FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON, D.C. 20426

NEWS RELEASE

NEWS MEDIA CONTACT:
Tamara Young-Allen
(202) 502-8680

FOR IMMEDIATE RELEASE
September 26, 2005
PL05-13-000, CP01-384-000

COMMISSION ADOPTS POLICY ON CONSOLIDATED FEDERAL RECORD FOR JUDICIAL REVIEW OF PIPELINE, LNG FACILITIES

The Federal Energy Regulatory Commission today adopted a policy statement on development of consolidated federal administrative records for judicial review of proceedings involving authorization of interstate natural gas pipelines and liquefied natural gas facilities. The policy statement provides interim guidance pending a future rulemaking to implement provisions of the Energy Policy Act of 2005.

The Energy Policy Act requires the Commission to implement a coordinated method for authorizing proposals to develop interstate natural gas pipelines and import terminals for liquefied natural gas, or LNG. It also provides for judicial review of actions by federal and state agencies other than the Commission, and stipulates that the U.S. court of appeals in the circuit in which an LNG terminal or gas pipeline is proposed will have jurisdiction over petitions for review of the resulting consolidated federal record. Such appeals will be based on a consolidated record maintained by the Commission.

"One of the principal goals of the Energy Policy Act is strengthening our energy infrastructure. The consolidated record provisions accomplish this by expediting judicial review and preventing unreasonable delays in agency decisions," said Commission Chairman Joseph T. Kelliher.

The Energy Policy Act designated the Commission as the "lead agency" responsible for maintaining a consolidated record of proceedings before the Commission and other federal and state agencies with jurisdiction over various aspects of pipeline and LNG proposals. The consolidated record will be used by parties who initiate federal appellate proceedings for review of decisions rendered by federal or state agencies under the Natural Gas Act, Coastal Zone Management Act, Clean Water Act and Clean Air Act.

In today's policy statement, the Commission said these Energy Policy Act provisions could reasonably be read as applying to pending cases. The Commission said it will determine the best method for consolidating the records on a case-by-case basis,

specifically considering how to do so in a case involving Islander East Pipeline Co. In that case, the Commission concluded that it did not have the record of the state proceeding, and so it could not file it with the court.

Islander East is the first company to use the new Energy Policy Act provisions in seeking judicial review of an authorization decision. It has challenged the Connecticut Department of Environmental Protection's decision, under federal authority delegated to it under the Clean Water Act, to deny water quality certification for the project. The Commission authorized the project under its Natural Gas Act authority in 2002. The matter is now pending before the Second Circuit U.S. Court of Appeals.

The Commission granted Islander East a certificate of public convenience and necessity to construct and operate a 44.8-mile natural gas pipeline from Northhaven, Conn., across Long Island Sound and interconnect with pipeline facilities of the Algonquin Gas Transmission Co. in Brookhaven, N.Y. (Docket No. CP01-384-000). The pipeline would transport up to 285,000 dekatherms per day of natural gas to energy markets in the northeastern United States.

The Commission noted that it would not establish a generic approach during this interim period for cases that were relatively advanced when the Energy Policy Act was enacted, since the procedural situation of a given proceeding and the state of the record may be different in each case.

The Commission pledged to work cooperatively with project sponsors and other federal and state agencies to determine the best method for gathering the record of proceedings at those agencies, and for filing with the courts those records and any portion of the Commission's record that may assist the court in reviewing the matters under appeal.

-30-

R-05-61