



LNG Export Terminal Decisions Forthcoming Following FERC Open Meeting

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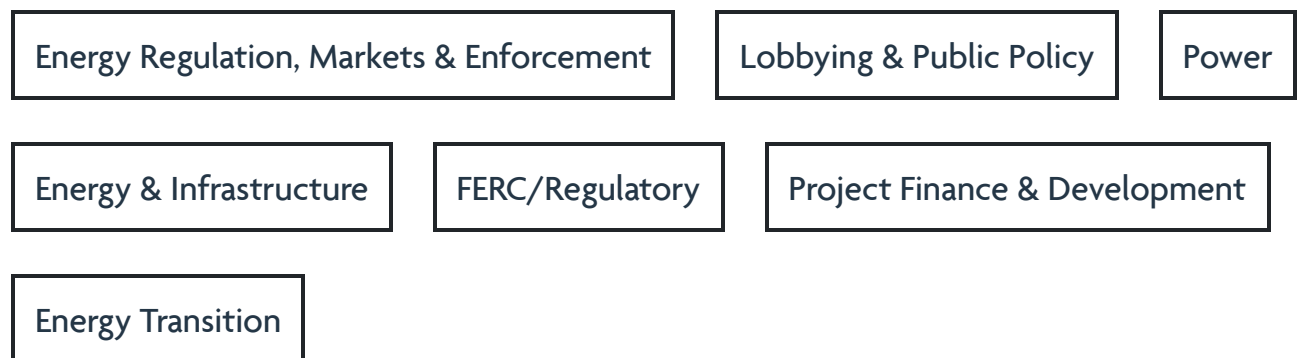
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On September 21, 2023, during the Federal Energy Regulatory Commission's (FERC) September open meeting, Acting FERC Chairman Willie Phillips committed to scheduling a vote on pending rehearing petitions related to two liquefied natural gas (LNG) export terminal projects under development in Brownsville, Texas, by September 29. Chairman Phillips' commitment followed a failed motion by Commissioner James Danly to hold another open meeting to vote on the rehearing orders before FERC loses its jurisdiction to do so under section 19 of the Natural Gas Act (NGA).

The projects, sponsored by Rio Grande LNG, LLC and Texas LNG Brownsville LLC initially were authorized by FERC in 2019 under NGA section 3. However, facility construction was paused for nearly two years beginning in August 2021, after the U.S. Court of Appeals for the District of Columbia Circuit ("D.C. Circuit") ordered FERC to revisit those authorizations on grounds related to their climate change and environmental justice community impacts. FERC eventually issued orders on remand in April 2023 reauthorizing their development, which were appealed by the same environmental interest groups that prevailed in the prior federal court proceedings. After FERC failed to act on the environmental groups' rehearing requests within the 30-day period afforded under the NGA, they petitioned the D.C. Circuit for judicial review. To the extent FERC intends to defend its April 2023 decisions in a rehearing order, the clock is ticking. FERC will lose any opportunity to issue an order modifying or setting aside its April 2023 decisions once the administrative record is filed with the D.C. Circuit. Commissioner Danly openly urged FERC to act before this happens. More information on Rio Grande and Texas LNG can be found [here](#).

The Rio Grande and Texas LNG orders were on the Sunshine Act Meeting Notice for FERC's September open meeting and had been scheduled for a vote, but were pulled from the agenda at the last minute. FERC has a recent history of removing NGA-related items from its open meeting agendas as the agency seeks consensus on its treatment of indirect greenhouse gas emissions in permitting decisions. All but two natural gas certificate matters were removed from the agenda at FERC's last open meeting in July. While a vote may be scheduled for next week on Rio Grande and Texas LNG, the timing remains uncertain. We will continue to monitor the dockets for additional information.

Categories



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