P 41 (2020).

⁴ *See* 18 CFR 157.20(b).

⁵ *See Constitution Pipeline Company, LLC*, 165 FERC ¶ 61,081 at P 9 (2018) (*Constitution Pipeline*). In addition, Rule 385.2010(a) of the Commission's Rules of Practice and Procedure provides that the Commission may extend construction and other deadlines for good cause. 18 C.F.R. § 385.2010(a).

⁶ On May 15, 2020, the New York State Department of Environmental Conservation (NYSDEC) denied Transco's application for a water quality certification under Section 401 of the CWA for the segment of NESE located in State of New York waters. Following NYSDEC's denial, the New Jersey Department of Environmental Protection denied Transco's application for a water quality certification (and other individual permits) for the expansion facilities located in New Jersey.

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with National Grid for 100% of NESE capacity (which agreements remain in effect). Transco recognizes that environmental impacts are subject to change and that the validity of the Commission's conclusions and environmental conditions cannot be sustained indefinitely. However, as it has been less than four years since the Commission issued the Certificate Order and found NESE to be in the public convenience and necessity, the information supporting the Commission's findings is not stale. Further, the Commission's record in this proceeding does not reflect any environmental changes in the NESE project area or any new information that calls into question the Commission's prior findings supporting its approval of NESE.

Transco requests only to change the timing of NESE. No other changes or circumstances have occurred that were not already considered by the Commission in approving the project. Transco recognizes that it would not be allowed to commence construction until it obtains all required permits or authorizations required under federal law, including the Section 401 water quality certifications from New Jersey and New York. Thus, extending the two-year deadline for NESE to be constructed and placed into service will not undermine the Commission's findings in the Certificate Order that NESE is required by the public convenience and necessity. The extension is well within Commission precedent, as the Commission has authorized infrastructure projects with initial in-service deadlines of up to six (and even nine) years from the date of certification.⁷

III. Continuing Need for NESE

The continuing need for NESE is amply demonstrated by the 15-year term Precedent Agreements with National Grid for the NESE capacity, which agreements remain in full force and effect. In addition, the importance of adequate and reliable energy supply was made abundantly clear during the recent Winter Storm Elliott, which led National Grid to issue a conservation notice to its 1.9 million customers in Brooklyn, Queens, Staten Island, and Long Island last Christmas and highlighted the impact that extreme weather conditions can have on residential heating and commercial demand during periods of peak winter conditions. Through the addition of new firm transportation capacity to National Grid's local distribution system, NESE would immediately improve the resiliency and reliability of gas service to residential and commercial loads in New York City, including during peak demand days.

Moreover, recent actions in New York make the need for the firm transportation capacity under NESE even more critical. Transco has not proceeded with the construction of NESE as a direct result of the decision by NYSDEC to deny water quality certification under Section 401 of the CWA for the segment of NESE located in State of New York waters. Though NYSDEC's denial stated that Transco failed to demonstrate compliance with applicable water quality standards, underpinning the denial were (i) NYSDEC's determination that NESE is inconsistent with the energy and climate policies, laws, and goals of New York under its Climate Leadership and Community Protection Act (New York Climate Act), and (ii)

⁷ See, e.g., *Mountain Valley Pipeline, LLC*, 180 FERC ¶ 61,117 (2022) (extensions of two and four years, resulting in a nine-year time period for constructing the project); *Golden Triangle Storage, Inc.*, 121 FERC ¶ 61,313 (2007) (six years to complete gas storage project); and *Constitution Pipeline Co., LLC* (two, two-year extensions, resulting in a six-year time period for constructing the project).

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NYSDEC's position that there is a lack of need for NESE, which was implicated by the 2020 Natural Gas Long-Term Capacity Report (and supplements thereto, collectively referred to herein as the Long Term Capacity Reports) submitted by National Grid to the New York Public Service Commission (NYPSC).⁸

The Long Term Capacity Reports found that due to the impact of COVID-19, natural gas demand was reduced in the downstate New York region such that the so-called "Distributed Infrastructure Solution," a proposed alternative to NESE, would satisfy the near-term market demand for natural gas service. However, two of the main components of the Distributed Infrastructure Solution, the LNG vaporization enhancements at National Grid's Greenpoint LNG plant (referred to as the Greenpoint Vaporizer 13/14 Project) and the Enhancement by Compression (ExC) project proposed by Iroquois Gas Transmission System,⁹ have been met with continued permitting delays. The NYPSC recently issued an order denying National Grid's petition for approval of the cost recovery associated with the Greenpoint Vaporizer 13/14 Project,¹⁰ which led National Grid to withdraw its New York Air State Facility Permit Application for the project, effectively bringing to a standstill further development of that project.¹¹ Despite both National Grid and the independent monitor assigned to National Grid (pursuant to the November 24, 2019 Settlement Agreement between National Grid and the NYPSC) characterizing the Greenpoint Vaporizer 13/14 Project as "key" to the Distributed Infrastructure Solution, NYSDEC attributed the withdrawal to National Grid "fail[ing] to justify the need for its proposed fossil fuel infrastructure project at the Greenpoint facility."¹²

Likewise, the ExC project has experienced permitting delays, as the Air State Facility Permits for both the Dover and Athens Compressor Stations have recently been subjected to a hearing and public comment period and, according to NYSDEC, may still be subject to an adjudicatory public hearing before an administrative law judge.¹³ Not only has the NYSDEC yet to make any determination to issue final permits for ExC, it has expressly stated that prior to issuing any final permits for the facilities, NYSDEC would need to ensure that the project can meet the requirements of the New York Climate Act—and indicates that it may seek additional information from Iroquois to facilitate making those determinations.¹⁴

⁸ The Long Term Capacity Reports can be found at <https://ngridolutions.com>.

⁹ The Distributed Infrastructure Solution identifies the Greenpoint Vaporizer 13/14 Project as a near-term need to maintain the reliability of the gas network in downstate New York. Such plan also assumes completion of an aggressive set of incremental demand side management programs to help customers reduce their natural gas usage, the size of which would be unprecedented in New York, and additional portable compressed natural gas capacity to be installed by National Grid.

¹⁰ "Order Denying Cost Recovery for the Vaporizers 13 & 14 Project," issued on March 16, 2023 by the New York Public Service Commission.

¹¹ See Letter Dated March 24, 2023, from National Grid to New York State Department of Environmental Conservation regarding Application ID: 2-6101-00071/00024.

¹² See National Grid Monitorship: Closing Report, Dated September 14, 2021; see also "Statement from New York State Department of Environmental Conservation on National Grid's Withdrawal of the Air State Facility Permit Application for Greenpoint Energy Center," at <https://www.dec.ny.gov/press/press.html>.

¹³ See Notice of Complete Application, Notice of Public Comment Hearing, Notice of Public Comment Period, dated December 28, 2022, regarding Iroquois Enhancement by Compression (ExC) Project.

¹⁴ *Id.*

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According to National Grid, it is “abundantly clear” that without the targeted infrastructure projects “the looming supply gap is real” and that the projects are “necessary to avoid future service restrictions.”¹⁵ Transco continues to review the scope of NESE to not only meet such gas supply gap but also to address the concerns expressed by New York and New Jersey in their respective CWA Section 401 denials. Transco stands ready and willing to construct firm transportation capacity under NESE—but it can do so only if the Commission grants the extension requested herein.

IV. Conclusion

NESE continues to be required by the public convenience and necessity for the reasons set forth in the Certificate Order, and the requested extension will have no impact on the public interest findings underlying such order. The environmental record remains current and relevant. Further, no party would be harmed by a two-year extension of the deadline for completion of construction of the project.

Transco has expended substantial time, effort, and financial resources to obtain the certificate of public convenience and necessity for NESE and the other necessary approvals and permits needed to enable construction to commence. Transco remains committed to constructing this important energy infrastructure and continues to evaluate the scope of the project to ensure that it meets National Grid’s needs while addressing the concerns expressed by New York and New Jersey. Maintaining the certificated status of NESE is vital to keeping the project in its place in the queue as an approved energy infrastructure project that can be timely completed to meet the gas requirements of National Grid and its New York customers. As extreme weather events continue to strain the U.S. energy system, constructing adequate pipeline capacity will be critical to maintaining energy reliability, availability, and security.

Thus, Transco submits that there is good cause for a second extension of time to construct NESE. Accordingly, Transco hereby requests that the Commission grant Transco an extension of time of two years, *i.e.*, until May 3, 2025, for Transco to construct NESE and make firm transportation service under the project available to National Grid.

Respectfully submitted,

TRANSCONTINENTAL GAS PIPE
LINE COMPANY, LLC

By: /s/ Stephen A. Hatridge
Stephen A. Hatridge
Vice President & Assistant General Counsel

¹⁵ “Greenpoint Vaporizers 13 & 14, Long Term Capacity Project Report” at p. 3, August 29, 2022. See <https://ngridsolutions.com>.

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