

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

)
**Authorizations for Certain Activities at)
Liquefied Natural Gas Plants) Docket No. RM26-2-000
)**

COMMENTS OF THE UNDERSIGNED ATTORNEYS GENERAL

In November 2025, the Federal Energy Regulatory Commission (“FERC” or “Commission”) issued a Notice of Inquiry (“Notice”) soliciting comments on the Commission’s potential revision of its regulations to establish procedures for authorizing activities at liquefied natural gas (“LNG”) plants without case-specific authorization orders.¹ The Commission identified the purpose for such procedures as being “to provide regulatory certainty and significantly streamline liquefied natural gas infrastructure permitting.”² Pursuant to the Commission’s invitation of stakeholder perspectives in response to this proposal, the Attorneys General for the States of Maryland, Oregon, Connecticut, Delaware, Massachusetts, Michigan, New York, Rhode Island, and Vermont (collectively, the “States”) submit the following comments.

The States appreciate the opportunity created by the Notice of Inquiry to submit our sovereign perspectives on this important subject. This submission sets forth the States’ primary concerns with any prospective blanket authorization program for activities at LNG facilities³

¹ *Authorizations for Certain Activities at Liquefied Natural Gas Plants*, 90 Fed. Reg. 53,251 (Nov. 25, 2025).

² *Id.* at 53,253-54.

³ The States use the terms LNG “plants,” “terminals,” “operations,” and “facilities” interchangeably due to ambiguity in the Commission’s use of these terms in the Notice and the variety of industrial activities, equipment, and buildings that might be subject to the Commission’s rulemaking in this docket. The States are concerned about the application of a blanket permit program to any facility, terminal, plant, or other development involved in the liquefaction of natural gas; the transportation, storage, or regasification of LNG; and other related activities involving LNG under FERC’s jurisdiction. The States do not waive any arguments regarding any category of

under FERC’s jurisdiction under the Natural Gas Act (“NGA”)⁴ and also presents our views on the additional information necessary to inform any subsequent proceeding in this rulemaking. Significantly, the information available in the Notice and otherwise available to the public relevant to this proposal lack clarity and transparency, undermining the significant public safety interests at stake in this rulemaking, which can and should be remedied by the Commission before it moves forward with a proposed rule on this important subject.

I. STATUTORY AND REGULATORY BACKGROUND

a. Relevant Provisions of the Natural Gas Act Underline the Unique Considerations Congress Directed FERC to Consider for LNG Plants.

The Natural Gas Act is clear and consistent in its unique treatment of LNG plants compared to natural gas pipelines, and Congress prescribes multiple unique considerations and notice provisions for FERC to observe as part of its jurisdiction over covered LNG facilities.

The Natural Gas Act defines LNG terminals specifically as the collection of facilities used to effectuate the import or export of natural gas in international commerce, or natural gas “transported in interstate commerce by waterborne vessel.”⁵ However, LNG terminals do *not* include “any pipeline or storage facility subject to the jurisdiction of the Commission” under 15 U.S.C. § 717f.⁶ Through delegation to the Commission from the Department of Energy, the Natural Gas Act confers the “authority to approve or deny an application for the siting, construction, expansion, or operation of an LNG [import or export] terminal.”⁷ Section 717b-1

activity or facility involving LNG that may be further disclosed or clarified in the process of this potential rulemaking.

⁴ 15 U.S.C. §§ 717 *et seq.*

⁵ 15 U.S.C. § 717a(11).

⁶ *Id.*

⁷ 15 U.S.C. § 717b(e)(1); U.S. Dep’t of Energy, *Department of Energy Delegation Order No. S1-DEL-FERC-2006 to the Federal Energy Regulatory Commission*, § 1.21(A) (May 16, 2006), available at <https://www.directives.doe.gov/delegations-documents/s1-del-ferc-2006> [hereinafter “Delegation Order”]; *see also* 90 Fed. Reg. at 53,252 n.2.

provides additional procedures and considerations FERC must observe with respect to LNG terminals specific to state and local safety considerations. Under the NGA, FERC must consult with a designated “State agency regarding State and local safety considerations *prior to issuing* an order” approving or denying an application under 15 U.S.C. § 717b, and the statute further directs FERC to “review and respond specifically to the issues raised by the State agency.”⁸ Section 717b(e)(2)(B) specifically directs FERC to notify “the State commission of the State in which the LNG terminal is located and, if not the same, the Governor-appointed State agency described in” 15 U.S.C. § 717b-1 upon the filing of such an application with FERC. The NGA also requires FERC to ensure that “[i]n any order *authorizing* an LNG terminal the Commission shall require the LNG terminal operator to develop an Emergency Response Plan” including input from the relevant state and local agencies, and that the plan includes a cost-sharing plan that describes “any direct cost reimbursements that the applicant agrees to provide to any State and local agencies with responsibility for security and safety” around the LNG terminal.⁹

The Notice indicates that the blanket regulations FERC is considering would govern certain activities at LNG plants *including* the LNG import and export terminals subject to FERC’s jurisdiction under the above provisions of the Natural Gas Act, 15 U.S.C §§ 717b and 717b-1.¹⁰ However, the Notice also indicates it might cover facilities subject to FERC’s authority to issue “certificates of public convenience and necessity for natural gas and LNG facilities used for the transportation of natural gas in interstate commerce” under 15 U.S.C. § 717f(c)(1)(A),¹¹ likely alluding to LNG “peakshaver” plants used primarily to store natural gas

⁸ 15 U.S.C. § 717b-1(b) - (c) (emphasis added).

⁹ 15 U.S.C. § 717b-1(e) (emphasis added).

¹⁰ 90 Fed. Reg. at 53,251 n.1.

¹¹ *Id.* at 53,252. The Commission has also been delegated authority over certificates of public convenience and necessity for all natural gas facilities from the Department of Energy. Delegation Order § 1.21(B).

in liquefied form.¹² Examples of the former include the Cove Point LNG import and export terminal located in Calvert County, Maryland,¹³ while the latter includes the proposed LNG storage facility to be located in Worcester County, Maryland as part of the Worcester Resiliency Upgrade Project developed by the Eastern Shore Natural Gas Company.¹⁴ The ambiguity concerning the specific categories of facilities subject to FERC's jurisdiction that might be implicated by this rulemaking is troubling, especially to states like Maryland that house multiple active and proposed LNG facilities in different locations with unique safety profiles and environmental considerations. The States respectfully request the Commission clarify its construction of its authorities and mandates pertaining to LNG facilities under the Natural Gas Act and specify the categories of LNG plants, terminals, or facilities it intends to analyze in greater detail through this rulemaking process so that the public may adequately provide input specific to those circumstances.

b. FERC's Existing Implementing Regulations and Current Procedures for LNG Facilities Appropriately Maintain the Statutory Framework and Notice Requirements.

The Notice indicates that the Commission is exploring “whether, and if so how, to revise its Part 153, 157, and 380 regulations to establish procedures for authorizing certain activities at LNG plants without a case-specific authorization order” under both provisions of the Natural Gas Act described above.¹⁵ A brief exploration of FERC's existing regulations and procedures illustrates the unique considerations FERC has appropriately codified for LNG facilities, the

¹² See *FERC Jurisdictional Peakshavers*, FERC (Jan. 6, 2026), <https://www.ferc.gov/media/ferc-jurisdictional-peakshavers-10>.

¹³ *Cove Point LNG*, BHE GT&S, <https://www.bhegts.com/our-businesses/cove-point-LNG> (last accessed Jan. 12, 2026).

¹⁴ *Eastern Shore Natural Gas Company; Notice of Application and Establishing Intervention Deadline*, 88 Fed. Reg. 65,170 (Sept. 21, 2023).

¹⁵ 90 Fed. Reg. at 53,253-54.

public notice and state and local safety and emergency planning procedures that must be maintained, and the need for greater specificity and transparency in the regulations the Commission is considering amending within this comprehensive regulatory framework.

i. Part 153

FERC's Part 153 regulations principally implement the Commission's delegated jurisdictional authority over LNG import and export terminals under the Natural Gas Act.¹⁶ However, Part 153's application is quite broad, directing applicants who seek to "site, construct, or operate" an LNG import or export terminal, "including the modification of existing authorized facilities," to request authorization from FERC to undertake those activities.¹⁷ An application under Part 153 also requires the applicant to certify its "compli[ance] with laws and regulations of the state or states in which [the] applicant operates,"¹⁸ disclose "each Federal authorization that the proposal will require; the Federal agency or officer, or State agency or officer acting pursuant to delegated Federal authority, that will issue each required authorization,"¹⁹ and comply with the pre-filing procedures codified at 18 C.F.R. § 157.21.²⁰ Each of these regulatory provisions preserves important statutory consultation and notice rights for impacted state and local agencies that cannot and should not be bypassed in expedited proceedings. Moreover, the breadth of these regulations' applicability, encompassing both the construction of new facilities and modifications at existing LNG terminals, highlights the difficulty the public might have in leveraging appropriate perspectives and expertise to provide meaningful stakeholder input on the Notice as currently formulated.

¹⁶ 18 C.F.R. § 153.1; 15 U.S.C. §§ 717b, 717b-1; Delegation Order § 1.21(A).

¹⁷ 18 C.F.R. § 153.5.

¹⁸ 18 C.F.R. § 153.8(a)(3).

¹⁹ 18 C.F.R. § 153.8(a)(8).

²⁰ 18 C.F.R. § 153.12.

ii. Part 157

Part 157 of FERC’s regulations implements the Commission’s delegated authority to issue certificates of public convenience and necessity for natural gas operations in general according to 15 U.S.C. § 717f(c).²¹ This includes applications to “site, construct and operate” LNG import and export terminals as well as “prospective modifications to an existing LNG terminal … that involve significant state and local safety considerations that have not been previously addressed,” including “the addition of LNG storage tanks” and other activities indicating a change in the plant’s throughput or capacity.²² The regulations require applications concerning LNG terminals and related facilities to proactively “list [] the relevant federal and state agencies in the project area with permitting requirements,” “identify the agency designated by the governor of the state in which the project will be located to consult with the Commission,” and to specifically attest that “those agencies are aware of the prospective applicant’s intention to use the pre-filing process” and “[w]hether the agencies have agreed to participate in the process.”²³

Combined, these regulations maintain the important principle of providing notice to affected state and local entities regarding LNG activities that implicate significant public safety interests as required by statute.

²¹ 18 C.F.R. § 157.5; Delegation Order § 1.21(B).

²² 18 C.F.R. § 157.21.

²³ 18 C.F.R. § 157.21(d)(5).

c. The Commission’s Prior Analysis and Publicly Available Information Do Not Justify the Extension of Existing Blanket Permit Regulations for Natural Gas Pipelines to LNG Plants.

As discussed in the Notice, the Commission has twice previously considered and denied the extension of the blanket certificate program currently in place for natural gas pipelines to LNG plants like import and export terminals.²⁴ Based on the information available to the States and the public, the reasoning provided by the Commission in those previous rulemakings regarding the safety profile and environmental risks of LNG still holds true today, and the Commission has not yet disclosed sufficient data or analysis through this rulemaking to justify its assertions and proposed change of course here.²⁵

The blanket certificate program establishes categories of activities at covered facilities that are subject either to “automatic” authorization or “prior notice” authorization, predicated largely on cost-based thresholds for each category. The 1982 final rule initially establishing the Commission’s blanket certificate program stated:

The Commission believes that the per-project cost limitations should be retained in the final regulations because they provide some basis for judging whether a proposed activity is sufficiently routine and will have a sufficiently small impact on ratepayers.²⁶

At the time, since LNG was primarily an imported commodity, the Commission excluded “facilities constructed to effect the purchase of gas from … plants gasifying liquefied natural gas” from eligibility under the blanket certificate program “[b]ecause such facilities may have a

²⁴ 90 Fed. Reg. at 53,252-53.

²⁵ See, e.g., *F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. 502, 515-16 (2009) (“[T]he agency need not always provide a more detailed justification than what would suffice for a new policy created on a blank slate. Sometimes it must—when, for example, its new policy rests upon factual findings that contradict those which underlay its prior policy; . . . It would be arbitrary and capricious to ignore such matters.”).

²⁶ *Interstate Pipeline Certificates for Routine Transactions*, 47 Fed. Reg. 24,254-01, at 24,259 (June 4, 1982).

significant impact on ratepayers” and “should be subjected instead to the scrutiny of a case-specific determination.”²⁷

In 2006, the Commission found that “automatic authorization was unsuited to LNG and synthetic gas facilities because these projects raise[] fact-specific issues of safety, security, and gas interchangeability,” and further that “LNG plant facilities are not within the class of minor, well-understood routine activities that the blanket certificate program is intended to embrace.”²⁸ While acknowledging that, even in 2006, LNG was already an established component of the country’s natural gas landscape, the Commission held that extending blanket authorizations to LNG terminals and directly connected facilities would be “incompatible with the statutory and regulatory requirements applicable to LNG terminal facilities.”²⁹ As the Commission explained:

The blanket certificate program was designed to provide an administratively efficient means to authorize a generic class of routine activities The Commission continues to apply the above criteria in an effort to distinguish those types of activities that may appropriately be constructed under blanket certificate authority from those projects that merit closer, case-specific scrutiny due to their potentially significant impact on rates, services, safety, security, competing natural gas companies or their customers, or on the environment.³⁰

These statutory provisions and unique considerations still set LNG plants apart from other natural gas facilities today. Further, while cost limitations may have been deemed an appropriate surrogate for distinguishing whether a pipeline project was appropriate for “the streamlined procedures of the blanket certificate regulations,”³¹ it is unclear how such a surrogate is justified

²⁷ 47 Fed. Reg. at 24,258.

²⁸ Revisions to the Blanket Certificate Regulations and Clarification Regarding Rates, 117 FERC ¶ 61,074, paras. 18, 21 (Oct. 19, 2006), 2006 WL 2988857 (quoting *Revisions to the Blanket Certificate Regulations and Clarification Regarding Rates*, 71 Fed. Reg. 36,276-01, 36,279-80 (June 26, 2006)).

²⁹ 117 FERC ¶ 61,074, paras. 19-21.

³⁰ 117 FERC ¶ 61,074, paras. 7-8.

³¹ 47 Fed. Reg. at 24,259.

when considering LNG facility projects and activities, which the Commission has not sufficiently shown to be similarly routine or generic.

LNG plants and related facilities continue to merit appropriate notice and public participation because of their significant impact on safety, security, emergency preparedness and response services, and the environment. Construction and modification of these facilities raise fact-specific safety and security issues and present unique location-dependent environmental impacts. The Commission has incorporated only a small subset of activities concerning LNG in its blanket certificate procedures: “natural gas facilities that are used to transport either a mix of synthetic and natural gas or *exclusively revaporized* liquefied natural gas,” which are still subject to the prior notice requirements of the blanket certificate program.³² Under the Commission’s prior notice proceedings, projects at applicable facilities under \$41.1 million in cost as of 2024³³ are subject to a 60-day notice requirement via FERC’s publication of the proposed project in the Federal Register, during which time concerned entities may protest the project.³⁴ Unless the protests are alternatively resolved and withdrawn unanimously, the project must undergo a full case-specific authorization proceeding before the Commission.³⁵ Importantly, the blanket certificate regulations also emphasize the continued effectiveness of environmental requirements under other statutes implicating state and local interests that blanket certificate holders must continue to comply with, including the Clean Water Act, the Clean Air Act, and the Coastal Zone Management Act.³⁶

³² 18 C.F.R. §§ 157.212 (emphasis added), 157.203(c), 157.205.

³³ 18 C.F.R. §§ 157.208(d), 157.212. Projects may not be segmented in an effort to fall under this cost threshold. 18 C.F.R. § 157.212.

³⁴ 18 C.F.R. §§ 157.205(b)-(e).

³⁵ 18 C.F.R. § 157.205(f).

³⁶ 18 C.F.R. § 157.206.

The Notice of Inquiry here makes no attempt to explain why any category of activities at larger LNG plants and terminals should no longer require case-by-case review of engineering, environmental, or public safety and security issues, or why the blanket regulations pertaining to the smaller subset of facilities transporting revaporized LNG outlined above are no longer sufficient. In the Notice, the Commission only points vaguely to the fact that “[t]he Commission has evaluated more than 100 LNG project applications since 2006” without disclosing any details about the costs, impacts, or general categories of activities those applications entailed.³⁷ Without further specificity, 100 applications since 2006 averages to approximately 5 applications per year; since there are only a limited number of active LNG terminals and facilities under FERC’s jurisdiction, this figure does little on its own to justify the necessity or propriety of the “streamline[d]” regulations it now seeks to create.³⁸ As explained further below, the Commission has not yet disclosed any information or analysis necessary for the public to meaningfully analyze the propriety of either a cost-based or alternative blanket certificate program for activities at facilities as diverse and complex as LNG plants.

³⁷ 90 Fed. Reg. at 53,253.

³⁸ 90 Fed. Reg. at 53,253-54. According to the Commission, there were only 13 active LNG terminals with import, export, or bidirectional capabilities as of December 31, 2025. *U.S. LNG Import Terminals – Existing, Approved not Yet Built, and Proposed*, FERC (Jan. 6, 2025), <https://www.ferc.gov/media/us-lng-import-terminals-existing-approved-not-yet-built-and-proposed>; *U.S. LNG Export Terminals – Existing, Approved not Yet Built, and Proposed*, FERC (Jan. 6, 2025), <https://www.ferc.gov/media/us-lng-export-terminals-existing-approved-not-yet-built-and-proposed>.

II. SPECIFIC CONCERNS OF THE STATES PERTAINING TO ANY BLANKET PERMIT PROGRAM FOR AUTHORIZING ACTIVITIES AT LNG PLANTS

a. Ambiguity in the Notice of Inquiry Undermines the Public Participation It Seeks, and Its Application to New and Expanded LNG Plants or Facilities Is Unjustifiable.

The Notice of Inquiry purports to seek input on whether, and if so, how to revise the Commission’s “*procedures* for authorizing” LNG plant activities similar to the existing blanket certificate program for interstate natural gas pipelines; however, the questions posed by the Commission in the Notice also include what *activities* at LNG plants should be considered in such a program.³⁹ The combined layers of ambiguity and failure to provide the public with any information regarding the specific activities the Commission is concerned with substantially hinders the States’ and others’ ability to provide meaningful input on the appropriate procedures that should govern those activities. The States respectfully urge the Commission to produce, in the process of this potential rulemaking, examples of the activities the Commission is concerned with in Part I.B of the Notice;⁴⁰ anonymized data regarding the costs, approval rates, and administrative burden associated with these applications; and any other publicly digestible studies, reports, or data that would justify the Commission’s assertions that “the current case-by-case review process for certain replacements, modifications, and expansions may be administratively inefficient, slow down needed projects, and create unnecessary regulatory uncertainty” without undermining statutory protections for public safety and the environment.⁴¹ Moreover, the States strongly maintain that any blanket certificate program should not extend to

³⁹ 90 Fed. Reg. at 53,251, 53,254 (emphasis added).

⁴⁰ *Id.* at 53,252.

⁴¹ *Id.* at 53,253.

any construction or expansion of a new or existing LNG terminal or facility,⁴² which would constitute an extreme departure from the Commission’s existing blanket regulations for natural gas pipelines and would necessarily infringe on state and local interests protected by statute.

i. Clarity and Public Data Are Needed Before the Commission May Proceed.

In short, without information establishing or explaining what LNG plant activities are sufficiently “routine,” or fall into a generic class of activities so well understood as to warrant automatic or prior notice authorization,⁴³ the public lacks the information needed to meaningfully comment on any proposal for an expanded blanket certificate program. While the States appreciate that the Commission is requesting public feedback on what types of activities should or should not be subject to a blanket certificate program, the Notice of Inquiry also purports to be requesting feedback on whether there should be a blanket authorization program at all, and if so, what procedures it should follow.⁴⁴ Asking for input on procedures before identifying and analyzing appropriate categories of projects and activities that may be subject to such procedures is putting the cart before the horse. The first step must be to consider whether there is *any* category of LNG facility activities that, like the natural gas pipelines subject to the existing blanket certificate program under 18 C.F.R. § 157.201, share such similar characteristics and entail demonstrated minimal impact to public safety and the environment that a blanket certificate program is justified.⁴⁵ Only once this threshold justification is met can the public provide meaningful input on the necessary and appropriate procedures that may practically and legally be appropriate for such LNG operations.

⁴² See *id.* at 53,254.

⁴³ See *id.* at 53,253.

⁴⁴ *Id.* at 53,251-52.

⁴⁵ See *id.* at 53,253.

Accordingly, the States urge the Commission to embark upon further study and assessment of known projects and activities at LNG plants and facilities to address the distinctions between the natural gas pipeline facilities currently subject to blanket certificate authorizations compared to the numerous and diverse activities known to be associated with LNG operations. That information should be disclosed to the public prior to the publication of any proposed rule. Elucidation of these distinctions is necessary to inform both the projects and activities that may be subject to these regulations and the appropriate procedures that should apply to them. The lack of clarity around these distinctions currently present in the Notice undermines the specificity and utility of the public stakeholder input the Commission seeks and should be rectified before the Commission proceeds with this rulemaking.⁴⁶

ii. New and Expanded LNG Facilities Must Be Excluded from Any Blanket Certificate Program.

To the extent that this Notice of Inquiry is seeking States' perspective on whether any new LNG plant, terminal, or facility should be subject to a blanket authorization program, the States strongly disagree that such an action would be appropriate. The same logic applies to any activity that would expand the capacity of an existing LNG operation due to the likely attendant increase in hazardous materials, emissions, personnel, and safety procedures that might be implicated.⁴⁷ Such actions would inherently impact important state and local safety and environmental interests protected by the Natural Gas Act and the Commission's existing regulations. While the Notice lacks essential clarity regarding whether and to what extent the proposed blanket certificate program may be applicable to the construction of new LNG

⁴⁶ See *id.* at 53,254.

⁴⁷ See *id.*

terminals or modifications that would expand the capacity of existing LNG operations,⁴⁸ the States maintain that any such applicability would be inappropriate and such activities should be excluded from this potential rulemaking.

There exists no justification for the elimination of pre-filing review and case-specific authorization procedures for any new LNG terminal. Further, the existing case-specific approval process should be maintained for any new construction or modification to an existing LNG operation that would increase the capacity of its facilities. LNG import and export terminals are expensive, complex operations triggering the concurrent regulatory jurisdiction of overlapping federal and state agencies, including the Commission, the Department of Energy, the Pipeline and Hazardous Materials Safety Administration, the U.S. Coast Guard, state public service commissions, and state and local emergency management authorities and environmental agencies.⁴⁹ LNG storage facilities are also diverse in their locations and uses and, as described further below, often costly and complicated to construct, requiring permits and consultations with numerous state and federal agencies.⁵⁰ Based on publicly available information concerning these facilities alone, it is clear that new construction of these operations implicate considerable and unique safety, security, emergency response, and environmental impacts—important

⁴⁸ For example, the Notice indicates in multiple instances that it may apply to “LNG facilities [which] make up the larger LNG plant,” “LNG plants includ[ing] LNG terminals authorized under section 3 of the NGA,” “current and new LNG operators,” “replacements of, modifications to, or new facilities, systems, or components that increase capacity of pretreatment, liquefaction, storage, transfer, or auxiliary facilities,” “construction and operation of additional facilities … outside the authorized LNG plant limits,” or “[m]odifications [that] could include replacements of, modifications to, or construction, installation, and operation of new facilities or components of those facilities, including those that increase capacity of feed gas, pretreatment, liquefaction, storage, transfer, vaporization, sendout, or auxiliary facilities.” 90 Fed. Reg. at 53,251 & n.1, 53,254-55.

⁴⁹ See, e.g., *LNG*, FERC (Apr. 22, 2025), <https://www.ferc.gov/natural-gas/ln>; *Jurisdiction of LNG Plants*, U.S. DEP’T OF TRANSP., PIPELINE & HAZ. MATS. SAFETY ADMIN. (Jan. 31, 2018), <https://www.phmsa.dot.gov/pipeline/liquified-natural-gas/jurisdiction-lng-plants> [https://perma.cc/6F7U-LJLH]; 15 U.S.C. § 717b.

⁵⁰ See, e.g., *LNG Facility Siting*, U.S. DEP’T OF TRANSP., PIPELINE & HAZ. MATS. SAFETY ADMIN. (July 31, 2025), <https://www.phmsa.dot.gov/pipeline/liquified-natural-gas/lng-facility-siting> [https://perma.cc/Y9AU-HP8M]; *FERC Jurisdictional Peakshavers*, FERC (Jan. 6, 2026), <https://www.ferc.gov/media/ferc-jurisdictional-peakshavers-10>.

considerations that warrant more, not less, scrutiny by the Commission in its case-specific authorization proceedings.⁵¹

Moreover, if the Commission expands the categories of activities that would be exempt from case-specific authorization proceedings to include new and expanded construction of LNG facilities, this would raise significant legal concerns in part because activities currently undertaken pursuant to a blanket certificate are categorically excluded from review under the National Environmental Policy Act (NEPA).⁵² NEPA requires analysis of the environmental impacts associated with major federal actions significantly affecting the quality of the human environment.⁵³ The categories of activities currently subject to the blanket certificate program have already been determined by the Commission to have no effect on the human environment.⁵⁴ To date, FERC has not made any similar evaluation for any category of LNG plant projects, while new construction and modifications “outside [] authorized LNG plant limits” inherently entail impacts that fall outside the scope of any existing environmental analyses conducted prior to the proposed development.⁵⁵ The expanded LNG plant activities that would ostensibly be included in the new blanket certificate program discussed in the Notice would likely have reasonably foreseeable and significant impacts on the quality of the human environment, such as ecosystem and habitat disruptions, air emissions, or changes in vehicle and marine vessel traffic.

⁵¹ See Laura A. Figueroa & Sarah Ladin, *The Public Interest Review for LNG-Related Authorizations*, INST. FOR POL’Y INTEGRITY, at 7-9, 39-42 (August 2022), https://policyintegrity.org/files/publications/LNG_Related_Authorizations_Report_-_vF.pdf [https://perma.cc/R4Q2-ZLH6].

⁵² See 18 C.F.R. § 380.4(a)(21) (exempting approvals of blanket certificate applications and prior notice filings under 18 C.F.R. § 157.204 and §§ 157.209 through 157.218).

⁵³ 42 U.S.C. § 4332(C).

⁵⁴ See 18 C.F.R. § 380.2(a) (defining a categorical exclusion as “a category of actions described in § 380.4, which do not individually or cumulatively have a significant effect on the human environment and which the Commission has found to have no such effect and for which, therefore, neither an environmental assessment nor an environmental impact statement is required”).

⁵⁵ 90 Fed. Reg. at 53,254.

These impacts would require the preparation of an environmental impact statement and would not constitute activities that may be categorically excluded from NEPA review.⁵⁶ Accordingly, any inclusion of such LNG projects in a blanket authorization program exempt from NEPA and individualized environmental review would likely raise legitimate questions as to the legality of such authorizations, undermining the regulatory certainty sought by the blanket program.⁵⁷

b. Information Asymmetry in Proceedings Concerning LNG Plants Subject to FERC's Jurisdiction Limits Transparency, and Existing Public Information Fails to Justify a Blanket Permit Scheme.

The creation of a blanket certificate program for LNG facilities raises significant transparency concerns for the States and the agencies, communities, and residents they represent. Moreover, relevant data that is publicly available indicates a blanket certificate program is not appropriate for the types of activities at LNG plants and facilities that are subject to the Commission's jurisdiction. The States urge the Commission to publicly produce all the data, analysis, and studies necessary to inform meaningful stakeholder review and input to this rulemaking proceeding.

Many applications to the Commission concerning authorizations for activities at LNG plants lack publicly available information regarding their costs and other important details that would either rebut or justify the Commission's arguments in the Notice. For example, no cost information is publicly available in either the April 2025 application of Distrigas of Massachusetts to install a boil-off gas compressor at its LNG import terminal or the

⁵⁶ See 42 U.S.C. § 4336(b)(1) (“An agency shall issue an environmental impact statement with respect to a proposed agency action requiring an environmental document that has a reasonably foreseeable significant effect on the quality of the human environment.”). At the very least, any new or major modification to an existing LNG plant or facility will require the preparation of an environmental assessment pursuant to 18 C.F.R. 380.5(b).

⁵⁷ See 90 Fed. Reg. at 53,253.

Commission’s November 2025 order granting that application.⁵⁸ Similarly, no public cost information is available in the application or order granting Golden Pass LNG the authority to build a new 1.1 mile supply pipeline and related facilities, despite the fact that the project “would not result in any change to previously authorized throughput at the LNG Terminal.”⁵⁹ Relatedly, in multiple applications submitted to the Commission in December 2025 requesting authorization to increase the peak liquefaction capacities of the relevant LNG terminals, the engineering reports that would ostensibly support the applications’ claims that the requested authorization would not impact state and local safety considerations are redacted from public view.⁶⁰

In addition to the prevalence of redacted or omitted LNG cost and safety information from public disclosure in the Commission’s proceedings, the information that *is* publicly available overwhelmingly demonstrates the high and variable costs associated with these projects and attendant complexities in public safety and environmental planning. For example, a November 2025 application to construct a new LNG export terminal adjacent to a previously approved LNG terminal in Plaquemines Parish, Louisiana projected the cost of the proposed new terminal to be “at least \$18 billion” (the company attests that the existing Plaquemines LNG

⁵⁸ *Distrigas of Massachusetts LLC*, Order Amending Authorization Under Section 3 of the Natural Gas Act, 193 FERC ¶ 61,143 (Nov. 20, 2025) (Accession No. 20251120-3033); *Distrigas of Massachusetts LLC*, Application of Distrigas of Massachusetts LLC to Amend Authorization Under Section 3 of the Natural Gas Act, Docket No. CP25-207-000 (Apr. 14, 2025) (Accession No. 20250414-5152).

⁵⁹ *Golden Pass LNG Terminal LLC*, Order Amending Authorization Under Section 3 of the Natural Gas Act, 193 FERC ¶ 61,221, at para. 7 (Dec. 18, 2025) (Accession No. 20251218-3048); *Golden Pass LNG Terminal LLC*, Application of Golden Pass LNG Terminal LLC to Amend Authorizations, Docket No. CP25-205-000 (Apr. 11, 2025) (Accession No. 20250411-5017).

⁶⁰ *Venture Global Plaquemines LNG, LLC*, Abbreviated Application of Venture Global Plaquemines LNG, LLC for Limited Amendment of Authorization Under Section 3 of the Natural Gas Act, Docket No. CP26-53-000 (Dec. 19, 2025) (Accession No. 20251219-5605); *Venture Global CP2 LNG, LLC*, Abbreviated Application of Venture Global CP2 LNG, LLC for Limited Amendment of Authorization Under Section 3 of the Natural Gas Act, Docket No. CP26-55-000 (Dec. 29, 2025) (Accession No. 20251229-5177).

terminal has already exceeded \$20 billion in costs).⁶¹ An application to expand the capacity of an existing LNG export terminal on Elba Island in Chatham County, Georgia was projected to cost a comparatively frugal \$64.3 million,⁶² still well over the high threshold for prior notice projects under the Commission’s existing blanket certificate program.⁶³ A proposed multi-year expansion of the Sabine Pass LNG terminal in Cameron Parish, Louisiana was projected to cost \$15 billion, including the construction of three new liquefaction trains and a new natural gas pipeline to feed the facility.⁶⁴ The diversity of substance, cost, and geography of these and other recent applications to the Commission for certificates of public convenience and necessity for new and existing LNG terminals underscores the need for continued individualized review.

In addition to LNG import and export terminals, new LNG storage facilities being built around the country are similarly diverse in cost and raise unique environmental and public safety concerns. An application to construct an LNG storage, liquefaction, and vaporization facility in Sussex County, Virginia projected its total costs to be \$384 million.⁶⁵ The initial application makes only passing references to public safety, while many of the company’s state permit and consultation processes remain ongoing.⁶⁶ In its approval of a nearly \$80 million LNG storage facility to be located on the Eastern Shore of Maryland, the Commission required the company to later file supplemental information regarding the planned installation of pressure monitoring

⁶¹ *Plaquemines Expansion, LLC & Venture Global Plaquemines LNG, LLC*, Application for Authorization Under Section 3 of the Natural Gas Act for Plaquemines Expansion Project, Docket No. CP26-27-000, at 1-2, 5 (Nov. 17, 2025) (Accession No. 20251117-5293).

⁶² *Elba Liquefaction Company, L.L.C. & Southern LNG Company, L.L.C.*, Application of Elba Liquefaction Company, L.L.C. and Southern LNG Company, L.L.C. to Amend Authorization Under Section 3 of the Natural Gas Act, Docket No. CP14-103-000, at 13 (Apr. 28, 2023) (Accession No. 20230428-5621).

⁶³ 18 C.F.R. § 157.208(d).

⁶⁴ *Sabine Pass Liquefaction, LLC and Sabine Pass Liquefaction Stage V, LLC et al.*, Joint Application for Authorizations Under Section 3 and Section 7 of the Natural Gas Act for the Stage 5 Project, Docket No. CP24-75-001, at 1-2, 9 (June 6, 2025) (Accession No. 20250606-5068).

⁶⁵ *Columbia Gas Transmission, LLC*, Abbreviated Application of Columbia Gas Transmission, LLC for a Certificate of Public Convenience and Necessity, Docket No. CP26-20-000, at 8 (Nov. 13, 2025) (Accession No. 20251113-5088).

⁶⁶ *Id.* at 19, Ex. J.

systems and leak detection procedures prior to final commissioning of the facility, indicating a continued need for case-specific review of the facility's safety systems.⁶⁷ Again, the considerable cost of even these smaller LNG facilities and the unique safety, environmental, engineering, and other considerations they pose militate against the propriety of a blanket certificate program for LNG facilities under the Commission's jurisdiction.

c. The NGA Accords Specific Notice Rights to the States, Underlining the Unique Safety Risks of LNG Plants.

The clarity and transparency concerns outlined above are important for the Commission to consider because of the significant public safety interests at stake surrounding LNG plants and facilities, which the Natural Gas Act and the Commission's current implementing regulations duly protect.⁶⁸ The Commission can and should remedy these concerns before proceeding with its rulemaking in order to facilitate adequate public stakeholder participation and feedback.

The use of a blanket authorization for activities at LNG plants and facilities is concerning to the States because many such projects may impact the States' public safety responsibilities and necessitate a change in the affected facilities' emergency response and cost-sharing plans, which state and local emergency response authorities are party to. These state and local officials are best positioned to determine when a proposed activity involves any significant state or local safety consideration not previously addressed. At present, the notice and information provided by applicants during the case-specific approval process inherently also serves to inform concerned state and local agencies, which allows them to adequately participate in the

⁶⁷ *Eastern Shore Natural Gas Company*, Order Issuing Certificate, 190 FERC ¶ 61,033, paras. 41-42 (Jan. 16, 2025) (Accession No. 20250116-3082).

⁶⁸ See 15 U.S.C. § 717b-1; 18 C.F.R. §§ 153.7(b), 157.6(d), 157.9(a), 157.21(a), (d)(5).

authorization process to ensure sufficient conditions are adopted by the Commission to address the unique safety, security, or environmental impacts associated with the action.

As outlined previously, the Natural Gas Act requires the Commission to consult with the relevant affected state agencies prior to authorizing any covered actions at LNG plants.⁶⁹ A blanket certificate program would undermine the public safety benefits of such consultation and potentially run afoul of this statutory language; under the blanket certificate program currently in place for natural gas pipelines, activities approved subject to an automatic authorization may not be disclosed to the public until after they are completed through the company's annual report to the Commission.⁷⁰ Such a system would be inconsistent with the legal notice protections for state and local agencies under the Natural Gas Act and inconsistent with the public safety and other interests of the States and their local communities.

III. Conclusion

The States appreciate the Commission's invitation for public comments on this important matter and encourage the Commission to adopt the recommendations outlined above in the course of this potential rulemaking.

Respectfully Submitted,

⁶⁹ 15 U.S.C. § 717b-1(b).

⁷⁰ 18 C.F.R. § 157.208(a), (e).

**ANTHONY G. BROWN
ATTORNEY GENERAL OF MARYLAND**

/s/ Robert N. Brewer
ROBERT N. BREWER
Assistant Attorney General
Maryland Office of the Attorney General
200 Saint Paul Place
20th Floor
Baltimore, MD 21202
rbrewer@oag.maryland.gov
(410) 576-6924

**DAN RAYFIELD
ATTORNEY GENERAL OF OREGON**

/s/ Paul Garrahan
PAUL GARRAHAN
Attorney-in-Charge, Natural Resources
Section
Oregon Department of Justice
1162 Court Street NE
Salem, OR 97301-4096
Paul.Garrahan@doj.oregon.gov
(503) 947-4540

**WILLIAM TONG
ATTORNEY GENERAL OF
CONNECTICUT**

/s/ Jill Lacedonia
JILL LACEDONIA
Assistant Attorney General
165 Capitol Avenue
Hartford, CT 06106
Jill.Lacedonia@ct.gov
(860) 808-5250

**KATHLEEN JENNINGS
ATTORNEY GENERAL OF DELAWARE**

/s/ Ian R. Liston
IAN R. LISTON
Director of Impact Litigation
RALPH DURSTEIN
VANESSA L. KASSAB
Deputy Attorneys General
820 N. French Street
Wilmington, DE 19801
Ian.Liston@delaware.gov
(302) 683-8875

**ANDREA JOY CAMPBELL
ATTORNEY GENERAL OF
MASSACHUSETTS**

/s/ Jon Whitney
JON WHITNEY
Special Assistant Attorney General
NATHANIEL HAVILAND-MARKOWITZ
Assistant Attorney General
Massachusetts Office of the Attorney General
One Ashburton Place
Boston, MA 02108
jon.whitney@mass.gov
(617) 727-2200

**DANA NESSEL
ATTORNEY GENERAL OF MICHIGAN**

/s/ Michael E. Moody
MICHAEL E. MOODY
Assistant Attorney General
Special Litigation Division
P.O. Box 30755
Lansing, MI 48909
moodym2@michigan.gov
(517) 335-7627

**LETITIA JAMES
ATTORNEY GENERAL OF NEW YORK**

/s/ Max Shterngel
MAX SHTERNDEL
Assistant Attorney General
Office of the New York State Attorney
General
Environmental Protection Bureau
28 Liberty Street, 19th Floor
New York, NY 10005
max.shterngel@ag.ny.gov
(212) 416-6692

**PETER F. NERONHA
ATTORNEY GENERAL OF RHODE
ISLAND**

/s/ Nicholas Vaz
NICHOLAS VAZ
Special Assistant Attorney General
Environment and Energy Unit Chief
Rhode Island Office of the Attorney General
150 South Main Street
Providence, RI 02903
nvaz@riag.ri.gov
(401) 274-4400 ext. 2297

**CHARITY R. CLARK
ATTORNEY GENERAL OF VERMONT**

/s/ Mark Seltzer
MARK SELTZER
Assistant Attorney General
Environmental Protection Unit
Vermont Attorney General's Office
109 State Street
Montpelier, VT 05609
Mark.Seltzer@vermont.gov
(802) 828-6907

CERTIFICATE OF SERVICE

In accordance with 18 C.F.R. § 385.2010

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. this 26th day of January, 2026.

/s/ Robert N. Brewer
ROBERT N. BREWER
Assistant Attorney General
Maryland Office of the Attorney General
200 Saint Paul Place
20th Floor
Baltimore, MD 21202
rbrewer@oag.maryland.gov
(410) 576-6924