



FEDERAL ENERGY REGULATORY COMMISSION

March 2, 2022

The Honorable John Barrasso, M.D.
United States Senate
Washington, D.C. 20510

Dear Senator Barrasso,

Thank you for your letter dated February 15, 2022, in which you express concerns regarding the impact that the Commission's processing of applications for natural gas projects will have on the affordability of natural gas and the reliability of the electric system.

In your letter, you state, "Current FERC policies are endangering reliability and may lead to the kind of price spikes recently seen in Europe."¹ You also comment on the listing of the Updated Certificate Policy Statement² and Interim Greenhouse Gas (GHG) Policy Statement³ on the Commission's Sunshine Act Meeting Notice, urging the Commission to ensure the policy statements "increase, not decrease, regulatory certainty"⁴ and to apply them "prospectively only."⁵ You conclude with asking that my colleagues and I answer four questions in the most expeditious manner in accordance with our rules.

¹ Senator Barrasso, February 15, 2022 Letter, Docket Nos. PL18-1-000, et al., at 2.

² *Certification of New Interstate Nat. Gas Facilities*, 178 FERC ¶ 61,107 (2022) (Danly and Christie, Comm'rs, dissenting) (Updated Certificate Policy Statement).

³ *Consideration of Greenhouse Gas Emissions in Nat. Gas Infrastructure Project Reviews*, 178 FERC ¶ 61,108 (2022) (Danly and Christie, Comm'rs, dissenting) (Interim GHG Policy Statement).

⁴ Senator Barrasso, February 15, 2022 Letter, Docket Nos. PL18-1-000, et al., at 2.

⁵ *Id.* at 3.



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As in my responses to prior letters, in order to avoid any appearance of prejudice and to comply with the Commission’s *ex parte* communication rules, the content of my answers will be limited to: the text of relevant statutes and regulations; procedural information regarding pending proceedings; factual, historical information regarding past Commission issuances; and recitations of the contents of my separate statements.

At the outset, I would like to briefly comment on the criticism that the Commission has received regarding its recently issued policy statements and Chairman Glick’s response. On February 17, 2022, following the Commission’s approval of its policy statements, you issued a news release stating, “The Federal Energy Regulatory Commission is determined to make it nearly impossible for Americans to maintain or improve access to abundant and affordable supplies of natural gas.”⁶ Likewise, Chairman Manchin issued a statement calling the majority’s decision “reckless” “put[ing] the security of our nation at risk . . . by prioritizing a political agenda over their main mission—ensuring our nation’s energy reliability and security.”⁷

Chairman Glick was later asked about these criticisms, specifically: “Was the reaction surprising to you and are you worried about blowback from some of those lawmakers in particular?”⁸ Chairman Glick responded,

I’ll say to you what I said to [Chairman Manchin] and what I’ll say to everybody — and I didn’t use these exact terms — but people need to take a deep breath. I think that the proof is in the pudding about how we

⁶ Senate Committee on Energy & Natural Resources, Republican News, Barrasso: FERC is Determined to Make it Impossible to Access Affordable Energy (Feb. 17, 2022), <https://www.energy.senate.gov/2022/2/barrasso-ferc-is-determined-to-make-it-impossible-to-access-affordable-energy>.

⁷ Senate Energy Dems (@EnergyDems), TWITTER (Feb. 17, 2022, 5:34 PM), <https://twitter.com/EnergyDems/status/1494440072879427596?ext=HHwWmMCyoYLVqL0pAAAA>.

⁸ Catherine Morehouse, *Q&A: FERC Chair Richard Glick*, POLITICO PRO, Feb. 22, 2022.



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actually implement this policy statement and how we're actually going to process the applications for pipelines. This is not the end of the world.⁹

In light of the Chairman's comment, I would like to offer a few thoughts for your consideration. *First*, concerns regarding the affordability of natural gas and reliability of our electric system should not be dismissed lightly. The North American Electric Reliability Corporation (NERC) highlighted just how important natural gas is to our electric system when it explained in its most recent Long Term Reliability Assessment that “[n]atural gas is the reliability ‘fuel that keeps the lights on,’ and *natural gas policy must reflect this reality.*”¹⁰

Second, the purported goal of the Updated Certificate Policy Statement was to provide clarity about how the Commission is going to process the applications for pipelines.¹¹

Third, when investors hear “the proof is in the pudding,” it is obvious that they will flee. This is especially the case when the Commission repeatedly mentions denying

⁹ *Id.* (quoting Chairman Glick).

¹⁰ NERC, Long Term Reliability Assessment, at 5 (Dec. 2021), https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_LTRA_2021.pdf (emphasis added).

¹¹ Updated Certificate Policy Statement, 178 FERC ¶ 61,107 at P 51 (“Specifically, *we provide clarity* on how the Commission will evaluate all factors bearing on the public interest, including the balancing of economic and environmental interests in determining whether a project is required by the public convenience and necessity, thus providing more regulatory certainty in the Commission’s review process and public interest determinations.”) (emphasis added); *id.* P 73 (“*To provide more clarity and regulatory certainty* to all participants in certificate proceedings, we explain here how the Commission will consider environmental impacts.”) (emphasis added) (footnote omitted); *id.* P 100 (“A major purpose of this Updated Policy Statement is to provide clarity and regulatory certainty regarding the Commission’s decision-making process.”) (emphasis added).



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certificates.¹² Capital will be harder to come by.¹³ In turn, natural gas prices will increase. These costs will ultimately be borne by consumers.¹⁴

The Commission is attacking the natural gas industry on multiple fronts. These attacks are not limited to pipeline projects, which the Commission is killing through bureaucratic delay, and, now, the new policy statements. The attacks extend to the electric markets, where the Commission is rewriting the rules to favor new renewable resources at the expense of existing natural gas and other dispatchable generation. These attacks threaten not only the natural gas industry, but also the reliability of the electric system. The Commission's efforts to prop up renewables risk blackouts, as the new rules force needed dispatchable resources out of the market. These actions are not only bad

¹² Updated Certificate Policy Statement, 178 FERC ¶ 61,107 at P 74 (“We may also *deny* an application based on any of the types of adverse impacts described herein, including environmental impacts, if the adverse impacts as a whole outweigh the benefits of the project and cannot be mitigated or minimized.”) (emphasis added); *id.* P 99 (“We do make clear, however, that there may be proposals *denied* solely on the magnitude of a particular adverse impact to any of the four interests described above if the adverse impacts, as a whole, outweigh the benefits of the project and cannot be mitigated or minimized.”) (emphasis added).

¹³ See Maya Weber, *Transco seeks early FERC review for 150 MMcf/d expansion serving Alabama*, GAS DAILY, Feb. 23, 2022 (“The thought of somebody having a cost of capital that can go take on the sufferings of something like [Mountain Valley Pipeline] or anything like that today, I just think those days are over[.]”) (quoting Williams Companies, Inc. CEO Alan Armstrong).

¹⁴ I note that many members of Congress have expressed concerns regarding recent energy prices. See Rep. Bowman, et al., January 5, 2022 Letter to Chairman Glick, at 1 (“In October, the U.S. Energy Information Administration (EIA) predicted that some households’ winter heating bills may rise by as much as 39 percent, compared to last year—a spike that will most affect those with the fewest resources.”) (footnote omitted); see also Senator Reed, et al., February 2, 2022 Letter to Department of Energy Secretary Granholm, at 1 (“In its 2021-2022 Winter Fuels Outlook, the U.S. Energy Information Administration (EIA) estimated that energy costs for natural gas-fueled homes will increase by 30 percent over the course of this winter. Homes in colder regions, such as New England and the Midwest, will see even larger increases in their heating bills.”).



policy, but are also outside the bounds of authority Congress has granted the Commission.

With that background, I now address your questions.

- 1. Will you reconfirm that the Commission will not put any application currently under review on hold while it completes its work on these new policies? If not, why not?***

Though Chairman Glick said in previous letters that he “agree[s] that the Commission should not delay action on these Certificates during the pendency of our ongoing inquiry into potential reforms to the Commission’s Natural Gas Certificate Policy Statement,”¹⁵ it is already plain that the Commission is delaying action on pending

¹⁵ Chairman Glick May 21, 2021 Response to Senator Barrasso April 29, 2021 Letter, Docket No. PL18-1-000, at 1; Chairman Glick May 21, 2021 Response to Senator Capito April 29, 2021 Letter, Docket No. PL18-1-000, at 1; Chairman Glick May 21, 2021 Response to Senator Cassidy April 29, 2021 Letter, Docket No. PL18-1-000, at 1; Chairman Glick May 21, 2021 Response to Senator Cornyn April 29, 2021 Letter, Docket No. PL18-1-000, at 1; Chairman Glick May 21, 2021 Response to Senator Cramer April 29, 2021 Letter, Docket No. PL18-1-000, at 1; Chairman Glick May 21, 2021 Response to Senator Crapo April 29, 2021 Letter, Docket No. PL18-1-000, at 1; Chairman Glick May 21, 2021 Response to Senator Cruz April 29, 2021 Letter, Docket No. PL18-1-000, at 1; Chairman Glick May 21, 2021 Response to Senator Daines April 29, 2021 Letter, Docket No. PL18-1-000, at 1; Chairman Glick May 21, 2021 Response to Senator Hagerty April 29, 2021 Letter, Docket No. PL18-1-000, at 1; Chairman Glick May 21, 2021 Response to Senator Hoeven April 29, 2021 Letter, Docket No. PL18-1-000, at 1; Chairman Glick May 21, 2021 Response to Senator Hyde-Smith April 29, 2021 Letter, Docket No. PL18-1-000, at 1; Chairman Glick May 21, 2021 Response to Senator Inhofe April 29, 2021 Letter, Docket No. PL18-1-000, at 1; Chairman Glick May 21, 2021 Response to Senator Lankford April 29, 2021 Letter, Docket No. PL18-1-000, at 1; Chairman Glick May 21, 2021 Response to Senator Manchin April 29, 2021 Letter, Docket No. PL18-1-000, at 1; Chairman Glick May 21, 2021 Response to Senator Marshall April 29, 2021 Letter, Docket No. PL18-1-000, at 1; Chairman Glick May 21, 2021 Response to Senator Moran April 29, 2021 Letter, Docket No. PL18-1-000, at 1; Chairman Glick May 21, 2021 Response to Senator Risch April 29, 2021 Letter, Docket No. PL18-1-000, at 1; Chairman Glick May 21, 2021 Response to Senator Rounds April 29, 2021 Letter, Docket No. PL18-1-000, at 1; Chairman Glick May 21, 2021 Response to Senator Sinema April 29, 2021 Letter, Docket No. PL18-1-000, at 1; Chairman Glick May 21, 2021 Response to



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certificates. It is evident that applications already before the Commission—some of which have been pending for over two years¹⁶— have been placed on hold while the Commission has prepared the Updated Certificate Policy Statement and Interim GHG Policy Statement.

The Commission has not acted on a certificate authorizing incremental capacity since June 1, 2021.¹⁷ There are eight pending NGA section 7 proceedings with completed National Environmental Policy Act (NEPA) reviews (some having gone

Senator Sullivan April 29, 2021 Letter, Docket No. PL18-1-000, at 1; Chairman Glick May 21, 2021 Response to Senator Tester April 29, 2021 Letter, Docket No. PL18-1-000, at 1; Chairman Glick May 21, 2021 Response to Senator Thune April 29, 2021 Letter, Docket No. PL18-1-000, at 1; Chairman Glick May 21, 2021 Response to Senator Tillis April 29, 2021 Letter, Docket No. PL18-1-000, at 1; Chairman Glick May 21, 2021 Response to Senator Toomey April 29, 2021 Letter, Docket No. PL18-1-000, at 1; Chairman Glick May 21, 2021 Response to Senator Wicker April 29, 2021 Letter, Docket No. PL18-1-000, at 1.

¹⁶ See App. A (North Baja Pipeline, LLC filed its application in Docket No. CP20-27-000 on December 16, 2019; Iroquois Gas Transmission System, L.P. filed its application in Docket No. CP20-48-000 on February 3, 2020; Tennessee Gas Pipeline Company, L.L.C. and Southern Natural Gas Company, L.L.C. filed their applications in Docket Nos. CP20-50-000 and CP20-51-000 on February 7, 2020; and Port Arthur LNG Phase II, LLC and PALNG Common Facilities Company, LLC filed their application in Docket No. CP20-55-000 on February 19, 2020).

¹⁷ See *Enable Gas Transmission, LLC*, 175 FERC ¶ 61,183 (2021); *WBI Energy Transmission, Inc.*, 175 FERC ¶ 61,182 (2021). Incremental capacity is when capacity to transport natural gas is added to the interstate system, either by new pipeline or compression. The Commission last acted on a certificate application filed under section 7 of the Natural Gas Act (NGA) in September 2021 when it authorized a replacement project where no capacity was added to the system. See *Tex. E. Transmission, LP*, 176 FERC ¶ 61,206, at P 3 (2021).



through the process twice).¹⁸ None of them have been listed on the Sunshine Notice since the Chairman took the helm. Based on historical Commission processing times, certificates would ordinarily have been issued in at least six of those proceedings.¹⁹ With the issuance of the new policy statements, which call for pending applications to be supplemented in light of the new policies, the delay will almost certainly continue.

¹⁸ See App. A (an Environmental Assessment (EA) was issued August 13, 2021 for Mountain Valley Pipeline, LLC's application in CP21-57-000 and Final Environmental Impact Statements (EIS) were issued on October 22, 2021 for North Baja Pipeline, LLC's application in Docket No. CP20-27-000, on November 12, 2021 for Iroquois Gas Transmission System, L.P.'s application in Docket No. CP20-48-000, on October 8, 2021 for Tennessee Gas Pipeline Company, L.L.C., et al.'s application in Docket Nos. CP20-50-000 and CP20-51-000; on October 29, 2021 for ANR Pipeline Company, et al.'s application in Docket Nos. CP20-484-000 and CP20-485-000, on September 24, 2021 for Tennessee Gas Pipeline Company, L.L.C.'s application in Docket No. CP20-493-000; on September 21, 2021 for Columbia Gulf Transmission, LLC's application in Docket No. CP20-527-000, and on December 17, 2021 for Atlantic Coast Pipeline, LLC, et al.'s application in CP15-554-009).

¹⁹ See App. A. Using the January 1, 2019 through May 24, 2021 average processing time of four months between the environmental document and order issuance, I estimated that the application for the Mountain Valley Project, LLC's application in CP21-57-000 would be acted upon by December 13, 2021; Columbia Gulf Transmission, LLC's application in Docket No. CP20-527-000 by January 21, 2022; Tennessee Gas Pipeline Company, L.L.C.'s application in Docket No. CP20-493-000 by January 24, 2022; Tennessee Gas Pipeline Company, L.L.C., et al.'s application in Docket Nos. CP20-50-000 and CP20-51-000 by February 8, 2022; North Baja Pipeline, LLC's application in Docket No. CP20-27-000 by February 22, 2022; ANR Pipeline Company, et al.'s application in Docket Nos. CP20-484-000 and CP20-485-000 by February 28, 2022.



2. Will you confirm that projects under review prior to issuances in PL18-1-000 or PL21-3-000 or related proceedings will not be subject to those issuances? If not, why not?

Both the Updated Certificate Policy Statement and Interim GHG Policy Statement apply to both pending and future proceedings.²⁰ As stated in my dissent to the Interim GHG Policy Statement, it is my view that their “universal application to all projects, both new and pending (some for over two years), is an affront to basic fairness and is unjustifiable, especially in light of the many unnecessary delays already suffered by applicants.”²¹

Some may argue that the Commission must apply the new policy statements to pending applications for the sake of legal durability, citing *Sierra Club v. FERC (Sabal Trail)*.²² That cannot be true. Citing *Sabal Trail*, the D.C. Circuit later stated that providing an upper-bound estimate of downstream emissions and explaining why the Social Cost of Carbon is not an appropriate measure of project-level climate change impact “*is all that is required for NEPA purposes.*”²³ In six pending applications, the Commission has issued final environmental impact statements that provide the upper-bound of emissions and explain why the Social Cost of Carbon is not an appropriate metric.²⁴

These applications, which include the Clear Creek Expansion Project, will continue to face delays. You expressed concern regarding the possibility that the

²⁰ See Updated Certificate Policy Statement, 178 FERC ¶ 61,107 at P 100; see also Interim GHG Policy Statement, 178 FERC ¶ 61,108, at P 129.

²¹ Interim GHG Policy Statement, 178 FERC ¶ 61,108 (Danly, Comm’r, dissenting at P 2).

²² 867 F.3d 1357 (D.C. Cir. 2017).

²³ *Appalachian Voices v. FERC*, No. 17-1271, 2019 WL 847199, *2 (D.C. Cir. Feb. 19, 2019) (per curiam) (unpublished).

²⁴ See, e.g., Commission Staff, Nov. 12, 2021, Final Environmental Impact Statement for Iroquois Gas Transmission System, L.P.’s Enhancement by Compression Project, Docket No. CP20-48-000, at 23 (estimating emissions); *Id.* at 31-32 (responding to comments on Social Cost of Carbon).



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proposed Clear Creek Expansion Project may miss another construction season if the Commission does not act on the application by May 31, 2022, and the impact the delay would have on Americans across the West.²⁵

Recognizing that only the Secretary of the Commission may announce the timing of orders,²⁶ I do not believe action by May 31, 2022 is likely. I have provided updated charts in Appendices A and B. As you indicate, and as I show in my updated chart in Appendix B,²⁷ it is clear that the Commission is not likely to act on the application until July 2022 or even later. Three other factors lead me to believe that further delays are probable. *First*, my estimated order dates are derived from now-obsolete information based on the Commission's historical processing times; six of my estimated order dates have since passed.²⁸ *Second*, the Commission's policies set forth in Order No. 871 contemplate adding an additional 30 to 150 days for the Commission to authorize a project sponsor to proceed with construction and for a certificate order to be effective such that it could use its eminent domain authority.²⁹ My current estimate suggests the Clear Creek Expansion Project is not likely to receive its notice to proceed with construction before August 15, 2022.³⁰ *Third*, the recently issued Updated Certificate Policy Statement and Interim Greenhouse Gas Policy Statement contemplate *additional* comment periods for pending applications: “[a]pplicants will be given the opportunity to

²⁵ Senator Barrasso February 15, 2022 Letter at 3.

²⁶ 18 C.F.R. § 3c.2(b).

²⁷ I note that in my February 1, 2022 correspondence, I incorrectly listed June 13, 2022 as the date the final EIS would be issued, October 13, 2022 as the estimated order date, and March 12, 2023 as the date for a potential 150-day stay would be lifted. *See* Commissioner Danly February 1, 2022 Response to Senator Barrasso December 15, 2021 Letter, at App. D, at 2. The updated chart in Appendix B corrects these errors. *See infra* App. B at 2.

²⁸ *See supra* note 19.

²⁹ *See Limiting Authorizations to Proceed with Constr. Activities Pending Rehearing* (Order No. 871-B), 175 FERC ¶ 61,098, at PP 20-27, *reh'g and clarification*, 176 FERC ¶ 61,062 (2021).

³⁰ *See* App. B at 2.



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supplement the record and explain how their proposals are consistent” with the policy statements and “stakeholders will have an opportunity to respond to any such filings.”³¹

When the Commission will begin acting on the backlog is still unknown. Thirteen days have passed since the Commission issued the policy statements. To my knowledge, the Commission has not communicated to applicants how the process for supplementing the record and seeking additional comment will proceed. Whenever the Commission does communicate this information, how long it will then take for the Commission to act on the application is unknown and will likely vary case-by-case. Project sponsors will need time to determine whether and how to supplement the record, to determine what GHG mitigation to propose and how much mitigation to propose, all while attempting to ensure a project remains economic at an acceptable cost for project shippers.³² The Commission will then have to determine how to evaluate these proposals, a task for which it has no expertise. Up to this point, the Commission has only considered “on project” mitigation, such as right-of-way mitigation.

The Commission’s Interim GHG Policy Statement could also change. This adds additional uncertainty to any effort to estimate a new timeline.³³ The Commission has solicited comments on the policy with a deadline of April 4, 2022. In my dissent, I asked, “What happens if a project sponsor supplements its record and the Commission revises the Interim [GHG] Policy Statement once again before acting on that project sponsor’s application?”³⁴

³¹ Updated Certificate Policy Statement, 178 FERC ¶ 61,107 at P 100; *see also* Interim GHG Policy Statement, 178 FERC ¶ 61,108 at P 129.

³² *See* Interim GHG Policy Statement, 178 FERC ¶ 61,108 (Danly, Comm’r, dissenting at PP 12-13); *see also* Commissioner Danly February 1, 2022 Response to Senator Barrasso December 15, 2021 Letter, at 12.

³³ Interim GHG Policy Statement, 178 FERC ¶ 61,108 at P 1.

³⁴ *Id.* (Danly, Comm’r, dissenting at P 16).



3. *If the Commission decides that it is required by the courts and the Natural Gas Act to consider either downstream or upstream greenhouse gas emissions associated with a natural gas project, how will it assure that it is not “double-counting” or exaggerating greenhouse gas effects, for example, by attributing those effects to pipelines as well as to related facilities such as storage facilities or compressor stations?*

The Commission has declared that the courts and the Natural Gas Act (NGA) require it to consider reasonably foreseeable upstream and downstream emissions.³⁵ The Interim GHG Policy Statement says the Commission will determine whether upstream and downstream emissions are reasonably foreseeable on a case-by-case basis,³⁶ which for downstream GHGs will be “in most cases.”³⁷ I take this to mean downstream emissions will be considered reasonably foreseeable effects in every case unless it can be shown that the gas will not be burned.³⁸

I do not agree that the NGA and relevant caselaw require the Commission to undertake this analysis. In my dissent, I explain that the Commission may only consider factors relevant to the public convenience and necessity in the context of the NGA.³⁹ That is, the factors the Commission considers must be relevant to the purposes of the Act—the primary aim of which is to “to promote the orderly production of plentiful

³⁵ Interim GHG Policy Statement, 178 FERC ¶ 61,108 at PP 30-43. Notably missing is any discussion of how upstream emissions could have a reasonably close causal relationship to an NGA section 7 project. *Id.* (Danly, Comm’r, dissenting at P 7). The Commission cites *Sabal Trail* as authority for arguing downstream emissions have a reasonably close causal relationship. Interim GHG Policy Statement, 178 FERC ¶ 61,108 at P 39. I state in my dissent that *Sabal Trail* should not be given too much weight. *Id.* (Danly, Comm’r, dissenting at PP 29-30).

³⁶ Interim GHG Policy Statement, 178 FERC ¶ 61,108 at P 31.

³⁷ *Id.* P 28.

³⁸ *See id.* P 28 n.72 (in support of its statement that the Commission will consider downstream emissions in most cases, the Commission states, “[a]s discussed below, the vast majority of all natural gas consumed in the United States is combusted.”).

³⁹ *See id.* (Danly, Comm’r, dissenting at PP 25-27).



supplies of . . . natural gas at just and reasonable rates.”⁴⁰ I argue that the NGA’s primary purpose does not encompass adverse effects related to upstream or downstream activities.⁴¹ The Commission is not the relevant legal or proximate cause of such adverse effects. In addition, I also note that using an estimate of GHG emissions as a measure of adverse effects is improper. Measuring GHG emissions does not measure climate change impacts. The relevant inquiry is what effects a project’s emissions have on climate change and what adverse effects those changes to the climate, in turn, have on the environment. Such effects must be reasonably foreseeable, and bear a close causal relationship to the proposed project.⁴² The Interim GHG Policy Statement does not explain how the Commission will undertake such analyses. FERC’s repeatedly acknowledged inability to determine the effects that a particular project’s emissions will have on climate change suggests NEPA and the NGA were never meant to address the third-order effects of the natural gas industry writ large.⁴³

The Commission does acknowledge concerns regarding double-counting.⁴⁴ However, the Commission will only address that issue at the order stage when determining whether a project is in the public convenience and necessity under the NGA and will not do so during the NEPA process.

To determine whether to prepare an EA or EIS, the Commission states it will calculate the “direct”⁴⁵ and downstream emissions by “apply[ing] the 100% utilization or

⁴⁰ *See id.* (Danyl, Comm’r, dissenting at P 26) (quoting *NAACP v. FPC*, 425 U.S. 662, 670 (1976)).

⁴¹ *See id.* (Danyl, Comm’r, dissenting at P 25-27).

⁴² *See id.* (Danyl, Comm’r, dissenting at PP 18-23).

⁴³ *See infra* note 58.

⁴⁴ *See id.* P 100.

⁴⁵ Though the Council on Environmental Quality’s (CEQ) regulations no longer distinguish between “direct” and “indirect” effects, I use the term “direct” to be consistent with the Interim Policy Statement. *See Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act*, 85 Fed. Reg. 43,304, 43,343 (July 16, 2020).



‘full burn’ rate.”⁴⁶ If the calculated full-burn emissions equal, or are greater than, 100,000 metric tons per year (tpy) of CO₂e, an EIS will be prepared.⁴⁷ The Commission calculates full-burn in this context for purposes of administrative efficiency rather than any reason related to the probable environmental effects the project will have.⁴⁸

In the order, the Commission says it will calculate emissions for its public interest (NGA section 3) and public convenience and necessity (NGA section 7) determinations using a projected utilization rate for the project and “other factors that might impact a project’s net emissions.”⁴⁹ The Commission will make its findings based on evidence the project sponsors provide as well as information from commenters.⁵⁰

Although it is appropriate to make decisions based on realistic estimates, as I expressed in my dissent, I have many concerns with this approach:

- Do these other factors include consideration of whether the natural gas being transported will actually reduce overall emissions or simply replace existing emissions; for example by powering natural gas generation that permits the retirement of higher-emitting generation or by serving an end use need that will turn to a different—and perhaps higher emitting—energy source if the pipeline is not constructed?⁵¹
- What does this mean for projects where the end use is unknown (such as where gas producers or marketers are the anchor shippers)?⁵²

⁴⁶ Interim GHG Policy Statement, 178 FERC ¶ 61,108 at P 3.

⁴⁷ *See id.*

⁴⁸ *See id.* P 80.

⁴⁹ *Id.* P 45.

⁵⁰ *See id.* PP 51-52.

⁵¹ *Id.* (Danly, Comm’r, dissenting at P 8).

⁵² *See id.*



- Does the Commission have the expertise to evaluate a project sponsor's evidence and resolve any factual disputes? I note that the Commission recently directed an Administrative Law Judge to resolve a dispute over what constituted appropriate post-construction right-of-way restoration (a subject matter with which the Commission presumably has *some* expertise).⁵³
- And while not mentioned in my dissent, how will the Commission account for changes in project shippers?

Given these questions, I am concerned that the Commission's consideration of NGA applications will be further protracted. I am also concerned about how this process will affect regulatory certainty. For some cases, it is likely that the project sponsor will not know the quantity of emissions for which the Commission will consider it responsible, or which is "encouraged" to mitigate, until a certificate issues.

4. *For Chairman Glick, Commissioner Clements, and Commissioner Phillips: why isn't it possible to consider downstream or upstream greenhouse gas emissions with an EA without performing an EIS?*

Although I acknowledge this question was not directed to me, I would like to offer a few thoughts for your consideration. It has been frequently argued that an EIS is required where a project may *arguably* have a significant impact on the human environment.⁵⁴ I anticipate my colleagues will make a similar argument in response to your question: that because they have determined projects emitting more than 100,000 tpy of CO₂e "may have a significant effect upon the human environment,"⁵⁵ an EIS is required.

⁵³ See *id.* (citing *Midship Pipeline Co., LLC*, 177 FERC ¶ 61,186 (2021) (Danly, Comm'r, dissenting at P 5) ("I, for one, am willing to consider the parties' arguments and make a decision.")).

⁵⁴ See Chairman Glick September 24, 2021 Response to Senator Barrasso September 15, 2021 Letter, Docket Nos. CP17-40-000, et al., at 4-5 (citing *Myersville Citizens for a Rural Cmty., Inc. v. FERC*, 783 F.3d 1301, 1322 (D.C. Cir. 2015)).

⁵⁵ Interim GHG Policy Statement, 178 FERC ¶ 61,108 at P 80.



Such argument requires a closer look at the underlying assumption—that emissions equal or exceeding 100,000 tpy of CO₂e may have a significant effect on the environment. As I stated in my dissent, the majority’s rationales for the Commission’s significance threshold are either irrelevant to a project’s environmental effects or not supported by the evidence offered.⁵⁶

The Commission does not offer a rationale linking this threshold to a proposed project’s effects on climate change. As CEQ has previously explained: “it is not currently useful for the NEPA analysis to attempt to link specific climatological changes, or the environmental impacts thereof, to the particular project or emissions, as such direct linkage is difficult to isolate and to understand.”⁵⁷ The Commission has historically agreed with this, explaining that “it cannot determine a project’s incremental physical impacts on the environment caused by GHG emissions.”⁵⁸ The Interim GHG Policy Statement makes no mention of this past Commission precedent and offers no explanation for how it will now conduct such an analysis.

In the circumstances where climate effects are unknown, CEQ’s regulations advise preparing an EA.⁵⁹

The uncertainty around this issue continues. Last Friday, Commission staff issued the Final EIS for the Delta Lateral Project in Docket No. CP21-197-000. The Final EIS

⁵⁶ See *id.* (Danly, Comm’r, dissenting at PP 33-34).

⁵⁷ CEQ, *Draft NEPA Guidance on Consideration of the Effects of Climate Change and Greenhouse Gas Emissions*, at 3 (2010), <https://obamawhitehouse.archives.gov/sites/default/files/microsites/ceq/20100218-nepa-consideration-effects-ghg-draft-guidance.pdf>.

⁵⁸ See, e.g., *Trans-Foreland Pipeline Co. LLC*, 173 FERC ¶ 61,253, at P 31 (2020) (citation omitted).

⁵⁹ See 40 C.F.R. § 1501.3(a)(2) (2021) (“In assessing the appropriate level of NEPA review, Federal agencies should determine whether the proposed action . . . [i]s not likely to have significant effects or the significance of the effects is unknown and is therefore appropriate for an environmental assessment.”); *id.* § 1501.5(a) (“An agency *shall* prepare an environmental assessment for a proposed action that is not likely to have significant effects or when the significance of the effects is unknown unless the agency finds that a categorical exclusion (§ 1501.4) is applicable or has decided to prepare an environmental impact statement.”) (emphasis added).



states: “The Project operations and downstream combustion of gas transported by the Project could potentially increase emissions by over 2.7 million metric tpy of CO₂e, which exceeds the Commission’s presumptive threshold of significance.”⁶⁰ It also states: “FERC staff is unable to determine the significance level of climate change impacts.”⁶¹ It is not clear whether these seemingly contradictory statements are the result of an inadvertent error or further evidence of how intractable this problem remains.⁶²

* * *

Over the last year, the Commission has choked the development of natural gas transportation through delay and uncertainty. It has extended the Commission’s certificate process in some cases by two-fold,⁶³ staying use of a certificate holder’s

⁶⁰ Commission Staff February 25, 2022 Final Environmental Impact Statement for Kern River Transmission’s Delta Lateral Project, Docket No. CP21-197-000, at 4-75.

⁶¹ *Id.* at 2.

⁶² *See id.*; *id.* at i (“Commission staff conclude that construction and operation of the project would not result in significant environmental impacts, with the exception of climate change impacts, where FERC staff is unable to determine significance.”); *id.* at ES-11 (“FERC staff is unable to determine significance with regards to climate change impacts.”); *id.* at 3-4 (“We have concluded through our evaluation in Section 4 of this EIS that Kern River’s proposed action is environmentally acceptable and would not result in significant environmental impacts (with the exception of climate change, for which we are unable to reach a conclusion regarding significance).”); *id.* at 4-58 (“However, as indicated in section 4.13.2, Commission staff are unable to determine the significance that the Project would make on climate change. Should the Commission or other federal agency, such as the EPA or CEQ establish a threshold for determining whether a project’s impact on climate change will be significant, that threshold would be considered in the Commission staff’s environmental analysis.”).

⁶³ For example, the application for North Baja Xpress Project has been pending for over two years since December 2019. I have previously noted that the average processing time from 2011 through 2020 was 12.1 months. Commissioner Danly November 29, 2021 Response to Senator Barrasso September 15, 2021 Letter, Docket Nos. CP20-27-000, et al., at 7.



eminent domain authority,⁶⁴ withholding authorizations to proceed with construction,⁶⁵ subjecting applicants to unnecessary environmental impact statement reviews,⁶⁶ sitting on applications while preparing the policy statements, and establishing additional comment periods.⁶⁷ It has sown uncertainty by reopening final certificate orders,⁶⁸ establishing an “eye-ball test”⁶⁹ and other standardless standards,⁷⁰ all while hinting that the Commission

⁶⁴ See Order No. 871-B, 175 FERC ¶ 61,098 at PP 46-51.

⁶⁵ See 18 C.F.R. § 157.23 (2021); see also Order No. 871-B, 175 FERC ¶ 61,098 at PP 20-29.

⁶⁶ See, e.g., Commission Staff May 27, 2021 Notice in Tenn. Gas Pipeline Co., L.L.C., Docket No. CP20-493-000 (Accession No. 20210527-3054) (announcing schedule for EIS for project with previously prepared EA).

⁶⁷ See Updated Certificate Policy Statement, 178 FERC ¶ 61,107 at P 100 (“Applicants will be given the opportunity to supplement the record and explain how their proposals are consistent with this Updated Policy Statement, and stakeholders will have an opportunity to respond to any such filings.”); Interim GHG Policy Statement, 178 FERC ¶ 61,108 at P 129 (“Applicants with pending applications will be given the opportunity to supplement the record and explain how their proposals are consistent with this policy statement, and stakeholders will have an opportunity to respond to any such filings.”).

⁶⁸ See *Algonquin Gas Transmission, LLC*, 174 FERC ¶ 61,126 (2021) (Danly and Christie, Comm’rs, dissenting), *order on briefing & addressing arguments raised on reh’g*, 178 FERC ¶ 61,029 (2022) (Danly and Christie, Comm’rs, concurring in part and dissenting in part).

⁶⁹ See, e.g., *N. Nat. Gas Co.*, 175 FERC ¶ 61,238 (2021) (Danly, Comm’r, concurring in part and dissenting in part at P 1) (opposing application of “eyeball” test to determine significance of project on climate change).

⁷⁰ See, e.g., Updated Certificate Policy Statement, 178 FERC ¶ 61,107 at PP 53-61 (project need); Interim GHG Policy Statement, 178 FERC ¶ 61,108 at P 107 (stating GHG mitigation will be balanced in public interest determination without telling how much to mitigate).



may deny certificate applications to those who incorrectly guess at how to apply these novel requirements.⁷¹

At the same time, the Commission has taken numerous steps in jurisdictional electric power markets against natural gas and other dispatchable generation. In PJM, which covers thirteen states and the District of Columbia, the Commission in one year has: (1) eviscerated buyer-side market power mitigation, which permits state-subsidized renewable resources to crater prices for natural gas and other existing generators,⁷² (2) imposed unit-specific review of all existing seller offers (new renewable resources are excused) which will result in rampant over-mitigation of existing natural gas and other generator offers by allowing the market monitor to substitute its opinion of risks and costs for those of individual sellers,⁷³ and (3) slashed allowable rates for natural gas and other existing generators by 10 percent by excluding an adder in the modeled energy market offers in the tools used to calculate market clearing prices.⁷⁴

All of these steps actively harm natural gas generation. New renewable resources are the beneficiaries. These events make it clear that, despite the obvious and undeniable need for access to plentiful supplies of natural gas to ensure the reliability of the electric system, the Commission is conducting a coordinated attack on the use of natural gas on multiple fronts. This onslaught will continue. There is no need to wait and see.

⁷¹ See *supra* note 12.

⁷² See Notice of Filing Taking Effect by Operation of Law, Docket No. ER21-2582-000 (Sept. 29, 2021); see also Statement of Commissioner James P. Danly, Docket No. ER21-2582-000 (Oct. 27, 2021).

⁷³ See *Indep. Mkt. Monitor for PJM v. PJM Interconnection, L.L.C.*, 176 FERC ¶ 61,137 (2021) (Danly, Comm'r, dissenting).

⁷⁴ See *PJM Interconnection, L.L.C.*, 178 FERC ¶ 61,020 (2022) (Danly, Comm'r, dissenting).



FEDERAL ENERGY REGULATORY COMMISSION

Thank you for the opportunity to share my thoughts on the policy statements. If I can be of any further assistance with these issues or any other Commission matter, please do not hesitate to contact me.

Sincerely,

James Danly

James P. Danly
Commissioner



FEDERAL ENERGY REGULATORY COMMISSION

Appendix A

Pending NGA Sections 3 and 7 Applications with Previously Prepared Final NEPA documents



FEDERAL ENERGY REGULATORY COMMISSION

Applicant	Docket No(s).	Project Name	Date Filed	Time Since Filing ⁱ	NEPA Process Documents ⁱⁱ	Date NEPA Document Issued	Time Since Issuance of NEPA Document ⁱⁱⁱ	Order Date Estimate Under Prior Practice ^{iv}	Final EA/EIS Date	Order Date Estimate ^v	Date Potential Stay Lifted ^{vi}
North Baja Pipeline, LLC	CP20-27	North Baja XPress Project	12/16/19	806 days	1/31/20 (NOI) 2/14/20 (schedule) ^{vii}	9/8/20 (EA)	539 days	1/8/21	10/22/21 (EIS)	2/22/22	7/22/22

ⁱ I used March 1, 2022, as the end date for the calculation. The calculated number of days does not include the end date.

ⁱⁱ NEPA process documents include notices requesting environmental scoping comments, notice of intent (NOI) to prepare an Environmental Assessment (EA) or Environmental Impact Statement (EIS), and notices of schedule for an EA or EIS.

ⁱⁱⁱ I used March 1, 2022, as the end date for the calculation. The calculated number of days does not include the end date.

^{iv} Prior practice refers to before the May 27 notices announcing supplemental EISs in proceedings where an EA had already been issued. I am using 4 months as the duration between the final NEPA document and order issuance because that was the average processing time from January 1, 2019 to May 24, 2021. If the estimated date falls on a Saturday, Sunday, or holiday, I use the following weekday as the order date estimate.

^v I am using 4 months as the duration between the final NEPA document and order issuance because that was the average processing time from January 1, 2019 to May 24, 2021. If the estimated date falls on a Saturday or Sunday, I use the following weekday as the order date estimate.

^{vi} In Order No. 871-B, the Commission established a policy to stay all NGA section 7 certificate authorizations for up to 150 days if there is a landowner protest. To avoid the perception of prejudging any pending cases, I assume the maximum stay for all cases. *See* Order No. 871-B, 175 FERC ¶ 61,098, PP 46-51.

^{vii} This notice established July 17, 2020, as the EA issuance date. *See* Commission Staff, Notice of Revised Schedule for Environmental Review of the North Baja Xpress Project, Docket No. CP20-27-000, at 1 (June 29, 2020). On June 29, 2020, Commission staff issued a revised schedule stating the EA would be issued on September 8, 2020. *Id.*



FEDERAL ENERGY REGULATORY COMMISSION

Iroquois Gas Transmission System, L.P.	CP20-48	Enhancement by Compression Project	2/3/20	757 days	3/25/20 (NOI) 4/3/20 (schedule)	9/30/20 (EA)	517 days	2/1/21 ^{viii}	11/12/21 ^{ix} (EIS)	3/14/22	8/11/22
Tennessee Gas Pipeline Company, L.L.C. and Southern Natural Gas Company, L.L.C.	CP20-50 CP20-51	Evangeline Pass Expansion Project and SNG Evangeline Pass Expansion Project	2/7/20	753 days	3/20/20 (NOI) 4/3/20	8/24/20 (EA)	554 days	12/24/20	10/8/21 (EIS)	2/8/22	7/8/22

^{viii} An order acting on this application was scheduled and struck from the January 2021 Open Meeting—the last meeting I served as Chairman. See FERC, Sunshine Act Meeting Notice, at 4 (Jan. 12, 2021), <https://www.ferc.gov/news-events/events/january-19-2021-virtual-open-meeting-01192021> (listing Iroquois Gas Transmission System, L.P. Docket No. CP20-48-000 as Item C-9); *Transcript of the 1074th Meeting*, FERC, at 4 (Jan. 19, 2021), <https://www.ferc.gov/media/transcript-01-21-2021> (listing C-9 as a struck item).

^{ix} Commission staff had anticipated issuing a final EIS by September 3, 2021. See Commission Staff, Notice of Revised Schedule for Environmental Review of the Enhancement by Compression Project, Docket No. CP20-48-000, at 1 (Sept. 2, 2021). On September 2, 2021, Commission staff issued a revised schedule stating the final EIS would be issued on November 12, 2021. *Id.* The revised schedule stated the delay was due to “the number and complexity of comments received on the draft EIS.” *Id.*



FEDERAL ENERGY REGULATORY COMMISSION

					(schedule)*						
Port Arthur LNG Phase II, LLC and PALNG Common Facilities Company, LLC	CP20-55	Port Arthur LNG Expansion Project	2/19/20	741 days	4/17/20 (schedule)	1/15/21 (EA)	410 days	5/17/21	--	--	--
ANR Pipeline Company and Great Lakes Gas Transmission Limited Partnership	CP20-484 CP20-485	Alberta XPress Project	6/22/20	617 days	7/20/20 (NOI) 8/20/20 (schedule)	12/4/20 (EA)	452 days	4/5/21	10/29/21 (EIS)	2/28/22	7/28/22
Rio Bravo Pipeline Company, LLC	CP20-481	Rio Bravo Pipeline Project Amendment	6/16/20	623 days	7/28/20 (NOI)	12/21/20 (EA)	435 days	4/21/21	--	--	--

* This notice established July 27, 2020, as the EA issuance date. See Commission Staff, Notice of Revised Schedule for Environmental Review of the Evangeline Pass Expansion Project, Docket Nos. CP20-50-000, et al., at 1 (July 9, 2020). On July 9, 2020, Commission staff issued a revised schedule stating the EA would be issued on August 24, 2020. *Id.*



FEDERAL ENERGY REGULATORY COMMISSION

					8/14/20 ^{xi} (schedule)						
Tennessee Gas Pipeline Company, L.L.C.	CP20-493	East 300 Upgrade Project	6/30/20	609 days	8/13/20 (NOI) 8/26/20 (schedule)	2/19/21 (EA)	375 days	6/21/21	9/24/21 (EIS)	1/24/22	6/23/22
Columbia Gulf Transmission, LLC	CP20-527	East Lateral XPress Project	9/24/20	523 days	10/21/20 (scoping) 12/1/20 (schedule)	3/16/21 (EA)	350 days	7/16/21	9/21/21 (EIS)	1/21/22	6/20/22

^{xi} This notice established November 16, 2020, as the EA issuance date. *See* Commission Staff, Notice of Revised Schedule for Environmental Review of the Rio Bravo Pipeline Project Amendment, Docket No. CP20-481-000, at 1 (Oct. 16, 2020). On October 16, 2020, Commission staff issued a revised schedule stating the EA would be issued on December 21, 2020. *Id.*



FEDERAL ENERGY REGULATORY COMMISSION

Gas Transmission Northwest LLC	CP21-29	Coyote Springs Compressor Station Project	1/13/21	412 days	11/5/21 (schedule)	3/15/21 ^{xii}	351 days	N/A ^{xiii}	3/4/22 (EA)	7/6/22	12/1/22
Mountain Valley Pipeline, LLC	CP21-57	Mountain Valley Amendment Project	2/19/21	375 days	3/16/21 (scoping) 6/11/21 (schedule) 7/1/21 (supplemental scoping)	8/13/21 (EA)	200 days	N/A	N/A	12/13/21	5/12/22

^{xii} This document is titled as an “Environmental Assessment Report” and includes 13 pages of “Environmental comments.” See Commission Staff, Environmental Assessment Report, Docket No. CP21-29-000 (Mar. 15, 2021). Environmental Assessment Reports are generally issued for prior notice applications, like the Coyote Springs Compressor Station Project. See, e.g., Commission Staff, Environmental Assessment Report, Docket No. CP21-13-000 (Jan. 27, 2021).

^{xiii} I do not calculate the estimated date as the notice for supplemental NEPA review was related to historic properties issues. See Commission Staff, Notice of Schedule for the Preparation of an Environmental Assessment for the Coyote Springs Compressor Station Project, Docket No. CP21-29-000, at 1 (Nov. 5, 2021).



FEDERAL ENERGY REGULATORY COMMISSION

Appendix B

Pending NGA Sections 3 and 7 Applications without Previously Prepared Final NEPA Documents

Applicant	Docket No(s).	Project Name	Date Filed	Time Since Filing ⁱ	Date Noticed	Separate NEPA Scoping Document	Notice of Intent to Prepare NEPA Doc.	New Final NEPA Doc. Date	Order Date Estimate ⁱⁱ	Date Potential Stay Lifted ⁱⁱⁱ
Golden Pass Pipeline, LLC	CP21-1 ^{iv} CP21-458	Compression Relocation and Modification	10/2/20	516 days	10/19/20	11/19/20	12/9/20 (EA)	6/24/22 (EIS)	10/24/22	3/23/23
		MP 33 Compressor Station Modification Project	6/11/21	264 days	6/23/21	--	11/5/21 (EIS)			

ⁱ I used March 1, 2022, as the end date for the calculation. The calculated number of days does not include the end date.

ⁱⁱ I am using 4 months as the duration between the final NEPA document and order issuance because that was the average processing time from January 1, 2019 to May 24, 2021. If the estimated date falls on a Saturday, Sunday, or holiday, I use the following weekday as the order date estimate.

ⁱⁱⁱ In Order No. 871-B, the Commission established a policy to stay all NGA section 7 certificate authorizations for up to 150 days if there is a landowner protest. To avoid the perception of prejudging any pending cases, I assume the maximum stay for all cases. *See* Order No. 871-B, 175 FERC ¶ 61,098 at PP 46-51 (2021).

^{iv} The NEPA document for the Compressor Relocation and Modification project is delayed because the Commission combined its review with the MP 33 Compressor Station Modification Project to avoid improper segmentation. *See* Chairman Glick September 24, 2021 Response to Senator Barrasso September 15, 2021 Letter, Docket Nos. CP17-40-000, et al., at 14.



FEDERAL ENERGY REGULATORY COMMISSION

Applicant	Docket No(s).	Project Name	Date Filed	Time Since Filing ⁱ	Date Noticed	Separate NEPA Scoping Document	Notice of Intent to Prepare NEPA Doc.	New Final NEPA Doc. Date	Order Date Estimate ⁱⁱ	Date Potential Stay Lifted ⁱⁱⁱ
Spire Storage West	CP21-6	Clear Creek Expansion Project	10/9/20	508 days	10/22/20	11/9/20	12/9/20 (originally EA) ^v revised 8/26/21	3/15/22 ^{vi} (EIS)	7/15/22	12/12/22
LA Storage, LLC	CP21-44	Hackberry Storage Project	1/29/21	396 days	2/10/21	None	8/27/21	4/8/22 (EIS)	8/8/22	1/5/23
Florida Gas Transmission Company, LLC	CP21-45	Big Bend Project	1/29/21	396 days	2/12/21	3/15/21	8/26/21	3/11/22 (EIS)	7/11/22	12/8/22

^v Commission staff had anticipated issuing an EA by May 13, 2021. *See* Commission Staff, Notice of Schedule for the Preparation of an Environmental Assessment for the Clear Creek Expansion Project, Docket No. CP21-6-000, at 1 (Dec. 9, 2020).

^{vi} Commission staff had anticipated issuing a final EIS by January 21, 2022. *See* Commission Staff, Notice of Revised Schedule for Environmental Review of the Clear Creek Expansion Project, Docket No. CP21-6-000, at 1 (Jan. 20, 2022). On January 20, 2022, Commission staff issued a revised schedule stating the final EIS would be issued on March 15, 2022. *Id.*



FEDERAL ENERGY REGULATORY COMMISSION

Applicant	Docket No(s).	Project Name	Date Filed	Time Since Filing ⁱ	Date Noticed	Separate NEPA Scoping Document	Notice of Intent to Prepare NEPA Doc.	New Final NEPA Doc. Date	Order Date Estimate ⁱⁱ	Date Potential Stay Lifted ⁱⁱⁱ
Atlantic Coast Pipeline, LLC Eastern Gas Transmission and Storage, Inc.	CP15-554-009 CP15-555-007	Atlantic Coast Pipeline Disposition and Restoration Plan and Supply Header Project Restoration Plan	2/24/21	371 days	3/2/21	None	5/4/21	12/17/21 ^{vii} (EIS)	4/18/22	9/15/22
ANR Pipeline Company	CP21-78	Wisconsin Access Project	3/12/21	354 days	3/25/21	4/23/21	8/26/21	3/18/22 (EIS)	7/18/22	12/15/22
Transcontinental Gas Pipe Line Company	CP21-94	Regional Energy Access Expansion Project	3/26/21	340 days	4/9/21	None	10/19/21	7/29/22 (EIS)	11/29/22	4/28/23
Alliance Pipeline, L.P.	CP21-113	Three Rivers Interconnection Project	4/1/21	334 days	4/12/21	9/20/21	2/10/22	9/16/22 (EIS)	1/16/23	6/15/23

^{vii} Commission staff had anticipated issuing a final EIS by November 19, 2021. On November 19, 2021, Commission staff issued a revised schedule stating the final EIS would be issued on December 17, 2021. See Commission Staff, Notice of Revised Schedule for Environmental Review of the Atlantic Coast Pipeline Restoration Project and Supply Header Project Restoration Project, Docket Nos. CP15-554-009, et al. (Nov. 19, 2021).



FEDERAL ENERGY REGULATORY COMMISSION

Applicant	Docket No(s).	Project Name	Date Filed	Time Since Filing ⁱ	Date Noticed	Separate NEPA Scoping Document	Notice of Intent to Prepare NEPA Doc.	New Final NEPA Doc. Date	Order Date Estimate ⁱⁱ	Date Potential Stay Lifted ⁱⁱⁱ
Kern River Gas Transmission, Company	CP21-197	Delta Lateral Project	4/23/21	312 days	5/5/21	None	8/26/21	2/25/22 (EIS)	6/27/22	11/24/22
Driftwood Pipeline LLC	CP21-465	Line 200 and Line 300 Project	6/17/21 10/13/21 10/29/21	257 days 139 days 123 days	6/30/21 10/20/21 11/12/21	None	1/13/22	9/15/22 (EIS)	1/16/23	6/15/23
Texas Eastern Transmission, LP	CP21-463	Holbrook Compressor Units Replacement Project	6/17/21	257 days	7/2/21	10/1/21	1/28/22	5/12/22 (EA)	9/12/22	2/9/23
Texas Gas Transmission, LLC	CP21-467	Henderson County Expansion Project	6/25/21	249 days	7/9/21	7/29/21	10/7/21	8/25/22 (EIS)	12/27/22	5/26/23



FEDERAL ENERGY REGULATORY COMMISSION

Applicant	Docket No(s).	Project Name	Date Filed	Time Since Filing ⁱ	Date Noticed	Separate NEPA Scoping Document	Notice of Intent to Prepare NEPA Doc.	New Final NEPA Doc. Date	Order Date Estimate ⁱⁱ	Date Potential Stay Lifted ⁱⁱⁱ
Freeport LNG Development, L.P. FLNG Liquefaction, LLC FLNG Liquefaction 2, LLC FLNG Liquefaction 3, LLC	CP21-470	Freeport LNG Liquefaction Project Uprate Amendment	6/29/21	245 days	7/14/21	None	12/14/21	4/22/22 (EIS)	8/22/22	N/A
Commonwealth LNG, LLC	CP19-502	Commonwealth LNG Project	7/8/21 ^{viii}	236 days	7/13/21	None	9/24/21	9/9/22 (EIS)	1/9/23	N/A
Rover Pipeline LLC	CP21-474	North Coast Interconnect Project	7/20/21	224 days	8/2/21	9/8/21	11/17/21	1/27/22 (EA)	5/27/22	10/24/22
NFEnergía LLC	CP21-496	MFH Facility Operation	9/15/21	167 days	9/29/21	--	--	--	--	N/A

^{viii} This is the date Commonwealth LNG, LLC amended its application. On August 20, 2019, Commonwealth LNG, LLC filed its initial application.



FEDERAL ENERGY REGULATORY COMMISSION

Applicant	Docket No(s).	Project Name	Date Filed	Time Since Filing ⁱ	Date Noticed	Separate NEPA Scoping Document	Notice of Intent to Prepare NEPA Doc.	New Final NEPA Doc. Date	Order Date Estimate ⁱⁱ	Date Potential Stay Lifted ⁱⁱⁱ
Columbia Gas Transmission LLC	CP21-498	Virginia Electrification Project	9/21/21	161 days	10/5/21	None	2/3/22	12/16/22 (EIS)	4/17/23	9/14/23
Gas Transmission Northwest, LLC	CP22-2	GTN Express Project	10/4/21	148 days	10/19/21	None	1/21/22	10/14/22 (EIS)	2/14/23	7/14/23
Texas Eastern Transmission, LP	CP22-15	Venice Lateral Project	11/10/21	111 days	11/24/21	--	--	--	--	--
Rio Grande LNG, LLC	CP22-17	Limited Amendment	11/17/21	104 days	11/29/21	--	--	--	--	N/A
Venture Global CP2 LNG, LLC Venture Global CP Express, LLC	CP22-21 CP22-22	CP2 LNG and CP Express Pipeline Project	12/2/21	89 days	12/16/21	None	2/9/22	2/10/23 (EIS)	6/12/23	11/9/23
Equitrans, L.P.	CP22-24	Truittsburg OBS Well Conversion	12/2/21	89 days	12/13/21	1/5/22	2/8/22	3/7/22 (EA)	7/7/22	12/5/22
Venture Global Calcasieu Pass, LLC	CP22-25	Calcasieu Pass LNG Terminal Amendment	12/3/21	88 days	12/15/21	--	--	--	--	--



FEDERAL ENERGY REGULATORY COMMISSION

Applicant	Docket No(s).	Project Name	Date Filed	Time Since Filing ⁱ	Date Noticed	Separate NEPA Scoping Document	Notice of Intent to Prepare NEPA Doc.	New Final NEPA Doc. Date	Order Date Estimate ⁱⁱ	Date Potential Stay Lifted ⁱⁱⁱ
Northern Natural Gas Company	CP22-26	Des Moines Aline Replacement Project	12/3/21	88 days	12/17/21	2/8/22	--	--	--	--
Cameron LNG, LLC	CP22-41	Amended Expansion Project	1/18/22	42 days	1/28/22	--	--	--	--	--
Equitrans, L.P.	CP22-44	Ohio Valley Connector Expansion Project	1/28/22	32 days	2/11/22	--	--	--	--	--