

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Certification of New Interstate Natural Gas Facilities

Docket No. PL18-1-000

SUPPLEMENTAL COMMENTS OF COLUMBIA RIVERKEEPER

Columbia Riverkeeper (“Riverkeeper”) thanks the Commission for offering a supplemental comment period¹ regarding the Commission’s 1999 Natural Gas Certificate Policy Statement (“Policy Statement”). Riverkeeper is a signatory to the comprehensive comments submitted by the Public Interest Organizations under this docket, however we would like to add the following additional comments for the Commission’s consideration.

Pursuant to the Natural Gas Act (“NGA”), no new interstate gas pipeline may be constructed or expanded without first obtaining a certificate of public convenience and necessity from the Commission.² In issuing such a certificate, Congress directed the Commission to evaluate whether “the proposed service, sale, operation, construction, extension, or acquisition . . . is or will be required by the present or future public convenience and necessity; otherwise such application shall be denied.”³ Judicial precedent, and the Commission’s own 1999 Policy Statement, have interpreted this directive as giving the Commission very broad authority to review all relevant factors in determining whether the new infrastructure is, in fact, in the public interest.⁴

One factor that has been noticeably absent from the Commission’s consideration has been the wave of new state policies, executive orders, and legislation passed in recent years adopting

¹ *Certification of New Interstate Natural Gas Pipeline Facilities*, Notice of Inquiry, 174 FERC ¶ 61,125 (2021), Docket No. PL18-1-000.

² 15 U.S.C. 717f(c)(1)(A).

³ *Id.* at 717f(e).

⁴ See Romany Webb, *Climate Change, FERC, and Natural Gas Pipelines: The Legal Basis for Considering Greenhouse Gas Emissions Under Section 7 of the Natural Gas Act (June 2019)* at 12–16, Sabin Center for Climate Change Law, Columbia Law School, available at <https://ssrn.com/abstract=3402520>.

aggressive new greenhouse gas (“GHG”) emissions reduction goals. In the past three years alone, over a dozen states have issued executive orders and / or introduced legislation aimed at dramatically reducing GHG emissions within those states. Many of these policies include requirements to completely phase out fossil fuel generated electricity within the next twenty to thirty years, moving to 100% renewable energy sources. Additionally, some cities and states are starting to pass ordinances and laws banning gas hookups in new building construction. These states are sending a clear message that they have considered the climate impacts of fossil fuels and decided that fossil fuel generated electricity is no longer in the public interest.

In reviewing whether a proposed project is in the public convenience and necessity, the Commission should consider whether that project will serve a state that has adopted a 100% renewable energy goal—if so, that should weigh heavily against the Commission determining that the project is in the public interest. It simply does not make sense to build out more gas infrastructure in a state that has expressed a clear desire to move entirely away from fossil fuel generated electricity. Doing so will result in one of two things: 1) the new infrastructure will slow the state’s efforts to achieve a 100% renewable energy portfolio—potentially locking the state into decades longer reliance on fossil energy, or 2) the infrastructure will end up being abandoned long before the end of its “useful” life—potentially at the expense of ratepayers who end up footing the bill for the stranded asset. Neither scenario is in the public interest.

Furthermore, in his first days in office, President Biden issued an Executive Order announcing a new target for the United States to reduce greenhouse gas pollution 50–52 percent below 2005 levels by 2030. Under President Biden’s leadership, the United States has also re-entered the Paris Agreement, committing to reach net zero emissions economy-wide by no

later than 2050. In his Executive Order, President Biden acknowledged that the United States is facing

a climate crisis that threatens our people and communities, public health and economy, and, starkly, our ability to live on planet Earth. Despite the peril that is already evident, there is promise in the solutions — opportunities to create well-paying union jobs to build a modern and sustainable infrastructure, deliver an equitable, clean energy future, and put the United States on a path to achieve net-zero emissions, economy-wide, by no later than 2050.⁵

To achieve net-zero emissions, the country is going to need to dramatically reduce its reliance on fossil fuel energy now—something we cannot do if gas infrastructure build-out continues at its current rate with no consideration for whether that infrastructure is actually needed or wanted by the states those projects are proposed in.

CONCLUSION

For these reasons, we strongly urge the Commission to consider relevant state and federal climate goals in determining whether a proposed project is in the public convenience and necessity.

Respectfully submitted,



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⁵ Exec. Order No. 14008, 86 Fed. Reg. 7619, 7622 (Jan. 27, 2021).