

190 FERC ¶ 61,112
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Mark C. Christie, Chairman;
Willie L. Phillips, David Rosner,
Lindsay S. See, and Judy W. Chang.

Iroquois Gas Transmission System, L.P.

Docket No. CP20-48-001

ORDER GRANTING EXTENSION OF TIME REQUEST

(Issued February 19, 2025)

1. On March 25, 2022, the Commission issued a certificate to Iroquois Gas Transmission System, L.P. (Iroquois) to construct and operate the Enhancement by Compression Project (project) in Greene and Dutchess Counties, New York, and Fairfield and New Haven Counties, Connecticut. The authorization is conditioned upon Iroquois completing construction and making the proposed facilities available for service by March 25, 2025.¹ On October 28, 2024, Iroquois filed a motion requesting a two-year extension, until March 25, 2027, to construct the project and place it into service. For the reasons discussed below, the extension of time request is granted.

I. Background

2. The project consists of: (1) the construction of a new 12,000-horsepower (hp) gas-fired turbine compressor unit and a new compressor building at the existing Athens Compressor Station in Greene County, New York; (2) the construction of a new 12,000-hp gas-fired turbine compressor unit and a new compressor building at the existing Dover Compressor Station in Dutchess County, New York; (3) the construction of two new 12,000-hp gas-fired turbine compressor units, a control building, and a new compressor building at the existing Brookfield Compressor Station in Fairfield County, Connecticut; (4) the replacement of the turbine stacks on two existing compressor units and the addition of noise reduction measures at the existing Brookfield Compressor Station; and (5) the construction of new gas cooling equipment and piping at the existing Milford Plant A Compressor Station in New Haven County, Connecticut. The project is designed to provide up to 125,000 dekatherms per day (Dth/d) of firm natural gas transportation service to delivery points in South Commack and Hunts Point, New York.

¹ *Iroquois Gas Transmission Sys., L.P.*, 178 FERC ¶ 61,200 (2022) (Certificate Order).

3. On October 28, 2024, Iroquois requested an extension of time, until March 25, 2027, to construct the project and place it into service. In its extension request, Iroquois states that the construction and completion of the project has been delayed due to still-pending applications for state approvals and permits for the project.² Iroquois contends that good cause exists to grant the extension request because it has demonstrated good faith efforts to obtain air permit approvals from the New York State Department of Environmental Conservation (New York DEC) and the Connecticut Department of Energy and Environmental Protection (Connecticut DEEP).³

4. Iroquois notes that, in December 2022, New York DEC issued a notice of Iroquois's air permit applications for the Dover and Athens Compressor Stations, which established a comment period that closed in February 2023.⁴ Iroquois states that New York DEC later established another comment period for the applications, which closed on April 29, 2024, after the New York State Department of Public Service issued a letter confirming the reliability need for the project.⁵ Iroquois notes that it has responded to all of New York DEC's information requests and anticipates that New York DEC will complete its review of the air permit applications in the near future.⁶

5. Iroquois further states that, in September 2020, it received a notice acknowledging the sufficiency of its air permit application from Connecticut DEEP, and that since then it has responded to multiple requests for additional information.⁷ Iroquois states that, on June 13, 2024, Connecticut DEEP issued another request asking the company to evaluate the additional compressor units as a major modification and to submit an updated

² Iroquois October 28, 2024 Request for Extension of Time at 2.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*; Iroquois December 2, 2024 Answer at 5. We note that New York DEC issued Iroquois's air permits on February 7, 2025. See NY DEC, Iroquois Enhancement by Compression Project Permit Documentation, <https://dec.ny.gov/regulatory/notable-projects-documentation/iroquois-enhancement-by-compression-exc-project>.

⁷ Iroquois October 28, 2024 Request for Extension of Time at 2; Iroquois December 2, 2024 Answer at 5.

Best Available Control Technology (BACT) evaluation.⁸ Iroquois provided a response to Connecticut DEEP on January 31, 2025.⁹

6. Iroquois emphasizes that once it obtains the air permits from New York DEC and Connecticut DEEP it will be able to immediately request authorization to commence construction.¹⁰ Iroquois states that it remains committed to completing the project and that the extension of time request will allow it to continue to work with all affected stakeholders and permitting agencies to construct the project.¹¹

II. Procedural Issues

A. Notice, Interventions, and Protests

7. Notice of Iroquois's Extension of Time Request was issued on October 31, 2024, and published in the *Federal Register* on November 7, 2024.¹² The notice established November 15, 2024, as the deadline for filing interventions, comments, and protests. Timely, unopposed motions to intervene were filed by Kerry Swift, Concerned Citizens of Dover, and Daniel Myers.¹³ Several commenters request an extension of the comment period, arguing that notice was inadequate. Generally, commenters oppose the extension request, raising concerns regarding the state air permits, project need, and the need for a supplemental environmental impact statement (EIS). A number of commenters raise

⁸ Iroquois October 28, 2024 Request for Extension of Time at 2; Iroquois December 2, 2024 Answer at 5.

⁹ Iroquois February 7, 2025 Monthly Status Report for January 2025 at 2.

¹⁰ Iroquois October 28, 2024 Request for Extension of Time at 2.

¹¹ *Id.* at 4.

¹² 89 Fed. Reg. 88266 (Nov. 7, 2024).

¹³ Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedures. *See* 18 C.F.R. § 385.214 (2024).

arguments seeking to relitigate the issuance of the Certificate Order;¹⁴ such arguments are outside the scope of this extension of time proceeding and will not be considered here.¹⁵

8. On December 2, 2024, Iroquois filed a motion for leave to answer and answer responding to commenters' protests and requests to extend the comment period. On December 4, 2024, Daniel Myers filed a motion for leave to answer and answer to Iroquois's answer. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority.¹⁶ To the extent Iroquois's December 2, 2024 answer is an answer to the commenters' protests, it is rejected, but to the extent Iroquois's answer provides additional information on the state permit proceedings,¹⁷ which has assisted the Commission in its decision-making process, we accept the answer. Mr. Myers's answer to Iroquois's answer, which reiterated information included in his intervention and protest, is rejected.

B. Adequacy of Notice

9. Commenters request an extension of the comment period and argue that the Commission failed to give adequate notice of the opportunity to comment on the proceeding.¹⁸ They maintain that the 15-day period is not a sufficient length of time, that

¹⁴ See Kerry Swift Nov. 13, 2024 Motion to Intervene and Comments at 1 (expressing concerns regarding the water quality and noise impacts from the project); Concerned Citizens of Dover Nov. 13, 2024 Motion to Intervene and Protest at 20-22 (arguing that the Commission should reassess the air emission and climate change impacts of the project); Kathleen VanDuzee Nov. 15, 2024 Comments at 1 (requesting that the Commission consider emergency response planning and the overall safety of the project).

¹⁵ See *infra* P 18.

¹⁶ 18 C.F.R. § 385.213(a)(2) (2024).

¹⁷ Specifically, in Iroquois's December 2, 2024 answer, the company provides further context for its outstanding air permit proceedings, including the dates that Connecticut DEEP issued notice of the air permit application and information requests, the deadline for submitting a response to the most recent information request, the status of the New York DEC air permit, and correspondence between the company and state agencies.

¹⁸ See, e.g., Town of Brookfield Nov. 13, 2024 Comments at 1; Connecticut State Senator Stephen Harding Nov. 15, 2024 Comments at 1; Eric T. Myers Nov. 15, 2024 Comments at 1; Ann Finneran Nov. 15, 2024 Comments at 1.

the notice was not provided in Spanish despite the Spanish-speaking communities impacted by the project, and that the comment period was interrupted by the 2024 presidential election.¹⁹ Some commenters also state that Iroquois must respond to Connecticut DEEP's request to evaluate the additional compressor units as a major modification and to submit an updated BACT evaluation and argue that the public should have an opportunity to review this new information.²⁰

10. We find that the public notice was adequate. Stakeholders were provided an opportunity to comment that is consistent with the Commission's policy for extension of time proceedings,²¹ and this order addresses all submitted comments. Commenters were able to timely file their comments, and, as is our policy, we would have considered any late-filed comments, to the extent possible. As to the suggestion that the public should have the opportunity to comment on Iroquois's response to the state agency's information request, the content of that response is not relevant to the issue here—whether Iroquois has shown good cause for an extension. Additionally, although the notice was not provided in Spanish, no person or organization alleges that it was denied an opportunity to comment on the proceeding or was unable to submit its comments. Therefore, we conclude that the public was afforded an adequate opportunity to review and comment on the proceeding and deny the requests for an extension of the comment period.

III. Discussion

11. The completion date specified in a certificate order provides what the Commission believes—based on its assessment of circumstances relevant to the specific project—to be a reasonable period of time for the project sponsor to complete construction and make the project available for service.²² However, construction deadlines may be extended for good cause.²³ One way good cause can be shown is by the project sponsor demonstrating

¹⁹ See, e.g., Kerry Swift Nov. 13, 2024 Motion to Intervene and Comments at 1; Kristen Hopkins Nov. 15, 2024 Comments at 1; Robin Spiegelman Nov. 15, 2024 Comments at 1.

²⁰ See, e.g., Nivo Rovedo Nov. 14, 2024 Comments at 1; Gale Pisha Nov. 15, 2024 Comments at 1.

²¹ *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at P 39 (2020) (establishing a 15-calendar day intervention and comment period deadline).

²² See, e.g., *Delfin LNG LLC*, 185 FERC ¶ 61,009, at P 9 (2023).

²³ 18 C.F.R. § 385.2008(a) (2024) (allowing the relevant decisional authority to extend for good cause the time by which any person is required or allowed to act under any statute, rule, or order).

that it made good faith efforts to meet its deadline but encountered circumstances beyond its control.²⁴ We consider extension requests on a case-by-case basis.²⁵

A. Good Cause Exists for Granting an Extension of Time

12. Commenters argue that the Commission should deny Iroquois's extension of time request because the company has not made a good faith effort to meet its deadline.²⁶ They argue that, in its Connecticut DEEP air permit proceeding, the company intentionally omitted air emission and pollution control technology information, which misled the public, and requested multiple extensions of time to provide responses to the state agency's information requests.²⁷ Commenters contend that these actions caused Iroquois's construction delays and demonstrate bad faith on the part of Iroquois in the regulatory process.²⁸

13. Iroquois states that good cause exists to grant the extension request. Iroquois acknowledges that it needs more time to obtain air permits from New York DEC and Connecticut DEEP, but contends that it has demonstrated good faith efforts to obtain such approvals.²⁹ Iroquois notes that it has responded to multiple information requests from both state agencies and that it anticipates that New York DEC will issue its air permits in

²⁴ Compare *Adelphia Gateway, LLC*, 178 FERC ¶ 61,030, at P 15 (2022) (granting request for extension of time), with *Chestnut Ridge Storage LLC*, 139 FERC ¶ 61,149, at P 11 (2012) (denying request for extension of time).

²⁵ See *Chestnut Ridge Storage LLC*, 139 FERC ¶ 61,149 at P 8; see also *Sierra Club v. FERC*, 97 F.4th 16, 24 (D.C. Cir. 2024) ("FERC has permissibly adopted a case-by-case, fact-based approach to deciding whether an extension of time is warranted.").

²⁶ See, e.g., Pamela Krauss Nov. 15, 2024 Comments at 1; Daniel Myers Nov. 15, 2024 Protest at 1-2; Sarah Fecht Nov. 15, 2024 Comments at 1; Robin Spiegelman Nov. 15, 2024 Comments at 1; Save the Sound Nov. 15, 2024 Comments at 2.

²⁷ See, e.g., Pamela Krauss Nov. 15, 2024 Comments at 1; Daniel Myers Nov. 15, 2024 Protest at 1-2; Sarah Fecht Nov. 15, 2024 Comments at 1; Robin Spiegelman Nov. 15, 2024 Comments at 1; Save the Sound Nov. 15, 2024 Comments at 2.

²⁸ See, e.g., Pamela Krauss Nov. 15, 2024 Comments at 1; Daniel Myers Nov. 15, 2024 Protest at 1-2; Sarah Fecht Nov. 15, 2024 Comments at 1; Robin Spiegelman Nov. 15, 2024 Comments at 1; Save the Sound Nov. 15, 2024 Comments at 2.

²⁹ Iroquois October 28, 2024 Request for Extension of Time at 2.

the near future.³⁰ As noted above,³¹ New York DEC issued the air permits for the project on February 7, 2025. Regarding the Connecticut DEEP permit, Iroquois states that it responded to Connecticut DEEP's recent request to include an updated BACT analysis and major modification evaluation on January 31, 2025.³² Iroquois also notes that it targets completing construction and commencing service during the 2026/2027 winter season.

14. We find that Iroquois has demonstrated that good cause exists to grant the two-year extension. The Commission has previously found that delays caused by permitting issues can be an appropriate basis for granting an extension of time.³³ Iroquois is actively working toward securing its remaining permit and has regularly communicated with Connecticut DEEP and New York DEC to submit the necessary information for the agencies to evaluate its permit applications, as is demonstrated by the correspondence between Iroquois and the state agencies. Commenters argue that Iroquois intentionally omitted information in its permit application, misled the public, and delayed the process, which, as some commenters argue, warrants greater scrutiny of Iroquois's permit applications.³⁴ Commenters provide letters and email correspondence between Connecticut DEEP and Iroquois,³⁵ and rely on the omissions and errors in the permit application, the state agency's information requests, and Iroquois's requests for

³⁰ *Id.*; Iroquois December 2, 2024 Answer at 5-6.

³¹ *See supra* note 6.

³² Iroquois February 7, 2025 Monthly Status Report for January 2025 at 2.

³³ *PennEast Pipeline Co., LLC*, 170 FERC ¶ 61,138 (2020) (granting a two-year extension of time because the certificate holder continued to work towards obtaining all necessary approvals and permits); *Mountain Valley Pipeline, LLC*, 173 FERC ¶ 61,026 (2020) (granting a two-year extension of time to complete construction due to applicant's litigation and permitting delays); *Const. Pipeline Co., LLC*, 165 FERC ¶ 61,081 (2018) (granting a further two-year extension of time to accommodate the applicant's efforts to obtain a permit from New York DEC); *Arlington Storage Co., LLC*, 155 FERC ¶ 61,165 (2016) (granting a two-year extension of time to accommodate a project applicant's efforts to obtain a permit from New York DEC).

³⁴ *See, e.g.*, Daniel Myers Nov. 15, 2024 Protest at 1-2; Sarah Fecht Nov. 15, 2024 Comments at 1; Concerned Citizens of Dover Nov. 13, 2024 Motion to Intervene and Protest at 18-19; Kathleen VanDuzee Nov. 15, 2024 Comments at 1.

³⁵ *See* Sierra Club Nov. 15, 2024 Protest; Concerned Citizens of Dover Nov. 13, 2024 Motion to Intervene and Protest; Daniel Myers Nov. 15, 2024 Protest.

extensions to respond as evidence that Iroquois generally acted in bad faith.³⁶ However, this material does not demonstrate that the company sought to intentionally omit information, mislead the public, or delay the permit process. Indeed, the record shows that, since Iroquois submitted its initial permit applications, the company has remained in contact and continues to work with both New York DEC and Connecticut DEEP to submit requested information and complete the permit process.³⁷ Further, Iroquois emphasizes that once it obtains its permits it plans to immediately request authorization to begin construction, which demonstrates its commitment to the project.³⁸

15. Iroquois has worked and continues to work toward obtaining the state permits necessary to enable construction to commence. The record before us reflects no bad faith or delay on Iroquois's behalf, but rather reasonable efforts to move the project forward and the company's continued commitment to the project. Therefore, we find that good cause exists to grant the two-year extension of time to complete construction of the project.

B. Continuing Validity of the Certificate Order's Public Convenience and Necessity Finding and Environmental Review

16. Commenters maintain that the Commission should deny Iroquois's extension request because circumstances have changed since issuance of the Certificate Order in 2022. They argue that the Commission must reassess its public convenience and necessity finding because, they assert, Orange & Rockland Utilities' and Con Edison's long-term gas plan reports³⁹ show that gas demand in New York is projected to decrease in 2027.⁴⁰ Commenters also contend that gas demand will decrease due to increased

³⁶ See, e.g., Nivo Rovedo Nov. 14, 2024 Comments at 1; Pamela Krauss Nov. 15, 2024 Comments at 1; Daniel Myers Nov. 15, 2024 Protest at 1; Sierra Club Nov. 15, 2024 Protest at 1-2; Concerned Citizens of Dover Nov. 13, 2024 Motion to Intervene and Protest at 18-19.

³⁷ Additionally, we note that Connecticut DEEP has not submitted allegations of bad faith actions regarding Iroquois's air permit proceeding.

³⁸ Iroquois October 28, 2024 Request for Extension of Time at 2.

³⁹ While Orange & Rockland Utilities is not a shipper, it is a subsidiary of Con Edison, which is one of the two shippers for the Expansion by Compression Project. As noted below, National Grid is the other shipper for the project.

⁴⁰ See, e.g., Mary T. Finneran Nov. 12, 2024 Comments at 1; Concerned Citizens of Dover Nov. 13, 2024 Motion to Intervene and Protest at 13; Sierra Club Nov. 15, 2024 Protest at 2.

funding for energy efficiency and renewable energy projects and local and state laws and programs restricting gas consumption and mandating emission reductions.⁴¹

17. To the extent commenters question the Commission's previous findings of project need and of acceptable environmental impacts,⁴² these are efforts to relitigate matters that the Commission considered when issuing the Certificate Order and are outside the scope of this limited extension of time proceeding.⁴³ The extension request at issue concerns only the timing, not the nature, of the project.

18. We decline to revisit our prior public convenience and necessity determination. We have previously found that extension of time proceedings are not an invitation to reopen closed proceedings.⁴⁴ The Certificate Order found a market need for the project based on Iroquois's execution of long-term firm transportation agreements with Con Edison and National Grid for the entirety of the project's capacity.⁴⁵ The Commission also noted that the shippers expect continued firm customer peak day gas demand growth for the next several years, despite state and local laws limiting gas consumption.⁴⁶ Extending the deadline to construct the project and place it into service by 2027 will not

⁴¹ See, e.g., Sara S. Gronim Nov. 14, 2024 Comments at 1; Save the Sound Nov. 15, 2024 Comments at 1-2; Emily Skydel Nov. 15, 2024 Comments at 1; Martha Klein Nov. 15, 2024 Comments at 1; Gale Pisha Nov. 15, 2024 Comments at 1.

⁴² See *supra* note 14.

⁴³ See *Algonquin*, 170 FERC ¶ 61,144 at P 40 (emphasizing that the Commission will not relitigate the certificate order's findings in extension of time proceedings); *Mountain Valley Pipeline, LLC*, 173 FERC ¶ 61,026 at P 19 (finding arguments regarding compliance with state energy policies to be an attempt to relitigate the underlying authorization); see also Oct. 31, 2024 Notice of Iroquois's Request for Extension of Time (stating the Commission will not consider arguments that re-litigate the issuance of the certificate order).

⁴⁴ See, e.g., *Transcon. Gas Pipe Line Co., LLC*, 186 FERC ¶ 61,038, at P 22 (2024) (declining to relitigate in an extension of time proceeding matters resolved in the underlying order). See also *Corpus Christi Liquefaction Stage III, LLC*, 181 FERC ¶ 61,033, at P 15 (2022) (stating that the Commission will not relitigate whether the Commission properly found the project to be in the public convenience and necessity in an extension of time proceeding); *Adelphia Gateway, LLC*, 178 FERC ¶ 61,030 at PP 10, 16; *Algonquin*, 170 FERC ¶ 61,144 at P 40.

⁴⁵ See Certificate Order, 178 FERC ¶ 61,200 at PP 13-16.

⁴⁶ *Id.*

undermine the Commission's determination in the Certificate Order that the Expansion by Compression Project is required by the public convenience and necessity. There has been no significant change in the facts underlying the Certificate Order's determination and Iroquois is required to execute firm contracts for 100% of the project's capacity for the same terms of service represented in the signed precedent agreements prior to commencing construction, which ensures that the evidence of need is "not illusory."⁴⁷

19. Commenters argue that granting the two-year extension constitutes either a substantial change in the project or a significant new circumstance that is relevant to environmental concerns such that the Commission must prepare an EIS or, in the alternative, prepare a supplemental EIS.⁴⁸ We disagree. Granting an extension of time is not a major Federal action significantly affecting the quality of the human environment because it does not substantially change the underlying proposed action, nor does it constitute a new approval of the project.⁴⁹ Rather it is a purely administrative action.⁵⁰ We recognize that environmental impacts are subject to change and the validity of an

⁴⁷ *Id.* at ordering para. (B)(4); *see also Transcon. Gas Pipe Line Co., LLC*, 186 FERC ¶ 61,047 at P 21 (2024); *Tex. Gas Transmission, LLC*, 181 FERC ¶ 61,049 (2022) at P 23 (2022).

⁴⁸ Concerned Citizens of Dover states that the Commission must prepare a supplemental EIS to consider: (1) the new climate change and greenhouse gas emission information from the Intergovernmental Panel on Climate Change's recent reports; (2) the accuracy of Iroquois's air quality projections in light of the Environmental Protection Agency's new PM_{2.5} standard and inaccuracies in Iroquois's Connecticut DEEP permit application; and (3) and the air quality impacts of the project. Commenters also argue that the Commission must review the accuracy of the emissions that Iroquois provided in its certificate application and reconsider the environmental impacts of the project. *See* Concerned Citizens of Dover Nov. 13, 2024 Motion to Intervene and Protest at 10-13; Pamela Krauss Nov. 15, 2024 Comments at 1.

⁴⁹ *Driftwood LNG LLC*, 186 FERC ¶ 61,112, at P 14 (2024); *Freeport LNG Dev., L.P.*, 181 FERC ¶ 61,023, at P 14 (2022).

⁵⁰ *See Eagle Crest Energy Co.*, 168 FERC ¶ 61,186, at P 22 (2019) (holding that an extension of time to comply with a license requirement to commence and complete construction by a certain date, that involves no construction or changes to the project development, is an administrative action appropriately categorically excluded from further NEPA review), *aff'd sub nom. Nat'l Parks Conservation Ass'n v. FERC*, 6 F.4th 1044 (9th Cir. 2021); *ANR Pipeline Co.*, 98 FERC ¶ 61,067, at 61,179 (2002) (acting on request for an extension of time is a matter of administrative discretion).

Docket No. CP20-48-001

- 11 -

order's conclusions and environmental conditions cannot be sustained indefinitely.⁵¹ However, as noted above, there has been no significant change in the facts underlying the Certificate Order's conclusion that the proposed project, as conditioned, remains an environmentally acceptable action. Therefore, no supplemental EIS is necessary.

IV. Conclusion

20. Because we find that Iroquois has demonstrated good cause for delay in developing the project, we will grant the requested two-year extension of time to complete construction of the project.

21. The Commission on its own motion received and made a part of the record in this proceeding all evidence, including the motion and exhibits thereto, and upon the consideration of the record,

The Commission orders:

Iroquois Gas Transmission System, L.P. is granted an extension of time, until March 25, 2027, to construct and make available for service the Enhancement by Compression Project authorized in Docket No. CP20-48-000.

By the Commission.

(S E A L)

Carlos D. Clay,
Deputy Secretary.

⁵¹ *Id.* P 16; *Transcon. Gas*, 186 FERC ¶ 61,038 at P 23; *Mountain Valley Pipeline, LLC*, 185 FERC ¶ 61,208 at P 19 (2023).

Document Content(s)

CP20-48-001.docx.....1