

155 FERC ¶ 61,246
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

Transcontinental Gas Pipe Line Company, LLC

Docket No. CP15-89-001

ORDER DENYING STAY

(Issued June 8, 2016)

1. On April 7, 2016, the Commission issued a certificate of public convenience and necessity under section 7(c) of the Natural Gas Act authorizing Transcontinental Gas Pipe Line Company, LLC to construct and operate certain facilities in Burlington and Mercer Counties, New Jersey (Garden State Expansion Project).¹

I. Requests For Stay

2. On May 9, 2016, Bordentown Township and Township of Chesterfield, New Jersey filed requests for rehearing of the April 7 Order. In those requests, the parties sought a stay of all construction activity associated with the Garden State Expansion Project and any related condemnation proceedings.²

3. For the reasons discussed below, the Commission finds that justice does not require a stay and therefore denies the requests of Bordentown and Chesterfield.

¹ *Transcontinental Gas Pipe Line Company, LLC*, 155 FERC ¶ 61,016 (2016) (April 7 Order).

² The Commission has yet to consider the merits of the parties' request for rehearing.

II. Commission Determination

4. The Commission grants a stay when “justice so requires.”³ In determining whether this standard has been met, the Commission considers several factors, including: (1) whether the party requesting the stay will suffer irreparable injury without a stay, (2) whether issuing a stay may substantially harm other parties; and (3) whether a stay is in the public interest.⁴ If the party requesting the stay is unable to demonstrate that it will suffer irreparable harm absent a stay, we need not examine the other factors.⁵

5. Bordentown makes no effort to explain why a stay is warranted in this case, apart from identifying the legal errors purportedly made by the Commission in the April 7 Order.⁶ Accordingly, Bordentown’s request is denied.⁷

6. Chesterfield states that a stay is necessary because the Garden State Expansion Project “will result in irreparable harm in the form of tree removal and destruction of wetlands.”⁸ This generalized claim does not constitute evidence of irreparable harm that

³ *Enable Gas Transmission*, 153 FERC ¶ 61,055, at P 118 (2015); *Transcontinental Gas Pipe Line Co.*, 150 FERC ¶ 61,183, at P 9 (2015).

⁴ Ensuring definiteness and finality in our proceedings also is important to the Commission. See *Constitution Pipeline Co.*, 154 FERC ¶ 61,092, at P 9 (2016); *Enable*, 153 FERC ¶ 61,055 at P 118; *Millennium Pipeline Co.*, 141 FERC ¶ 61,022, at P 13 (2012).

⁵ See, e.g., *Algonquin Gas Transmission, LLC*, 154 FERC ¶ 61,236, at P 8 (2016); *Transcontinental Gas Pipe Line*, 150 FERC ¶ 61,183 at P 9; *Millennium Pipeline*, 141 FERC ¶ 61,022 at P 14.

⁶ Bordentown Request for Rehearing, Rescission and Stay, filed May 9, 2016, at 2, 4, 12.

⁷ Moreover, the Commission lacks authority to stay any eminent domain proceedings as requested by Bordentown. “Issues related to the acquisition of property rights by a pipeline under the eminent domain provisions of section 7(h) of the NGA, including issues regarding compensation, are matters for the applicable state or federal court.” *Florida Southeast Connection, LLC*, 154 FERC ¶ 61,264, at P 10 (2016).

⁸ Chesterfield Petition for Rehearing and Request for Stay, filed May 9, 2016, at 37.

would justify a stay.⁹ Moreover, as explained in the April 7 Order, the Project “would result in limited tree clearing” and those “trees that will be removed are adjacent to existing cleared areas” in habitat that is “already fragmented by existing agricultural and electrical right-of-way land uses.”¹⁰ The April 7 Order also explained that, if constructed in accordance with the conditions imposed by the Commission, the Project will not have a significant impact upon wetland resources.¹¹

7. In approving the Garden State Expansion Project, the Commission fully considered the Environmental Assessment prepared by Commission staff and addressed the comments of Chesterfield, Bordentown and others in the April 7 Order’s environmental discussion.¹² The Commission determined that, on balance, the Garden State Expansion Project, if constructed and operated in accordance with the application and supplements, and in compliance with the environmental conditions appended to that order, would not significantly affect the quality of the human environment.¹³ Given this conclusion, we do not believe that denying the request for stay puts the environment at risk.

8. For these reasons, the Commission finds that neither Bordentown nor Chesterfield has demonstrated that they will suffer irreparable harm, and their requests for stay are denied.

⁹ See *Tennessee Gas Pipeline Co., L.L.C.*, 155 FERC ¶ 61,087, at P 5 (2016) (finding that a “generalized claim [of environmental harm] does not constitute evidence of irreparable harm that would justify a stay”); *Florida Southeast Connection, LLC*, 154 FERC ¶ 61,264 at P 8 (denying stay premised upon “generalized environmental harm without identifying specifics”); *Empire Pipeline, Inc.*, 153 FERC ¶ 61,379, at P 11 (2015) (denying stay where movant “provided only unsupported, generalized allegations about environmental harm resulting from the project”); *Transcontinental Gas Pipe Line*, 150 FERC ¶ 61,183, at P 19 (denying stay request where movant “only asserts generalized environmental harm to its members without identifying specifics”); *Tennessee Gas Pipeline Co.*, 96 FERC ¶ 61,116, at 61,446 (2001) (“general allegations do not constitute evidence of irreparable harm that would justify staying the orders in this proceeding”).

¹⁰ April 7 Order at PP 109, 110.

¹¹ *Id.* PP 104-107.

¹² *Id.* PP 32-149.

¹³ *Id.* P 147.

The Commission orders:

The requests for stay filed by Bordentown and Chesterfield are denied.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.