

NEWS RELEASES

FERC Updates Policies to Guide Natural Gas Project Certifications

February 17, 2022

Docket Nos. PL18-1, PL21-3

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FERC today issued two policy statements, providing guidance for future consideration of natural gas projects by the Commission. In addition to providing an analytical framework for many need, environmental and public interest issues that arise when companies seek to build new natural gas facilities, the certificate policy statement and interim greenhouse gas (GHG) policy statement are intended to improve the legal durability of the Commission's natural gas certificate and LNG decisions following a series of court decisions raising concerns about the Commission's prior approach.

The updates to the certificate policy statement include the first revision in more than 20 years to the Commission's policy for the certification of new interstate natural gas projects under section 7 of the Natural Gas Act (NGA). With the interim GHG Policy statement, the Commission is taking a critical step in clarifying how it will address GHG emissions under the NGA and National Environmental Policy Act (NEPA) for proposed pipeline and LNG projects. The Commission is seeking comment on the Interim GHG Policy Statement.

“I believe today’s long overdue policy statements are essential to ensuring the Commission’s natural gas siting decisions are reflective of all stakeholder concerns and interests,” Chairman Rich Glick said. “We have witnessed the impact on pipeline projects when federal agencies, including the Commission, fail to fulfill their statutory responsibilities assessing the potential effects of a project on the environment, landowners and communities. If we are going to ensure legal durability of our orders, it is essential that the Commission satisfy its statutory obligations the first time. I’m proud of these policy statements because they provide a forward-looking declaration on how the Commission intends to execute its authority to consider proposed infrastructure projects in a manner that is responsive both to all the interests at stake and to the direction of the courts.”

Updated Certificate Policy Statement (PL18-1)

In 2018 and again, in 2021, the Commission issued notices of inquiry (NOI) seeking public comment on its 1999 policy statement on the certification of new interstate natural gas transportation facilities. In particular, the Commission requested information on the consideration of the effects of such projects on affected communities, the treatment of precedent agreements in determining the need for a project, and the scope of the Commission’s environmental review, including an analysis of the impact of a project’s greenhouse gas emissions.

The Updated Certificate Policy Statement reaffirms many of the goals and objectives of the Commission’s 1999 policy statement, but further clarifies how the Commission will execute its

public interest obligations under the Natural Gas Act. The Updated Policy Statement explains that, in making such determinations, the Commission intends to consider all impacts of a proposed project, including economic and environmental impacts, together. It also calls for a robust consideration of impacts to landowners and environmental justice communities in the Commission's decision-making process.

And where the Commission traditionally has relied on precedent agreements between project applicants and shippers to establish the need for a project, the Updated Certificate Policy Statement states that applicants should provide more than just precedent agreements, to help explain *why* a project is needed, such as the intended end use of the gas. It also states that the Commission may consider other evidence of need, including demand projections, estimated capacity utilization rates, potential cost savings to customers, regional assessments and statements from state regulators or local utilities.

Interim GHG Policy Statement (PL21-3)

The Commission is issuing the Interim GHG Policy Statement to explain how it will assess the impacts of natural gas infrastructure projects on climate change in its reviews under the National Environmental Policy Act and the Natural Gas Act. The Commission seeks comment on all aspects of the interim policy statement, including, in particular, the approach to assessing the significance of the proposed project's contribution to climate change. The guidance is subject to revision based on the record developed in this proceeding; however, the Commission will begin applying the framework established in this policy statement in the interim. This will allow the Commission to evaluate and act on pending applications under section 3 and section 7 of the Natural Gas Act without undue delay and with an eye toward

greater certainty and predictability for all stakeholders.

The interim policy sets a threshold of 100,000 metric tons per year of GHG emissions. Projects under consideration with emissions above that level will require the preparation of Environmental Impact Statements (EIS). The Commission will consider proposals by project sponsors to mitigate all or part of their projects' climate change impacts. The Commission may condition its approval on further mitigation of those impacts.

In quantifying GHG emissions, FERC will consider emissions that are reasonably foreseeable and have a reasonably close causal relationship to the proposed action. This will include GHG emissions from construction and operation of the project, and *may* include GHG emissions resulting from the upstream production and downstream combustion of transported gas.

Applicability

As policy statements, neither document establishes binding rules. They are intended to explain how the Commission will consider applications for natural gas project construction. They will apply only to pending and new projects; those applicants with projects now pending before the Commission will have the opportunity to supplement their records.

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