

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

WBI Energy Transmission, Inc.)	Docket CP20-52
)	Docket CP20-52-001

**MOTION FOR LEAVE TO INTERVENE OUT-OF-TIME OF
NATURAL GAS SUPPLY ASSOCIATION
And
CENTER FOR LIQUEFIED NATURAL GAS**

Pursuant to Rules 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission” or “FERC”), 18 C.F.R. §§ 385.212, 385.214 (2020), the Natural Gas Supply Association (“NGSA”) and the Center for Liquefied Natural Gas (“CLNG”) move for leave to intervene out-of-time in the above-captioned proceeding. As demonstrated herein, NGSA and CLNG have good cause to intervene out-of-time in order to protect their interests in the event the Commission uses this ongoing proceeding to issue an Order with industry-wide implications.

In support thereof, NGSA and CLNG state as follows:

I.
MOTION TO INTERVENE OUT-OF-TIME

A. Communications

NGSA and CLNG request that all communications regarding this proceeding be addressed to the following persons who should also be included on the Official Service

List for this proceeding:

*Casey Hollers
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*Persons designated for service pursuant to Rule 385.203(b)(3) of the Commission's Rules of Practice and Procedure.

B. Interests of NGSA and CLNG

NGSA represents integrated and independent energy companies that produce and market domestic natural gas and is the only national trade association that solely focuses on producer-marketer issues related to the downstream natural gas industry. NGSA's members trade, transact, and invest in the United States natural gas market in a range of different manners as well as supply and ship billions of cubic feet of natural gas per day on interstate pipelines and therefore, could be greatly impacted by the outcome of this proceeding.

NGSA encourages the use of natural gas within a balanced national energy policy and supports the benefits of competitive markets. NGSA has consistently advocated for

the removal of barriers to developing needed natural gas infrastructure, well-functioning and transparent natural gas markets, efficient nomination and scheduling protocols, just and reasonable transportation rates, and non-preferential terms and conditions of transportation services. NGSA has a long-established commitment to ensuring a public policy environment that fosters a growing, competitive market for natural gas and one that eliminates inappropriate regulatory barriers to supply.

CLNG advocates for public policies that advance the use of LNG in the United States, and its export internationally. A committee of the NGSA, CLNG represents the full LNG value chain, including all six large-scale LNG export facilities in the U.S., shippers, and multinational developers, providing it with unique insight into the ways in which the vast potential of this abundant and versatile fuel can be fully realized.

C. Request for Late Intervention

NGSA and CLNG respectfully request that they be granted permission to intervene out-of-time in the above-captioned proceeding. As demonstrated herein, good cause exists to grant this motion for leave to intervene out-of-time, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure.

Under Rule 214, in acting on a motion to intervene late in a proceeding, the Commission may consider whether: (i) the movant had good cause for failing to file the motion within the time prescribed; (ii) any disruption of the proceeding might result from permitting intervention; (iii) the movant's interest is not adequately represented by other parties in the proceeding; (iv) any prejudice to, or additional burdens upon, the existing

parties might result from permitting the intervention; and (v) the motion conforms to the requirements of timely intervention.¹ This motion meets all these requirements.

Good cause exists for filing this motion out-of-time. NGSA and CLNG did not file timely motions to intervene in the underlying certificate proceeding because at that time, the Commission's Pipeline Certificate Policy Statement was undergoing review in Docket No. PL18-1-000.² For this reason, NGSA and CLNG believed that any changes in the Commission's approach to reviewing certificate applications would be discussed, debated, and decided in that docket. NGSA and CLNG filed comments in that proceeding and are in the process of preparing comments in response to the Commission's updated Notice of Inquiry issued on February 18, 2021 in that same docket³ further outlining issues that the Commission will review related to policies impacting natural gas pipeline certificate matters. Until recently, NGSA and CLNG had no reason to anticipate that important changes to those policies would be considered and/or implemented in individual proceedings. However, with the recent Commission orders in *Algonquin Gas Transmission, LLC*, 174 FERC ¶ 61,126 (2021) and *Northern Natural Gas Co.*, 174 FERC ¶ 61,189 (2021), NGSA recognizes that the Commission will continue to review its approach toward certificate matters in both individual proceedings as well as in Docket No. PL18-1-000.

Thus, to the extent certificate proceedings such as the one in the above-captioned docket have the potential to establish precedent that will impact the entire natural gas industry, it is necessary for NGSA and CLNG to become a party in order to protect its

¹ 18 C.F.R. § 385.214(d)(1).

² *Certification of New Interstate Nat. Gas Facilities*, 163 FERC ¶ 61,042 (2018).

³ *Certification of New Interstate Nat. Gas Facilities*, 174 FERC ¶ 61,125 (2021).

interests going forward. Therefore, good cause exists for this untimely motion to intervene.

In addition, granting this motion at this stage in the proceeding will not disrupt this proceeding, nor will it prejudice or burden any existing party. NGSA and CLNG accept the record in this proceeding as it stands to date. As stated above, NGSA's and CLNG's interest in this proceeding is based on the Commission willingness to address in individual proceedings important certificate policy matters involving authorizations pertaining to the critical infrastructure NGSA's and CLNG's members rely on to transport and/or export natural gas. As such, NGSA, CLNG and its members are potentially impacted and aggrieved by future Commission orders in this proceeding.⁴ Further, no other party to this proceeding can represent NGSA's and CLNG's interests.

The Commission has granted motions to intervene out-of-time to trade associations in proceedings in which the Commission announced new policies with industry-wide implications and rather than wait for such an Order to issue, NGSA and CLNG seek intervention at this stage of the proceeding.⁵ More recently, the Commission granted Enbridge's Motion to Intervene Out-of-Time in the Northern Natural proceeding, Docket No. CP20-487-000⁶, which was filed on March 17, 2021, the day before the Commission issued an Order in that proceeding. NGSA and CLNG would prefer to intervene now, rather than waiting until an even later stage in the process or

⁴ 15 U.S.C. § 717r(a). See also *City of Pittsburgh v. FPC*, 237 F.2d 741, 476 (D.C. Cir. 1956) ("Aggrievement" applies to a party who, though he may have no interests which must be considered in FERC's determination, is likely to suffer injury by that determination).

⁵ See, e.g., *S. Nat. Gas Co.*, 130 FERC ¶ 61,193, at PP 5-7 (2010) (granting trade association's late-filed motion to intervene for the purpose of seeking rehearing of an issue with broad industry implications); *Tenn. Gas Pipeline Co.*, 101 FERC ¶ 61,311, at PP 19-20 (2002) (granting motion for late intervention to industry group in a proceeding with industry-wide implications).

⁶ *Northern Natural Gas Co.*, 175 FERC ¶ 61,052 (2021).

waiting until an order impacting NGSA, CLNG and their member companies is issued, to seek to intervene in order to protect their interests. The analysis that governed the Commission's decision, as gleaned from the Commissioner's statements issued along with the order, is equally applicable here. As the Chairman Glick stated: "Where a would-be party demonstrates good cause for intervening late, we better serve the public interest by considering its views and stating on the record why we agree or disagree than by erecting procedural barriers just to keep the would-be party out of the proceeding."⁷

Therefore, as explained, NGSA and CLNG and its members will be directly impacted by the outcome of this proceeding, and good cause exists to grant this motion to intervene out-of-time.

⁷ *Id.* (Glick, Comm'r, concurring).

III.
CONCLUSION

WHEREFORE, for the reasons stated herein, the Commission should grant the late motion to intervene.

Respectfully submitted,

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Dated: May 26, 2021

CERTIFICATE OF SERVICE

Pursuant to Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010 (2020), I hereby certify that I have this May 26, 2021, served the forgoing documents on each person designated on the official service list compiled by the Secretary in this proceeding.

/s/ Katharine Ehly

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