

Wednesday, September 25, 2024

The Honorable Willie L. Phillips
Chairman
Federal Energy Regulatory Commission
888 First St. NE
Washington, D.C. 20426

Dear Chairman Willie L. Phillips,

On August 6, 2024, the U.S. Court of Appeals for the D.C. Circuit vacated reauthorizations for the Rio Grande LNG and Texas LNG projects and remanded the issue to the Federal Energy Regulatory Commission for further proceedings.

We write today to urge you to pursue an appeal and seek a stay of the decision pending the outcome of that appeal.

State and local officials across Texas had already done extensive work related to the two projects. The Rio Grande LNG project already started construction a year ago. The Texas LNG project was less than two months away from securing enough offtake commitments for achieving a final investment decision.^[1]

The decision sets a chilling precedent that will harm the development of infrastructure for projects related to all forms of energy, directly undermining American energy security and therefore national security. If the permits are not reauthorized, over 7,000 high-paying jobs will disappear, and roughly \$24 billion in investments in the Rio Grande Valley will be lost.

There is no precedent for this decision. Charles McConnell, the former Assistant Secretary of Energy at the Department Energy in President Barack Obama's Administration says "If allowed to stand, the precedent from this ruling would be absolutely draconian to investment progress."^[2]

The decision itself, as well as its unprecedented nature, will have far-reaching and negative cascade effects. The Brazos Island Harbor Channel Improvement Project, a \$400 million project to deepen the Brownsville shipping channel from 42 to 52 feet, will likely stop. Over \$20 billion in economic investment and 31 million tonnes per annum of liquified natural gas (LNG) exports will be wiped out. More broadly, if project developers come to believe that federal permits can be overturned due to procedural missteps by the regulator, apart from any actions or fault by the developers, U.S. infrastructure projects will slow and stall.

^[1] *Texas LNG Announces Additional Offtake Sufficient for FID*. (2024, September 11). Business Wire.
<https://www.businesswire.com/news/home/20240911524947/en/Texas-LNG-Announces-Additional-Offtake-Sufficient-for-FID>

^[2] McConnell, C. (2024, September 11). The LNG Court Ruling That Could Chill Investment in Clean Energy Infrastructure. RealClear Energy; RealClear Media Group.
https://www.realclearenergy.org/articles/2024/09/11/the_lng_court_ruling_that_could_chill_investment_in_clean_energy_infrastructure_1057451.html

Since 2016, America has become the largest exporter of LNG in the world, passing competitors such as Russia and Qatar. This achievement was made possible through the work, innovation, and investment of private companies willing to fund and build capital-intensive projects. That progress has now been put at acute risk by the court's decision. We look forward to your prompt response on this matter.

Sincerely,

Ted Cruz
United States Senator