

FERC advises state it is falling short in providing information for EIS

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Feb. 16, 2018

Federal regulators have told the Alaska Gasline Development Corp. (AGDC) that the state agency is falling short in providing all the information, construction and operation plans needed to prepare an environmental impact statement for the proposed Alaska LNG project.

“Incomplete responses and the reissuances of requests for information will affect the schedule for completing the environmental review,” the Federal Energy Regulatory Commission (FERC) said in its [Feb. 15 letter](#) to AGDC.

“To date, only minimal drafts, and in most cases just outlines, of these plans have been provided, and/or the development of the plans have been deferred to a later date,” FERC said, referring to its past requests of AGDC for proposed mitigation plans for wildlife avoidance, marine mammal monitoring, vegetation and soils restoration, groundwater monitoring, and invasive plants.

“Rather than providing specific avoidance and mitigation measures to be adopted ... AGDC has deferred providing information to future plans or the permitting phase,” FERC said. “It is imperative that the information provided in AGDC’s responses include definitive commitments to implement specific avoidance, minimization and mitigation measures. Incomplete information or ill-defined commitments by AGDC may compromise our ability to adequately assess and disclose the full impact of the project.”

For example, AGDC reported to FERC in December that it would develop plans to reduce the project’s impacts on public land and recreational activities after the final environmental impact statement (EIS), though before construction starts. “However,” FERC said Feb. 15, the agency “needs site-specific information on the construction and operation of the proposed facilities in these areas, as well as measures to reduce impacts” before it can prepare the draft EIS — not after the final EIS.

STATE WAITING FOR EIS SCHEDULE

Since last summer, AGDC has been working to respond to more than 800 requests from FERC for additional information needed to prepare the environmental review of the state-led \$43 billion North Slope natural gas pipeline and liquefaction project. The state answered the last of those questions in January and had been hoping FERC would decide it had enough information to set a schedule for the EIS process. The regulatory agency will not publish an environmental review schedule until it is confident it has enough project details to set an EIS timeline that it can keep.

Ever since it filed its application with FERC last April, the state has been pushing for the regulatory agency to commit to completing the final EIS by Dec. 31, 2018. FERC's Feb. 15 letter does not specifically address the state's hope that regulators complete their review by the end of this year. But it does present 171 pages of instructions, requests for information and follow-up questions to data gaps raised in previous letters to the state. The letter lists 288 multi-part requests for more information.

"This enclosure," FERC said in the cover letter to its Feb. 15 filing, "includes several requests for information that have been made multiple times during the pre-filing phase, as well as in the current application review, for which an adequate response has not yet been received."

The state corporation went ahead with its project application in April 2017, even though federal regulators just two weeks earlier had cautioned AGDC to stay in pre-file status "due to the number of questions lingering." A month before that, FERC provided similar advice: "Stay in pre-filing as long as necessary to make the application as complete as possible."

The Alaska LNG project had been in pre-file status since September 2014, when North Slope oil and gas producers ExxonMobil, BP, and ConocoPhillips were leading the development effort. The state took over project management in 2016 after the companies declined — due to weak market conditions — to commit to the additional \$1 billion or more than would be needed to complete permitting and final engineering and design.

EXPEDITED SCHEDULE IMPORTANT TO AGDC

An expedited environmental review schedule is important to the state's marketing efforts for the project, AGDC wrote to FERC in November 2017. "The issuance of a schedule will provide valuable assurance to the market that the regulatory process ... is on track and consistent with Alaska LNG's targeted in-service date." The state is targeting a final investment decision on the project next year, assuming it obtains FERC and other regulatory approvals and can line up gas supply contracts with the producers, customers to buy the LNG, partners and financing. AGDC has said it wants to complete construction and ship its first cargo in 2024.

Lengthy initial data requests and follow-up questions from FERC are common before the agency issues an environmental review schedule. Looking at seven U.S. Gulf Coast LNG projects that received their Notice of Schedule from FERC between 2011 and 2016, the average time from application to an EIS schedule was 12 months — one large project took 19 months— though none of those coastal terminals included 870 miles of pipeline as the Alaska project proposes from Point Thomson to Prudhoe Bay and through the middle of the state to a liquefaction terminal on Cook Inlet.

FERC DISAGREES WITH AGDC ON NEED FOR STUDIES

A point of contention raised in FERC's Feb. 15 letter is whether AGDC must submit specific study results to FERC for the environmental review. "In your previous responses to requests,"

FERC said. “AGDC has stated that because these studies are not required by the state or other entities, AGDC will not provide the information (e.g. sediment modeling, health impact assessment, etc.).”

“I remind you,” the letter said, “that FERC’s regulations implementing the National Environmental Policy Act require applications filed under the Natural Gas Act to include the information. ... Applicants must conduct any studies or provide any information that the commission staff considers necessary or relevant to determine the impact of the proposal on the human environment and natural resources.”

FERC further advised: “Any response from AGDC that states ‘the information is not required by the state or other agency and will not be provided’ will be considered incomplete and reissued [by FERC],” affecting the EIS schedule.

FERC instructed AGDC to respond within 20 days, either with the requested information or a schedule of when the answers will be provided.

The state corporation has projected spending about \$5 million a month this year on marketing, regulatory, and other efforts, and at that rate it has enough state funds to last to the end of the year. The governor has not requested legislative approval of any new funds at this time.

Much of the corporation’s work has focused on commercial and marketing efforts, and staff is scheduled to participate in gas and infrastructure conferences in Houston and Montreal next month, according to the AGDC website, which does not show a date for the next board of directors meeting since the last one in December.

FERC WANTS ANALYSIS OF PORT MACKENZIE, VALDEZ OPTIONS

Among the additional information requested by FERC are further analysis of alternative locations for the LNG plant. An EIS must consider project options to determine the “least environmentally damaging practicable alternative.”

FERC asked for an environmental and engineering analysis of Port MacKenzie as an alternative site to Nikiski for the LNG plant and marine terminal, including an analysis of the pipeline route to the site across from Anchorage in Upper Cook Inlet. The Matanuska-Susitna Borough, which owns the port, filed a complaint and motion with FERC in January, asserting that AGDC, and the North Slope producers before the state took control, failed to adequately consider Port MacKenzie as a preferred site to Nikiski.

The borough alleged that the Alaska LNG project may have violated the National Environmental Policy Act and federal Clean Water Act by “improperly and intentionally excluding” the borough’s Port MacKenzie as a “reasonable alternative” for the LNG plant. The producer-led team selected Nikiski in 2013 after a lengthy review of more than two dozen options.

FERC also instructed AGDC that it needs to prepare an environmental and engineering analysis of the pipeline route to Valdez. Similar to the Matanuska-Susitna Borough, the city of Valdez has filed with FERC to argue that their community would be a better location than Nikiski for the LNG plant. The city of Valdez in 2015 and 2017 filings with FERC challenged the selection of Nikiski.

Other information requested by FERC on Feb. 15 includes:

- An update on plans and additional details for the proposed relocation of several miles of the state-maintained Kenai Spur Highway to make room for the liquefaction plant and marine terminal in Nikiski. AGDC has said the highway must be moved before substantial construction at the site could begin. A final highway route has not been selected, nor land acquired for the new right of way.
- Additional details on dredging required for the material offloading facility (dock and barge landing) that would be built at Nikiski for delivery of construction equipment and plant modules.
- A description of how a North Slope gravel mine would be constructed to supply the project with the material needed for work and construction pads, along with more detailed information on the pipeline project's gravel needs.
- More information on the alternative of routing the gas pipeline for several miles through the Denali National Park and Preserve, including field studies of the park route. AGDC has told FERC that although the park route is preferred to burying the pipe in steep terrain outside the park boundaries, the state needs congressional approval for a change in federal law to make the park option viable from a permitting perspective.
- More information on plans for pipeline crossings at waterways (in particular, for the Point Thomson pipeline along the North Slope), construction work yards, the potential for pipeline construction and operation to thaw permafrost, and plans to fill wetlands — in particular, the use of temporary gravel fill during construction.
- More details on impacts to schools that might gain students from the influx of construction workers; more details on the estimates of local residents who would be hired for construction and operation; and more details on the estimated amount of goods and services that would be purchased for the project in Alaska.
- More information on impact payments to cities and boroughs affected by the project, including information on the taxable or non-taxable status of the state-led project.
- More information on road, rail, and air transportation plans for construction materials and workers.

- And a cumulative impact analysis of the project's effects on subsistence harvests, wildlife habitat and increased competition from construction workers for the resources.