

Cumberland, MD, CBE, Takeoff Minimums and Obstacle DP, Amdt 7, CANCELED

Augusta, ME, AUG, VOR RWY 35, Amdt 6D, CANCELED

Big Rapids, MI, RQB, RNAV (GPS) RWY 10, Orig

Big Rapids, MI, RQB, RNAV (GPS) RWY 28, Amdt 1

Big Rapids, MI, RQB, Takeoff Minimums and Obstacle DP, Amdt 7

Sturgis, MI, IRS, RNAV (GPS) RWY 1, Orig-C

Sturgis, MI, IRS, RNAV (GPS) RWY 19, Amdt 1E

Paynesville, MN, PEX, RNAV (GPS) RWY 11, Amdt 1D

Paynesville, MN, PEX, RNAV (GPS) RWY 29, Amdt 1D

Park River, ND, Y37, RNAV (GPS) RWY 31, Orig

Park River, ND, Y37, Takeoff Minimums and Obstacle DP, Orig

Berlin, NH, BML, RNAV (GPS) RWY 18, Amdt 1

Reno, NV, RNO, ILS OR LOC RWY 35L, Amdt 2

Reno, NV, RNO, RNAV (GPS) X RWY 35L, Amdt 3

Reno, NV, RNO, RNAV (GPS) X RWY 35R, Amdt 4

Reno, NV, RNO, RNAV (GPS) Y RWY 35L, Amdt 2

Reno, NV, RNO, RNAV (GPS) Y RWY 35R, Amdt 2

Reno, NV, RNO, RNAV (RNP) Y RWY 17L, Amdt 3

Reno, NV, RNO, RNAV (RNP) Y RWY 17R, Amdt 3

Reno, NV, RNO, RNAV (RNP) Z RWY 17L, Amdt 3

Reno, NV, RNO, RNAV (RNP) Z RWY 17R, Amdt 3

Reno, NV, RNO, RNAV (RNP) Z RWY 35L, Amdt 2

Reno, NV, RNO, RNAV (RNP) Z RWY 35R, Amdt 2

Athens/Albany, OH, UNI, RNAV (GPS) RWY 7, Amdt 2A

Athens/Albany, OH, UNI, RNAV (GPS) RWY 25, Amdt 2A

Portsmouth, OH, PMH, RNAV (GPS) RWY 18, Orig-B

Portsmouth, OH, PMH, RNAV (GPS) RWY 36, Orig-B

Lubbock, TX, LBB, ILS OR LOC RWY 26, Amdt 5

Seminole, TX, GNC, RNAV (GPS) RWY 35, Amdt 1B

Highgate, VT, FSO, RNAV (GPS) RWY 18, Amdt 3

Highgate, VT, FSO, RNAV (GPS) RWY 36, Amdt 4

Highgate, VT, FSO, Takeoff Minimums and Obstacle DP, Amdt 2

Moses Lake, WA, MWH, ILS OR LOC RWY 32R, Amdt 20F

Moses Lake, WA, MWH, NDB RWY 32R, Amdt 17D

Moses Lake, WA, MWH, RNAV (GPS) Y RWY 4, Amdt 1E

Moses Lake, WA, MWH, RNAV (GPS) Y RWY 22, Amdt 1D

Moses Lake, WA, MWH, VOR RWY 4, Amdt 6D

Moses Lake, WA, MWH, VOR RWY 22, Amdt 5E

Moses Lake, WA, MWH, VOR RWY 32R, Amdt 20D

Wenatchee, WA, EAT, RNAV (RNP) Z RWY 30, Amdt 1B

Hayward, WI, HYR, ILS OR LOC RWY 21, Orig-C

Hayward, WI, HYR, RNAV (GPS) RWY 3, Orig-G

Oshkosh, WI, OSH, ILS OR LOC RWY 36, Amdt 7D

Oshkosh, WI, OSH, LOC BC RWY 18, Amdt 7B

Oshkosh, WI, OSH, NDB RWY 36, Amdt 6A, CANCELED

Oshkosh, WI, OSH, RNAV (GPS) RWY 9, Amdt 1C

Oshkosh, WI, OSH, RNAV (GPS) RWY 18, Amdt 1B

Oshkosh, WI, OSH, RNAV (GPS) RWY 27, Amdt 1B

Oshkosh, WI, OSH, RNAV (GPS) RWY 36, Amdt 2D

Oshkosh, WI, OSH, Takeoff Minimums and Obstacle DP, Amdt 2

Oshkosh, WI, OSH, VOR RWY 9, Amdt 10C

Oshkosh, WI, OSH, VOR RWY 18, Amdt 8C

Oshkosh, WI, OSH, VOR RWY 27, Amdt 5B

Oshkosh, WI, OSH, VOR RWY 36, Amdt 17B

RESCINDED: On February 5, 2026 (91 FR 5214), the FAA published an Amendment in Docket No. 31647 Amdt No. 4203, to Part 97 of the Federal Aviation Regulations under section 97.23. The following entry for Augusta, ME, effective March 19, 2026, is hereby rescinded in its entirety:

Augusta, ME, AUG, VOR RWY 35, Amdt 7

[FR Doc. 2026-03629 Filed 2-23-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 153 and 157

[Docket No. RM25-9-000]

Removal of Regulations Limiting Authorizations To Proceed With Construction Activities Pending Rehearing; Confirmation

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; confirmation of effective date; order addressing arguments raised on rehearing.

SUMMARY: On October 10, 2025, the Federal Energy Regulatory Commission (Commission) published in the **Federal Register** a final rule removing regulations. This action addresses arguments raised on rehearing and confirms the effective date of that final rule.

DATES: The Commission confirms that the effective date of the final rule published on October 10, 2025 (90 FR 48221), was November 10, 2025.

FOR FURTHER INFORMATION CONTACT: Indigo Brown, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502-8505, indigo.brown@ferc.gov.

SUPPLEMENTARY INFORMATION:

1. On October 7, 2025, the Commission issued a final rule (final rule) amending its regulations to remove § 157.23 and modify § 153.4 to remove the cross-reference to § 157.23.¹ These sections placed restrictions on the issuance of authorizations to proceed with the construction of natural gas facilities. On November 6, 2025, a coalition of petitioners (together, Petitioners)² filed a request for rehearing of the final rule.

2. Pursuant to *Allegheny Defense Project v. FERC*,³ the rehearing request filed in this proceeding may be deemed denied by operation of law. However, as permitted by section 19(a) of the Natural Gas Act (NGA),⁴ we are modifying the discussion in the final rule and continue to reach the same result in this proceeding, as discussed below.⁵

I. Background

3. In Order No. 871, the Commission amended its regulations to add § 157.23, precluding the issuance of authorizations to proceed with construction of new natural gas transportation, export, or import facilities, authorized pursuant to sections 3 and 7(c) of the NGA, for a limited time while certain requests for rehearing were pending before the Commission.⁶ On January 20, 2025, the

¹ *Removal of Reguls. Limiting Authorizations to Proceed with Constr. Activities Pending Rehearing*, Order No. 915, 90 FR 48221 (Oct. 10, 2025), 193 FERC ¶ 61,014 (2025), Errata Notices, Docket No. RM25-9-000 (issued Oct. 10 and Oct. 23, 2025) (Final Rule).

² Petitioners include: Natural Resources Defense Council, Sierra Club, Southern Environmental Law Center, 350 Triangle, 7 Directions of Service, Appalachian Voices, For a Better Bayou, Habitat Recovery Project, Louisiana Bucket Brigade, Micah 6:8 Mision, Mothers Out Front, Preserve Giles County, Property Rights and Pipeline Center, Protect our Water Heritage Rights, Public Citizen, Southern Alliance for Clean Energy, Turtle Island Restoration Network, Robert McNutt, and Katie Whitehead.

³ 964 F.3d 1 (D.C. Cir. 2020) (en banc) (*Allegheny*).

⁴ 15 U.S.C. 717r(a) (“Until the record in a proceeding shall have been filed in a court of appeals, as provided in subsection (b), the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it under the provisions of this chapter.”).

⁵ *Allegheny*, 964 F.3d at 16-17. The Commission is not changing the outcome of the Final Rule. See *Smith Lake Improvement & Stakeholders Ass’n v. FERC*, 809 F.3d 55, 56-57 (D.C. Cir. 2015).

⁶ *Limiting Authorizations to Proceed with Constr. Activities Pending Rehearing*, Order No. 871, 171

President issued Executive Order 14154, to unleash American energy by, among other things, eliminating delays in and streamlining the permitting process for energy infrastructure projects, stating that it is “in the national interest to unleash America’s affordable and reliable energy and natural resources.”⁷ On the same date, the President issued Executive Order 14156, which declared a national energy emergency and prioritized the expansion of energy infrastructure as a matter of critical national and economic security.⁸

4. On April 14, 2025, Interstate Natural Gas Association of America (INGAA) filed a petition for rulemaking, requesting that the Commission adopt a rule rescinding Order No. 871, removing § 157.23 from the regulations, and amending § 153.4, which relates to applications to authorize liquefied natural gas facilities under NGA section 3, to remove the reference to § 157.23.

5. On June 18, 2025, the Commission issued an order temporarily waiving § 157.23 for one year, until June 30, 2026 (Waiver Order).⁹ At the same time, the Commission issued a Notice of Proposed Rulemaking (NOPR), which proposed to permanently remove § 157.23 from its regulations and revise § 153.4 to eliminate the cross-reference to § 157.23.¹⁰ The Commission proposed to remove § 157.23 to respond to the imperative to remove barriers to the construction of necessary energy infrastructure. In addition to requesting public comments on the NOPR proposal to eliminate § 157.23 in its entirety, the Commission posed two specific questions. The Commission sought comment on whether it should instead revise § 157.23 to (1) limit its scope while maintaining some protections for certain types of stakeholders or (2) reduce the time period on the limitation for issuing authorizations to proceed with construction.¹¹

6. The NOPR was published in the **Federal Register** with a 30-day comment period.¹² The Commission received 23 comments in response to the NOPR, including 11 comments from

various individuals and organizations opposing the Commission’s proposal to remove § 157.23;¹³ and 12 comments from various entities supporting its removal.¹⁴

7. On October 7, 2025, the Commission issued the final rule, removing § 157.23 from its regulations. In developing the final rule, the Commission considered and responded to all comments received in response to the NOPR. The Commission ultimately found that removal of the regulation was warranted to reduce construction delays as well as to promote and expedite efficient energy development and ensure that there is sufficient natural gas infrastructure to timely address resource adequacy and reliability concerns but that sufficient safeguards available to impacted stakeholders remained.¹⁵

8. On November 6, 2025, Petitioners sought rehearing of the final rule arguing that the Commission (1) failed to provide an explanation for its departure from prior policy regarding construction delays and the stakeholder protections clarified in *Allegheny*, and relied on arguments that the Commission previously discredited in Order No. 871; (2) failed to provide evidence that § 157.23 impedes gas infrastructure development; (3) failed to provide evidence that other protections available to stakeholders sufficiently address the potential harms from project developers commencing construction during the rehearing period; and (4) used the rulemaking to cure the lack of notice and comment procedures in the Waiver Order.

II. Discussion

A. Justification for Removal

9. Petitioners disagree with the Commission’s conclusion that the removal of § 157.23 is warranted because judicial review and other case-by-case relief offer sufficient protection,

given that projects subject to the regulation are found to be in the public interest.¹⁶ They argue that the existence of a public interest finding to justify the removal of § 157.23 does not explain how the protections previously found to be inadequate in Order No. 871 are now sufficient to protect parties seeking rehearing.¹⁷ Petitioners maintain that the Commission relied on arguments that it previously discredited in Order No. 871. Specifically, they contend that the Commission failed to provide an explanation for reversing course from its previous finding that even though parties can seek judicial review once rehearing has been deemed denied, the purpose of § 157.23 was to prevent construction until the Commission completed its review process.¹⁸ Additionally, noting that the Commission previously found that adopting § 157.23 would not substantially impact the natural gas industry, Petitioners argue that the Commission failed to explain why this prior finding is now improper.¹⁹

10. The Commission is entitled to change its approach and depart from prior precedent, provided that it acknowledges the change in policy and provides a reasoned explanation for the new approach.²⁰ In the final rule, the Commission acknowledged that it departed from the prior policy set forth in Order No. 871.²¹ The Commission recognized that “Order No. 871 provided necessary protections along with *Allegheny*’s assurance of timely judicial review of initial Commission orders.”²² However, the Commission explained that, in light of resource adequacy and reliability concerns from increasing electricity and natural gas demand, the Commission had cause to reevaluate its prior policy concerns and now concluded that § 157.23 was no longer necessary to protect stakeholders, given the Commission’s thorough review of each NGA section 3 and 7 application and the other protections

FERC ¶ 61,201 (2020), *order on reh’g*, Order No. 871–A, 174 FERC ¶ 61,050, *order on reh’g*, Order No. 871–B, 175 FERC ¶ 61,098, *order on reh’g*, Order No. 871–C, 176 FERC ¶ 61,062 (2021); see Final Rule, 193 FERC ¶ 61,014 at PP 2–6 for a more detailed discussion of Order No. 871.

⁷ E.O. 14154, 90 FR 8353 (Jan. 20, 2025).

⁸ E.O. 14156, 90 FR 8433 (Jan. 20, 2025).

⁹ *Interstate Nat. Gas Assoc. of Am.*, 191 FERC ¶ 61,209 (2025) (Waiver Order).

¹⁰ *See Removal of Regs. Limiting Authorizations to Proceed with Constr. Activities Pending Rehearing*, 90 FR 26771 (June 24, 2025), 191 FERC ¶ 61,208 (2025) (NOPR).

¹¹ *Id.* P 23.

¹² 90 FR 26771 (June 24, 2025).

¹³ Commenters that opposed the NOPR included: Marion Freistadt; Texas Environmental Justice Advocacy Services; a consortium of public interest organizations and individuals; Robert Feder; Lila Zastrow and Dave Hendrickson; Diana Dakey; Robert E. Rutkowski; Lakshmi Ford; Institute for Policy Integrity at New York University School of Law; PennFuture; Columbia Riverkeeper et. al; and Delaware Riverkeeper.

¹⁴ Commenters that supported the NOPR included: Arizona Corporation Commission; Energy Transfer LP; Eastern Shore Natural Gas Company; American Gas Association; Mountain Valley Pipeline, LLC; INGAA, the American Petroleum Institute, and GPA Midstream Association; Cheniere Energy, Inc.; Kinder Morgan, Inc.; Enbridge Gas Pipelines; Boardwalk Pipeline Partners, LP; The Williams Companies, Inc.; and WBI Energy Transmission, Inc.

¹⁵ Final Rule, 193 FERC ¶ 61,014 at P 47. *See id.* PP 22–24 (discussing judicial and Commission protections for landowners and stakeholders).

¹⁶ Rehearing Request at 11.

¹⁷ *Id.* at 12.

¹⁸ *Id.* at 12–13.

¹⁹ *Id.* at 13.

²⁰ *See FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515–16 (2009); *In re Permian Basin Area Rate Cases*, 390 U.S. 747, 784 (1968); *see also Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto Ins. Co.*, 463 U.S. 29, 42 (1983) (“[W]e fully recognize that regulatory agencies do not establish rules of conduct to last forever.”) (internal quotations omitted); *Greater Bos. Television Corp. v. FCC*, 444 F.2d 841, 852 (D.C. Cir. 1970) (an agency may change its course as long as it “suppl[ies] a reasoned analysis indicating that prior policies and standards are being deliberately changed, not casually ignored.”), *cert. denied*, 403 U.S. 923 (1971).

²¹ Final Rule, 193 FERC ¶ 61,014 at P 22.

²² *Id.*

available to stakeholders, including judicial review, injunctive relief, motions for stays, and the Commission's presumptive stay policy.²³ Additionally, the Commission did not find in the final rule that removal was warranted due to Order No. 871's impact on the natural gas industry. Rather, the Commission concluded that removal of § 157.23 advances the Commission's mission under the NGA to facilitate the orderly development of natural gas supplies and ensure that approved projects are developed in a timely manner to combat resource adequacy concerns and natural gas and electricity system reliability concerns.²⁴ Accordingly, we continue to find that delaying the issuance of construction authorizations for approved projects as a result of § 157.23 is no longer in the public interest.²⁵

11. Petitioners assert that the Commission determined that the risk of potential delay from § 157.23 justified removal of the regulation and contend that the Commission failed to provide evidence that § 157.23 impedes gas infrastructure development.²⁶ They argue that, prior to Order No. 871, project developers had to account for potential delays and that the Commission could minimize the risk of delays, as it controls the timeframe for acting on rehearing requests.²⁷ They maintain that the Commission's reliance on resource adequacy and reliability concerns to remove § 157.23 does not provide sufficient evidence that potential delays could have an effect on grid reliability.²⁸ Petitioners aver that the Commission should not authorize construction until the conclusion of the decision making process on rehearing, because of the possibility that it could have made an incorrect determination in the initial order.²⁹ They further claim that the Commission disregards the potential disruption of infrastructure development plans should the Commission order a project developer to halt construction in the event that it grants rehearing.³⁰

12. As explained in the final rule, the estimated increases in electricity and natural gas demand, without sufficient natural gas supplies and infrastructure, could impact grid reliability.³¹ The

Commission found that removing § 157.23 would lessen the risk that any potential delays would affect the availability of necessary natural gas supplies to meet increasing demands.³² In Order No. 871-B, the Commission acknowledged that the regulation could add delays and that project development schedules had to account for some uncertainty as the Commission's timeline for processing project applications is dictated by several factors.³³ However, as stated above, evidence of increasing demand amplifies our concern that the potential delay resulting from application of § 157.23 could affect the timeliness of natural gas supplies. Regardless of the length of the average construction delay,³⁴ the Commission sought to remove the risk of an additional regulatory delay of up to five months in the gas development process.³⁵ Additionally, the Commission determined that the default should be for certificate and authorization orders to go into effect absent case-specific reasons to the contrary.³⁶

13. Petitioners argue that the Commission's reliability goals are "red herrings," particularly when one considers the disruption to gas planning that may occur if the Commission authorized construction while rehearing was pending and then subsequently granted rehearing.³⁷ They argue that it is best to wait to authorize the start of construction until the Commission finishes its decision-making process on rehearing.

14. We are not persuaded by Petitioners' argument that a generic delay in construction for all natural gas infrastructure is preferable because the Commission may grant a request for rehearing in an individual case. Recognizing that the Commission is tasked under the NGA with the orderly development of natural gas supplies, Congress itself presumed that an application for rehearing should not operate as a stay unless "specifically" ordered by the Commission.³⁸

Gas Consumption in 2025 (Aug. 25, 2025), <https://www.eia.gov/todayinenergy/detail.php?id=65984> (accessed Sept. 16, 2025).

³² *Id.* P. 40.

³³ Order No. 871-B, 175 FERC ¶ 61,098 at P. 36.

³⁴ See Rehearing Request at 13 (citing Final Rule, 193 FERC ¶ 61,014 at P. 40 (noting that removal of § 157.23 eliminates one, potentially five-month, delay from the construction authorization process) and Order No. 871-B, 175 FERC ¶ 61,098 at P. 37 (providing an estimate, based on 2021 data, that prior to § 157.23's promulgation the average delay between project approval and authorization to commence construction was 85 days)).

³⁵ Final Rule, 193 FERC ¶ 61,014 at P. 40.

³⁶ *Id.* P. 43.

³⁷ Rehearing Request at 15-16.

³⁸ 15 U.S.C. 717r(c).

Consistent with this view, the Commission in the final rule explained that § 157.23 was now overly broad given that projected natural gas and electric generator demands require timely natural gas infrastructure development.³⁹ We went on to explain it was no longer necessary to impose such a delay given the other protections available to landowners and stakeholders, including (1) the Commission's ability to consider stays on a case-by-case basis and (2) the availability of both judicial review, which, after *Allegheny*, parties may now seek more promptly following an initial order, and judicial stays.⁴⁰ To the extent there is any disruption associated with a potential construction stop work order on rehearing, it is outweighed by the national benefits from eliminating § 157.23.

B. Protections Available to Stakeholders

15. Petitioners argue that the Commission failed to provide evidence that other protections available to stakeholders, including judicial review, motions for stay, and the presumptive stay policy, adequately address the potential harms of commencing construction during the rehearing period.⁴¹ They assert that neither the Commission nor the courts have granted a motion for a stay in favor of an impacted stakeholder (noting four presumptive stays that were issued pursuant to Order No. 871) and that the courts do not timely act on judicial review or injunctive relief to prevent damage caused by construction authorizations during the rehearing period.⁴²

16. In the final rule, the Commission explained that natural gas infrastructure projects are only approved following an extensive agency review, which requires the consideration of concerns raised by all stakeholders and any additional protection that may be warranted during project construction and operation.⁴³ Following the Commission's review, project developers must comply with the required conditions in a section 3 authorization or section 7 certificate order. Stakeholders and affected landowners may seek judicial review or injunctive relief after rehearing is deemed denied or file a motion for a stay with the Commission.⁴⁴ Additionally, the presumptive stay policy allows directly affected

³⁹ Final Rule, 193 FERC ¶ 61,014 at PP. 28-30, 39.

⁴⁰ *Id.* P. 40.

⁴¹ Rehearing Request at 16.

⁴² *Id.* at 16-17.

⁴³ Final Rule, 193 FERC ¶ 61,014 at PP. 42-44.

⁴⁴ *Id.* P. 24.

²³ *Id.* PP. 22-24, 28, 43.

²⁴ *Id.* PP. 30, 35, 47.

²⁵ *Id.* PP. 22, 39.

²⁶ Rehearing Request at 14.

²⁷ *Id.* at 15.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.* at 16.

³¹ See Final Rule, 193 FERC ¶ 61,014 at PP. 28-29; EIA, *Short-Term Energy Outlook* (May 6, 2025), <https://www.eia.gov/outlooks/steo> (accessed Sept. 16, 2025); EIA, *EIA Expects Record U.S. Natural*

landowners who would be subject to eminent domain under NGA section 7 to request a stay of a certificate order and protects such landowners from potential harm where a pipeline may initiate eminent domain proceedings immediately following the issuance of an order.⁴⁵ The Commission considers each project application and requested Commission remedy on a case-by-case basis to address all raised concerns and determine whether other relief is required to prevent irreparable harm. The fact that the Commission and courts do not frequently grant motions for stay is not evidence of an unwillingness to grant a meritorious request, but rather, a reflection of the merits of such requests.⁴⁶ On the contrary, the Commission invoked its presumptive stay policy in a recent section 7 certificate proceeding in which a directly affected landowner intervened and protested, and the applicant had not acquired all necessary property interests. The Commission stayed the certificate during the 30-day rehearing period, and pending Commission resolution of any timely requests for rehearing filed by an affected landowner subject to eminent domain, up until 90 days following the date that a request for rehearing may be deemed to have been denied under NGA section 19(a).⁴⁷

17. Finally, Petitioners argue that all these protections existed prior to § 157.23 and are not enough to justify the rule's rescission.⁴⁸ They argue that the Commission erred by failing to provide any evidence that stays or expedited judicial review sufficiently address the harms § 157.23 is meant to protect against.⁴⁹

18. Petitioners err to the extent that they suggest *Allegheny's* reform of the Commission's rehearing practice or the presumptive stay were in place when the Commission issued Order No. 871. Both occurred after the Commission

initially adopted § 157.23. In Order No. 871, the Commission explained that it was exercising its discretion to balance its commitment to respond to parties' concerns in comprehensive orders on rehearing and the concerns posed by the possibility of construction proceeding prior to the completion of Commission review.⁵⁰ Although we are sensitive to these concerns, after five years with the rule in place, the Commission appropriately determined the rule was overly broad in light of other case-by-case protections and our NGA duties during a period of increasing national natural gas demand.

C. Waiver Order

19. Petitioners argue that the issuance of the Waiver Order constituted a rulemaking.⁵¹ Citing cases where agencies failed to provide notice and comment prior to the promulgation of a final rule, Petitioners argue that the Commission attempted to cure the Waiver Order's lack of notice and comment procedures by offering what they characterize as a post-promulgation comment period in the final rule docket.⁵² Petitioners contend that the issuance of the Waiver Order simultaneously with the final rule signaled the Commission's desire to repeal § 157.23 before soliciting public comment.⁵³

20. Despite Petitioners' arguments to the contrary, a post-promulgation comment period is not at issue here. The Commission complied with section 553 of the Administrative Procedure Act by providing notice and an opportunity to comment on its proposal to eliminate § 157.23 prior to issuing the final rule.⁵⁴ Unlike the cases cited by Petitioners, prior to the effective date of the final rule, the Commission issued the NOPR, which was published in the **Federal Register** and established a 30-day comment period, and determined that

the removal of § 157.23 was warranted after considering all comments submitted in response to the NOPR.⁵⁵ Further, as the Commission previously explained, any arguments challenging the Waiver Order are outside the scope of this rulemaking proceeding.⁵⁶ Additionally, arguments challenging the Waiver Order are moot as the Commission's November 13, 2025 order dismissing the rehearing request of the Waiver Order, which was not appealed, is now final.⁵⁷

D. Commission Determination

21. In response to Petitioners' request for rehearing the final rule is hereby modified and the result sustained, as discussed in the body of this order.

III. Document Availability

22. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>).

23. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

24. User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. Email the Public Reference Room at public.referenceroom@ferc.gov.

IV. Dates

25. The effective date of the document published on October 10, 2025 (90 FR 48221), is confirmed: November 10, 2025.

By the Commission.

Issued: February 19, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-03658 Filed 2-23-26; 8:45 am]

BILLING CODE 6717-01-P

⁴⁵ See *supra* P 7; 5 U.S.C. 553.

⁴⁶ Final Rule, 193 FERC ¶ 61,014 at P 18.

⁴⁷ *Interstate Nat. Gas Assoc. of Am.*, 193 FERC ¶ 61,119 (2025).

⁴⁵ *Id.* PP 23, 46.

⁴⁶ The timing of the judicial review process is not within the Commission's control. The Commission grants stays where justice so requires. See, e.g., *Alutiiq Tribe of Old Harbor Alaska Village Elec. Coop., Inc.*, 192 FERC ¶ 61,224, at PP 11-14 (2025) (finding that justice required a stay of a deadline to construct a hydroelectric project because the license transferee experienced delays with the conveyance of the license and right-of-way permitting process that were outside its control); *PacifiCorp*, 163 FERC ¶ 61,208, at PP 6-9 (2018) (finding that justice required a stay of an order granting an amendment to a license until the Commission acts on a license transfer application because the licensee would incur undue costs).

⁴⁷ *Southern Star Central Gas Pipeline, Inc.*, 194 FERC ¶ 61,026, at P 44 (2026); see Final Rule, 193 FERC ¶ 61,014 at PP 23, 46 (explaining that the Commission would continue the presumptive stay policy and listing the criteria it would consider).

⁴⁸ Rehearing Request at 17.

⁴⁹ *Id.* at 4.

⁵⁰ Order No. 871, 171 FERC ¶ 61,201 at P 11.

⁵¹ Rehearing Request at 18-19.

⁵² *Id.* at 18-19 (citing *U.S. Steel Corp. v. EPA*, 595 F.2d 207, 214-15 (5th Cir. 1979) (holding that the Environmental Protection Agency failed to follow the procedures required by section 553 of the Administrative Procedure Act (APA) where it promulgated a list of nonattainment areas under the Clean Air Act without providing notice and comment prior to promulgation and instead providing a post-promulgation comment period); *Buschmann v. Schweiker*, 676 F.2d 352, 358 (9th Cir. 1982) (holding that the agency failed to comply with the APA's notice and comment procedures when it issued an interim amendment to a regulation affecting supplemental security income recipients); *Sharon Steel Corp. v. EPA*, 597 F.2d 377, 381 (3d Cir. 1979) (holding that a post-promulgation comment period "cannot substitute for the prior notice and comment required by the APA.")).

⁵³ *Id.* at 19.

⁵⁴ See Final Rule, 193 FERC ¶ 61,014 at P 18.