

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

In the Matter of the Application of:

LNG Development Company, LLC)	Docket No. CP09-6-001
(d/b/a Oregon LNG))	
)	
Oregon Pipeline Company, LLC)	Docket No. CP09-7-001

NORTHWEST ENVIRONMENTAL DEFENSE CENTER

MOTION TO INTERVENE

Pursuant to Rule 214 of the Federal Energy Regulatory Commission’s (“FERC”) Rules of Practice and Procedure, 18 C.F.R. § 385.214, the Northwest Environmental Defense Center (“NEDC”) moves to intervene in the above-referenced dockets for the Oregon LNG Terminal (CP09-6-001) and Oregon Pipeline (CP09-7-001), proposed by LNG Development Company, LLC and Oregon Pipeline Company, LLC (collectively, “Oregon LNG”). NEDC (“Intervener”) seeks a formal hearing as permitted under 18 C.F.R § 157.10(a)(1). By this motion, Intervener seeks to protect the natural resources of the Pacific Northwest and to ensure that FERC’s decision with respect to these proposed projects is in the public interest.

I. CONTACT INFORMATION

All filings, orders, and correspondence respecting these proceedings and this intervention should be sent to the following:

Marla S. Nelson
Northwest Environmental Defense Center
10015 SW Terwilliger Blvd.
Portland, OR 97219
Email: msnelson@nedc.org

II. DESCRIPTION OF INTERVENER

This intervention motion is filed on behalf of NEDC.

NEDC is a nonprofit public interest organization dedicated to preserving, protecting, and improving the natural environment in the Pacific Northwest. NEDC has hundreds of members and supporters who live throughout the Pacific Northwest. NEDC is based in Portland, Oregon and has been working since 1969 to protect the environment and natural resources of the Pacific Northwest by providing legal support to individuals and grassroots organizations with environmental concerns and engaging in litigation independently or in conjunction with other environmental groups. NEDC and its members also participate in education, commenting on proposed agency actions, and public outreach. NEDC's members and supporters derive educational, scientific, aesthetic, recreational, spiritual, and other benefits from the protection of the Pacific Northwest's natural resources.

NEDC's members have diverse interests implicated by these proceedings, including fishing, biking, recreating, and living or working in or near the land, water and air that will be impacted by the proposed Oregon LNG Terminal and Oregon Pipeline. NEDC's staff, members, and volunteers also have an interest in protecting salmonids, including salmonid rearing, migration, and spawning, and other aquatic and terrestrial life.

NEDC and its staff, members and volunteers will be directly affected by the outcome of these proceedings. The aesthetic, recreational and professional interests of NEDC's staff, members and volunteers will be damaged or impaired by the construction and operation of the proposed terminal and pipeline. The terminal and pipeline will

impact the ecological integrity and natural resources of Oregon and Washington, as well as the health of West Coast salmon evolutionarily significant units (ESUs). Protection of Oregon's and Washington's natural resources and public health in these regions is in the public interest. The proposed pipeline will cross numerous wetlands and salmon spawning streams. Plus, the proposed Oregon LNG Terminal and Oregon Pipeline will impact regional natural gas supply, infrastructure, and energy prices throughout the Pacific Northwest, including the Portland area.

Because Oregon LNG has proposed both the Oregon LNG Terminal and Oregon Pipeline projects, and both projects would facilitate liquefied natural gas (LNG) exports, thereby impacting gas supply, pipeline infrastructure, and energy prices in the Pacific Northwest and specifically in the Portland area, NEDC's interests are directly affected by the Oregon LNG Terminal and Oregon Pipeline. The cumulative impacts that will result from the related Washington Expansion Project, which seeks authorization to construct 140 miles of pipeline through Washington to supply gas for the Oregon LNG project, further demonstrates that NEDC's interests are directly affected by the Oregon LNG Terminal and Oregon Pipeline. The projects are also likely to degrade the natural resources of the Pacific Northwest and thereby harm the public interest. In particular, the projects will likely result in adverse impacts to water quality, public safety, aesthetics, navigation, and fish and wildlife.

III. GROUNDS FOR INTERVENTION

FERC regulations state that a motion for intervention must be filed by the date established in the FERC notice. 18 C.F.R. § 157.10(a); *id.* § 385.210(b). This motion to intervene is timely because FERC's Notice of Application for the Oregon LNG Terminal

and Oregon Pipeline establishes a filing date of July 11, 2013. *See* FERC Notice of Application, Docket Nos. CP09-6-001, *et al.* (June 20, 2013).

FERC Rules of Practice and Procedure 214 permits intervention by a party that is able to establish (1) the position taken by the movant, to the extent known, together with the basis in fact and law for the position, and (2) the movant's interest in the proceeding. 18 C.F.R. § 385.214(b). The movant must state its interest in sufficient factual detail to demonstrate it has a right to participate because either: (1) the right to participate is expressly conferred by statute or by FERC rule, order, or other action; (2) the movant represents an interest which may be directly affected by the outcome of the proceedings; or (3) the movant's participation is in the public interest. *Id.* § 385.214(b)(2).

As explained above, NEDC has and represents interests which may be directly affected by the outcome of the proceedings and NEDC's participation is in the public interest. Intervener's members live, recreate, and work in or around areas impacted by the proposed terminal and pipeline. Construction and operation of the proposed terminal and pipeline may adversely affect the natural resources and ecosystems in the region, including the chemical, physical and biological integrity of the Columbia River and the health of aquatic species and their habitat. The increased risk of a spill, which would result in the release of vapors, potential fire, and other harms, is a direct effect that would result from these proceedings. Construction and operation of the proposed projects also may not be consistent with the public interest. Through intervention, NEDC seeks to obtain equal consideration of non-energy values, adequate and equitable protection,

mitigation, and enhancement measures for fish and wildlife, and the protection of recreation, water quality, and other non-energy related values of the project area.

NEDC and its members have a strong public interest in participating in FERC's review of the Oregon LNG Terminal and Oregon Pipeline as well as the likely adverse impacts on water quality, aquatic habitat, and the local economy.

IV. THE PROPOSED PROJECTS

On June 7, 2013, Oregon LNG filed amendments with FERC to their original LNG import proposal to make the Oregon LNG Terminal and associated pipeline into an export terminal. FERC issued a notice of these applications on June 20, 2013, requiring comments or intervention by July 11, 2013.

The amended applications seek authorization to site, construct and operate a bi-directional LNG terminal and associated facilities in Warrenton, Clatsop County, Oregon, and authorization for a bi-directional pipeline. The 86.8-mile long pipeline would run through Clatsop, Columbia, and Tillamook Counties in Oregon, and Cowlitz County in Washington, intersecting with the system of Northwest Pipeline GP near Woodland, Washington.

Under the Natural Gas Act ("NGA"), regulation of the transportation and sale of natural gas "is necessary in the public interest." 15 U.S.C. § 717(a). Sections 3 and 7 of the NGA prohibit authorization of the construction or operation of an LNG export or import terminal or pipeline unless FERC determines that the project is in the public interest. *See* 15 U.S.C. § 717b ("Section 3") (stating that FERC shall authorize the export or import of natural gas "unless . . . it finds that the proposed exportation or importation will not be consistent with the public interest"); *id.* § 717f(e) ("Section 7") (stating that

FERC shall issue a certificate of public convenience and necessity if the project “is or will be required by the present or future public convenience and necessity; otherwise such application shall be denied”).

Pursuant to FERC’s own regulations, an application under Section 3 of the NGA must demonstrate “the proposal is not inconsistent with the public interest.” 18 C.F.R. § 153.7(c). An application under Section 7 of the NGA must include “all information necessary to advise [FERC] fully concerning the operation, sales, service, construction, extension, or acquisition” for which authorization is sought. 18 C.F.R. § 157.5(a). The regulations require an application to include “all pertinent data and information necessary for a full and complete understanding of the proposed project, including its effect upon applicant’s present and future operations.” *Id.* An application must contain “[t]he facts relied upon by [the] applicant to show that the proposed service, sale, operation, construction, extension or acquisition is or will be required by the present or future public convenience and necessity.” 18 C.F.R. § 157.6(b)(2). The applicant carries the burden of providing adequate information, and must justify the omission of any data. 18 C.F.R. § 157.5(b)-(c).

V. STATEMENT OF POSITION

NEDC is highly concerned that Oregon LNG’s applications for the Oregon LNG Terminal and Oregon Pipeline fail to comply with the statutory and regulatory requirements for FERC applications under Sections 3 and 7 of the NGA, thereby threatening direct harm to NEDC’s interests and the public interest in protecting Oregon’s and Washington’s natural resources. Oregon LNG’s applications omit pertinent and complete studies, contain major data gaps, lack necessary information on

impacts to local businesses, lack information on water quality and quantity impacts, fail to provide an adequate discussion of the likely health and safety impacts, and fail to justify that the project is in the public interest.

NEDC seeks to participate in these proceedings to ensure the protection and conservation of public resources, including the quality of Oregon's and Washington's land, water, air, and the wildlife that depends on it. NEDC has a history of tracking proposed projects in the Pacific Northwest and will analyze FERC's authorization process to ensure compliance with all federal and state environmental laws and regulations.

NEDC reserves its right to take any position in this proceeding consistent with the goal of protecting the public interest in preserving and conserving the lands, water quality, air quality, public safety, and natural resources in Oregon and Washington. In this authorization proceeding, NEDC will advocate positions consistent with protecting these public interests and other environmental, natural resource and economic concerns.

Specific issues of concern for NEDC include but are not limited to:

Public Interest: It is not clear from the applications that the public interest will be served by allowing the construction and operation of the proposed terminal and pipeline. The applications fail to demonstrate that the proposed facilities are consistent with the public interest as required by FERC's regulations. 18 C.F.R. § 153.7(c). The applicant has failed to provide adequate evidence to demonstrate the proposed terminal location and design, as well as the pipeline route, will have the least adverse impact on local water resources, forests, and wildlife that depend on these habitats. There is significant evidence that the project will negatively impact local farms, fish habitat, water quality

and natural resources. The risk of a spill or accident, if these projects are constructed, itself is a major adverse impact on Oregon's and Washington's natural resources. Oregon LNG has failed to demonstrate that the public benefit of LNG, if any, outweighs the significant social, economic, and environmental harm likely to result from the proposed construction and operation of these projects.

Public Convenience and Necessity: It is unclear from the applications that the pipeline and terminal are in the public interest or required for public convenience and necessity. The applications fail to provide a solid factual basis for the contention that the terminal and pipeline are necessary to support demand in the Pacific Northwest. Rather, the Oregon LNG Terminal and Oregon Pipeline may increase energy costs for consumers in Oregon, Washington, and elsewhere in the United States.

Water Quality, Salmon Recovery, and Wildlife Habitat: The projects would result in a number of significant impacts to water quality from the construction, operation and maintenance of the terminal and pipeline. Terminal and pipeline construction would pose a significant risk of sediment and other materials entering Oregon's and Washington's waters. Federally protected salmon rely on the Columbia River and its tributaries located in the project area for migration, rearing, and spawning habitat. The Columbia River and estuary is home to many other federally listed species and critical habitat, including Eulachon and Lower Columbia River Coho Salmon. The protection of water quality and the salmon and wildlife that depend on it within the region of these proposed projects is a critical interest for NEDC. Harm to this interest would be a direct impact on NEDC and its members.

Economic impacts: The proposed pipeline has the potential to degrade the economic values of property, including farms and forestlands, by preventing customary uses of land, causing erosion and environmental damage, harming drainage systems, and creating safety risks. Exporting LNG could negatively impact ratepayers and energy supplies throughout the Pacific Northwest. The Washington Expansion Project (CP13-507-000) is simultaneously seeking authorization from FERC to construct 140 miles of new pipeline through the state of Washington to supply gas for the Oregon LNG project. FERC should evaluate the cumulative impact of the Oregon LNG Terminal, Oregon Pipeline, and Washington Expansion Project. *See* Notice of Intent to Prepare an Environmental Impact Statement for the Oregon LNG Export Project and Washington Expansion Project at 1 (Sept. 24, 2012) (stating “Oregon LNG’s Export Project and Northwest’s [Washington Expansion Project] would be connected actions, and the FERC intends on evaluating both proposals in the same environmental impact statement”). Because the outcome of these proceedings will impact infrastructure linked to the Washington Expansion Project, as a whole these projects are likely to have major economic consequences for energy customers in Oregon and Washington. NEDC and its members, as energy customers, thus have an interest in the Oregon LNG Terminal and Oregon Pipeline projects.

Inadequate and Insufficient Information: The resources reports and applications fail to provide adequate information about all of the above project impacts. Plus, FERC has provided an unreasonably short period of time for members of the public to intervene and provide comment.

NEDC supports FERC's decision to prepare a full and adequate environmental impact statement ("EIS") under the National Environmental Policy Act that analyzes the Oregon LNG Terminal, Oregon Pipeline, and Washington Expansion Project. *See* Notice of Intent to Prepare an Environmental Impact Statement for the Oregon LNG Export Project and Washington Expansion Project at 1 (Sept. 24, 2012). This EIS should also consider the environmental impacts of not constructing the proposed projects.

CONCLUSION

Because NEDC has a substantial interest in the outcome of the terminal and pipeline authorization proceeding and no party adequately represents its interests, NEDC respectfully requests that FERC grant its motion to intervene in the Oregon LNG Terminal and Oregon Pipeline proceedings.

Respectfully submitted,



Marla Nelson
Legal Fellow
Northwest Environmental Defense Center
10015 S.W. Terwilliger Blvd.
Portland, OR 97219

CERTIFICATE OF SERVICE

I certify that on June 11, 2013, I electronically filed the original document, Northwest Environmental Defense Center Motion to Intervene, with:

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E., Room 1A
Washington, DC 20426

I further certify that I served one copy of Motion to Intervene on behalf of Northwest Environmental Defense Center via electronic mail, and for those parties for which service is not specified at an electronic address, by first class mail, on all parties listed on the office service list compiled by the Secretary in this proceeding.

DATED this 11th day of June, 2013.

s/ Marla S. Nelson
Legal Fellow
Northwest Environmental
Defense Center