

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

PennEast Pipeline Company, LLC

Docket No. CP15-558-000

(Issued February 20, 2020)

GLICK, Commissioner, *dissenting*:

1. I dissented from the Commission's order granting PennEast Pipeline Company, LLC (PennEast) a certificate of public convenience and necessity. As I explained, the record did not show a need for the pipeline and the Commission erred by finding that the pipeline was required by the public convenience and necessity when many permits and details about the proposed route remained unanswered.¹ Those issues, as well as a host of others, are now being litigated in the federal courts. The only question before us today is whether to grant PennEast's request for an extension of time in which to complete construction of the pipeline.

2. The record before us shows that PennEast is pursuing the relevant federal permits and does not indicate any bad faith or intentional delay on PennEast's part. PennEast's inability to timely complete the pipeline seems to be due in significant part to the number of issues that were unresolved when the Commission granted the certificate.² In other words, the delay is primarily the result of the Commission issuing the certificate prematurely. Under these circumstances, I would grant the extension.

3. But I would do so only if we simultaneously stayed the certificate. In light of both the number of permits outstanding and the uncertain status of the various cases in federal court,³ the certificate should be stayed so that PennEast cannot further exercise eminent

¹ *PennEast Pipeline Co., LLC*, 162 FERC ¶ 61,053 (2018) (Glick, Comm'r, dissenting at 1) (Certificate Order); see *PennEast Pipeline Co., LLC*, 164 FERC ¶ 61,098 (2018) (Glick, Comm'r, dissenting at 1) (order on rehearing).

² Certificate Order, 162 FERC ¶ 61,053 (Glick, Comm'r, dissenting at 3) (criticizing the Commission's decision to "conditionally" issue the certificate given the number of outstanding permits and the extent to which the proposed route that had not been surveyed for potential, environmental, historical, and other issues).

³ In addition to the litigation in the U.S. Court of Appeals for the Third Circuit, whose decision PennEast states it will appeal to U.S. Supreme Court, *PennEast Pipeline Company, LLC*, 170 FERC ¶ 61,138, at P 4 (2020), various parties filed a petition for review of the Commission's decision to issue the certificate in the United States Court of

domain until at least some of those issues are resolved and we have a better understanding of the likelihood that any land condemned would actually be used to build the pipeline. Since the Commission is not staying the certificate, I cannot join today's order.

For these reasons, I respectfully dissent.

Richard Glick
Commissioner

Appeals for the District of Columbia Circuit. That litigation is being held in abeyance pending a final resolution of the Third Circuit proceedings, Order, No. 18-1128 (Oct. 1, 2019).