

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

National Fuel Gas Supply Corporation
Empire Pipeline, Inc.

Docket No. CP15-115-000
Docket No. CP15-115-001

NOTICE OF REQUEST FOR EXTENSION OF TIME

(February 1, 2021)

Take notice that on January 28, 2021, National Fuel Gas Supply Corporation (National Fuel) and Empire Pipeline, Inc. (Empire) (collectively, Applicants), requested that the Federal Energy Regulatory Commission (Commission) grant an extension of time, until December 31, 2024, to complete construction of the Northern Access Project (Project) and make the Project available for service, as authorized in the February 3, 2017 Order Granting Abandonment and Issuing Certificates (Certificate Order).¹

The Project consists of approximately 99 miles of new pipeline, primarily 24-inches in diameter, to be constructed in McKean County, Pennsylvania, and Allegany, Cattaraugus, Erie, and Niagara Counties, New York; a new compressor station along Empire's system in Niagara County, New York; and additional compression at National Fuel's existing Porterville Compressor Station in Erie County, New York, as well as new pipeline interconnects and various auxiliary and appurtenant facilities. The Certificate Order required Applicants to complete construction of the Project facilities and make them available for service by February 3, 2019.² In January 2019, the Commission granted Applicants' request for a three-year extension, until February 3, 2022, to complete construction and place the Project facilities into service.³ Due to legal,

¹ *Nat'l Fuel Gas Supply Corp.*, 158 FERC ¶ 61,145 (2017) (Certificate Order), *order on reh'g and motion for waiver determination under Section 401 of the Clean Water Act*, 164 FERC ¶ 61,084 (2018) (Rehearing Order), *order denying reh'g*, 167 FERC ¶ 61,007 (2019) (Order Denying Rehearing), *pet. for review denied sub nom., N.Y. State Dep't of Env't Conservation v. FERC*, 991 F.3d 439 (2d Cir. 2021).

² Certificate Order, 158 FERC ¶ 61,145 at ordering para. (C)(1).

³ Letter Order to National Fuel Gas Supply Corp. and Empire Pipeline, Inc., Docket No. CP15-115-000 (issued Jan. 31, 2019) (National Fuel Letter Order).

regulatory, and procurement delays, Applicants now request an additional 34-month extension of time, until December 31, 2024, to complete construction of the Project and place it into service.

This notice establishes a 15-calendar day intervention and comment period deadline. Any person wishing to comment on National Fuel and Empire'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 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10).

As a matter of practice, the Commission itself generally acts on requests for extensions of time to complete construction for Natural Gas Act facilities when such requests are contested before order issuance. For those extension requests that are contested,⁴ the Commission will aim to issue an order acting on the request within 45 days.⁵ The Commission will address all arguments relating to whether the applicant has demonstrated there is good cause to grant the extension.⁶ 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.⁷ At the time a pipeline requests an extension of time, orders on certificates of public convenience and necessity are final and the

⁴ Contested proceedings are those where an intervenor disputes any material issue of the filing. 18 CFR 385.2201(c)(1) (2019).

⁵ *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at P 40 (2020).

⁶ *Id.* at P 40.

⁷ 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.

Commission will not re-litigate their issuance.⁸ The OEP Director, 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>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact FERC at FERCOnlineSupport@ferc.gov or call toll-free, (886) 208-3676 or TYY, (202) 502-8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFile" link at <http://www.ferc.gov>. Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Comment Date: 5:00 pm Eastern Time on February 16, 2022.

Kimberly D. Bose,
Secretary.

⁸ *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at P 40 (2020).