



The Secretary of Energy

Washington, DC 20585

August 29, 2025

The Honorable David Rosner, Chairman
The Honorable Lindsay S. See, Commissioner
The Honorable Judy W. Chang, Commissioner
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: *Secretary of Energy's Direction that the Federal Energy Regulatory Commission Initiate Rulemaking Procedures and Proposal to Rescind the Draft Updated Certificate Policy Statement Pursuant to the Secretary's Authority Under Section 403 of the Department of Energy Organization Act*

Dear Mr. Chairman and Commissioners,

For America to continue dominating global energy markets, we must follow the statutory mandates that put us well ahead of our competition. Chief among them is the Natural Gas Act of 1938 (NGA).¹ Congress charged the Federal Energy Regulatory Commission (Commission or FERC) with encouraging the "orderly development of plentiful supplies of . . . natural gas at reasonable prices."² Unfortunately, past administrations flouted Congressional will by upending the rules that govern review and approval of new interstate natural gas pipelines. Today, I urge the Commission to correct this error and to fulfill the objectives of the NGA by ensuring Americans have affordable and abundant domestic energy supplies.

On February 18, 2022, the Commission issued (1) an Updated Certificate Policy Statement describing how the Commission will evaluate factors bearing upon the public interest in determining whether a new interstate natural gas transportation project is required by the public convenience and necessity under section 7 of the Natural Gas Act (NGA); and (2) an interim policy statement explaining how the Commission will assess the impacts of natural gas infrastructure on climate change in its reviews under the National Environmental Policy Act (NEPA) and the NGA (Interim GHG Policy Statement).³ On March 24, 2022, the Commission issued an order making the Updated Certificate Policy Statement and Interim Greenhouse Gas Policy Statement drafts, rendering them temporarily inoperative.⁴

¹ 15 U.S.C. § 717, *et seq.*

² *NAACP v. FPC*, 425 U.S. 662, 670 (1976).

³ *Certification of New Interstate Nat. Gas Facilities*, 178 FERC ¶ 61,107 (2022) (February 2022 Order).

⁴ *Certification of New Interstate Nat. Gas Facilities and Consideration of Greenhouse Gas Emissions in Nat. Gas Infrastructure Project Reviews*, 178 FERC ¶ 61,197 (2022) (March 2022 Order).

On January 24, 2025, the Commission terminated the draft GHG Policy Statement,⁵ sensibly putting an end to the uncertainty that the misguided GHG Policy Statement (draft or otherwise) inflicted on the natural gas industry for nearly three years.

However, the draft Updated Certificate Policy Statement continues to cast a fog of uncertainty over the development of vital natural gas infrastructure. Until the Commission rescinds it, the draft Updated Certificate Policy Statement will continue to haunt the natural gas industry. Thus, pursuant to my authority under section 403 of the Department of Energy Organization Act (DOE Act),⁶ I attach for the Commission's consideration, as the basis for final agency action, pursuant to the Commission's authority under section 7 of the NGA, the enclosed proposal which I intend to submit to the Federal Register as a proposed statement of policy of general applicability.⁷

Two primary reasons inform the need to rescind the draft Updated Certificate Policy Statement.

I. Legal Jurisdiction

First, and as a threshold matter, the Commission "is a 'creature of statute,' having 'no constitutional or common law existence or authority, but *only* those authorities conferred upon it by Congress.'"⁸ The statutory standard applicable to NGA section 7(c) certificate applications is whether a proposed project "is or will be required by the present or future public convenience and necessity."⁹ The draft Updated Certificate Policy Statement exceeds the Commission's statutory authority. It also advances bad policy.

⁵ *Consideration of Greenhouse Gas Emissions in Nat. Gas Infrastructure Project Revs.*, 190 FERC ¶ 61,049 (2025).

⁶ Under section 403 of the DOE Act (Initiation of rulemaking procedures before Commission), "The Secretary and the Commission are authorized to propose rules, regulations, and statements of policy of general applicability with respect to any function within the jurisdiction of the Commission under section 402 of this Act." 42 U.S.C. § 7173(a). "NEPA does not apply to rulemaking actions proposed by the Secretary pursuant to section 403(a) of the DOE Act . . . because such proposals are not final agency action." DOE NEPA Implementing Procedures, § 2.1(c)(8) (2025).

⁷ Because the Commission can rescind the draft Updated Certificate Policy Statement by Commission order, the proposed statement of policy comes in the form of a proposed Commission order. *See e.g.*, *Consideration of Greenhouse Gas Emissions in Nat. Gas Infrastructure Project Revs.*, 190 FERC ¶ 61,049 (2025).

⁸ *Atl. City Elec. Co. v. FERC*, 295 F.3d 1, 8 (D.C. Cir. 2002) (quoting *Michigan v. EPA*, 268 F.3d 1075, 1081 (D.C. Cir. 2001)) (emphasis in original).

⁹ *Id.* § 717f(e) ("[A] certificate shall be issued to any qualified applicant therefor, . . . if it is found that the applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of this chapter and the requirements, rules, and regulations of the Commission thereunder, and that the proposed service, sale, operation, construction, extension, or acquisition, to the extent authorized by the certificate, *is or will be required by the present or future public convenience and necessity*; otherwise such application shall be denied.") (emphasis added).

“[T]he Natural Gas Act ‘vests the Commission with broad discretion to invoke its expertise in balancing competing interests and drawing administrative lines.’”¹⁰ This does not mean that the Commission need observe no bounds in construing the meaning of “the public convenience and necessity.” The Supreme Court has found that NGA section “7(e) requires the Commission to evaluate all factors bearing on the public interest”¹¹ but the Court has explained that the inclusion of the phrase “public interest” is not “a broad license to promote the general public welfare”—instead, it “take[s] meaning from the purposes of the regulatory legislation.”¹² As noted above, the purpose of the NGA is “to encourage the orderly development of plentiful supplies of . . . natural gas at reasonable prices.”¹³ Any balancing under the public convenience and necessity standard necessarily must place that purpose front and center.

“Nothing contained in [NGA section 7] shall be construed as a limitation upon the power of the Commission to grant certificates of public convenience and necessity for service of an area already being served by another natural-gas company.”¹⁴ Therefore, the Commission is not barred from finding a proposed project required by the public convenience and necessity when it is in an area that is already served by another company.¹⁵

NGA section 1(b), which sets forth the division of jurisdiction, provides that: [t]he provisions of [the NGA] shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, and to natural-gas companies engaged in such transportation or sale, and to the importation or exportation of natural gas in foreign commerce and to persons engaged in such importation or exportation, but *shall not apply to any other transportation or sale of natural gas or to the local distribution of natural gas or to the facilities used for such distribution or to the production or gathering of natural gas.*¹⁶

The Commission’s authority therefore extends to: (1) the “transportation of natural gas in interstate commerce,” (2) the “sale in interstate commerce of natural gas for resale,” and (3)

¹⁰ *Env’tl. Def. Fund v. FERC*, 2 F.4th 953, 975 (D.C. Cir. 2021) (internal quotation marks omitted).

¹¹ Updated Certificate Policy Statement, 178 FERC ¶ 61,107 at P 4 n.6 (quoting *Atl. Ref. Co. v. Pub. Serv. Comm’n of N.Y.*, 360 U.S. 378, 391 (1959)).

¹² *NAACP*, 425 U.S. at 669.

¹³ *Id.* at 669-70; accord *Myersville*, 783 F.3d at 1307 (quoting *NAACP*, 425 U.S. at 669-70). I note that the Supreme Court has also recognized the Commission has authority to consider “other subsidiary purposes,” such as “conservation, environmental, and antitrust questions.” *NAACP*, 425 U.S. at 670 & n.6 (citations omitted). All subsidiary purposes are subordinate to the statute’s primary purpose.

¹⁴ 15 U.S.C. § 717f(g).

¹⁵ See *Panhandle E. Pipe Line Co. v. FPC*, 169 F.2d 881, 884 (D.C. Cir. 1948) (“[N]othing in the Natural Gas Act suggests that Congress thought monopoly better than competition or one source of supply better than two, or intended for any reason to give an existing supplier of natural gas for distribution in a particular community the privilege of furnishing an increased supply.”).

¹⁶ 15 U.S.C. § 717(b) (emphasis added).

“natural-gas companies engaged in such transportation or sale.”¹⁷ Exempted from the Commission’s jurisdiction are production, gathering and local distribution.¹⁸ Taking into account these exemptions, the Commission does not have jurisdiction over the “gas once it moves beyond the high-pressure mains into the hands of an end user.”¹⁹ Another exemption from federal regulation is contained in NGA section 1(c), which states:

The provisions of this chapter shall not apply to any person engaged in or legally authorized to engage in the transportation in interstate commerce or the sale in interstate commerce for resale, of natural gas received by such person from another person within or at the boundary of a State if all the natural gas so received is ultimately consumed within such State, or to any facilities used by such person for such transportation or sale, provided that the rates and service of such person and facilities be subject to regulation by a State commission.²⁰

Thus, Congress has carefully delineated the limits of the Commission’s jurisdiction.²¹

Similarly, NEPA cannot extend the Commission’s jurisdiction because NEPA cannot “mandat[e] that agencies achieve particular substantive environmental results.”²² Rather, NEPA “imposes only procedural requirements on federal agencies with a particular focus on requiring agencies to undertake analyses of the environmental impact of their proposals

¹⁷ *Id.*

¹⁸ *See id.*

¹⁹ *Pub. Utils. Comm’n of Cal. v. FERC*, 900 F.2d 269, 277 (D.C. Cir. 1990).

²⁰ 15 U.S.C. § 717(c).

²¹ *See FPC v. Transcon. Gas Pipe Line Corp.*, 365 U.S. 1, 8 (1961) (*Transco*) (“Congress, in enacting the Natural Gas Act, did not give the Commission comprehensive powers over every incident of gas production, transportation, and sale. Rather, Congress was ‘meticulous’ only to invest the Commission with authority over certain aspects of this field leaving the residue for state regulation.”) (citation omitted); *see also FPC v. Panhandle E. Pipe Line Co.* 337 U.S. 498, 502-03 (1949) (“[S]uffice it to say that the Natural Gas Act did not envisage federal regulation of the entire natural-gas field to the limit of constitutional power. Rather it contemplated the exercise of federal power as specified in the Act, particularly in that interstate segment which the states were powerless to regulate because of the Commerce Clause of the Federal Constitution.”) (footnote omitted).

²² *Marsh v. Or. Nat. Res. Council*, 490 U.S. 360, 371 (1989); *accord Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989) (*Methow Valley*) (“[I]t is now well settled that NEPA itself does not mandate particular results, but simply prescribes the necessary process.”); *see also Baltimore Gas & Elec. Co. v. Nat. Res. Def. Council, Inc.*, 462 U.S. 87, 97 (1983) (*Baltimore Gas & Elec. Co.*) (“Congress in enacting NEPA . . . did not require agencies to elevate environmental concerns over other appropriate considerations.”). As the Supreme Court recently explained: “When assessing significant environmental effects and feasible alternatives for purposes of NEPA, an agency will invariably make a series of fact-dependent, context-specific, and policy-laden choices about the depth and breadth of its inquiry Courts should afford substantial deference and should not micromanage those agency choices so long as they fall within a broad zone of reasonableness.” *Seven Cnty. Infrastructure Coal. v. Eagle Cnty., Colorado*, 605 U.S. ___, 145 S. Ct. 1497, 1513 (2025).

and actions.”²³ Indeed, “NEPA not only does not require agencies to discuss any particular mitigation plans that they might put in place, it does not require agencies—or third parties—to effect any.”²⁴ Contrary to the Updated Certificate Policy Statement, it is not necessary to ensure that environmental impacts are mitigated before one can make a finding that a proposed project is required by the public convenience and necessity.²⁵ Neither NEPA nor the NGA establishes such a requirement.

And, any attempt to justify such action through the Commission’s conditioning authority is misguided.²⁶ Under its conditioning authority, “[t]he Commission shall have the power to attach to the issuance of the certificate and to the exercise of the rights granted thereunder such reasonable terms and conditions as the public convenience and necessity may require.”²⁷ Contrary to the Updated Certificate Policy Statement, the Commission cannot impose conditions that extend beyond the Commission’s jurisdiction.²⁸ The conditioning authority under section 7 of the NGA extends to those conditions required by the public convenience and necessity, and no further. The Commission also cannot find support under NEPA for its expectation that applicants propose mitigation measures in order for a project to be deemed required by the public convenience and necessity.²⁹

²³ *Dep’t of Transp. v. Pub. Citizen*, 541 U.S. 752, 756-57 (2004) (citation omitted); *accord Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 23 (2008) (“NEPA imposes only procedural requirements to ‘ensur[e] that the agency, in reaching its decision, will have available, and will carefully consider, detailed information concerning significant environmental impacts.’”) (quoting *Methow Valley*, 490 U.S. at 349); *see also Vt. Yankee Nuclear Power Corp. v. Nat. Res. Def. Council, Inc.*, 435 U.S. 519, 558 (1978) (“NEPA does set forth significant substantive goals for the Nation, but its mandate to the agencies is essentially procedural.”).

²⁴ *Citizens Against Burlington, Inc. v. Busey*, 938 F.2d 190, 206 (D.C. Cir. 1991) (citing *Methow Valley*, 490 U.S. at 353 & n.16).

²⁵ *See* Updated Certificate Policy Statement, 178 FERC ¶ 61,107 at P 74 (“We will consider environmental impacts and potential mitigation in both our environmental reviews under NEPA and our public interest determinations under the NGA. The Commission expects applicants to structure their projects to avoid, or minimize, potential adverse environmental impacts.”); *id.* (“Should we deem an applicant’s proposed mitigation of impacts inadequate to enable us to reach a public interest determination, we may condition the certificate to require additional mitigation.”); *id.* at P 79 (“[W]e clarify that our consideration of impacts to communities surrounding a proposed project will include an assessment of impacts to any environmental justice communities and of necessary mitigation to avoid or lessen those impacts.”).

²⁶ *But see id.* at P 74 (concluding the because the Commission’s conditioning authority is broad, if the Commission determines that the applicant’s proposed mitigation of impacts are inadequate, the Commission has the authority to condition the certificate to require additional mitigation).

²⁷ 15 U.S.C. § 717f(e).

²⁸ *See Richmond Power & Light of City of Richmond, Ind. v. FERC*, 574 F.2d 610, 620 (D.C. Cir. 1978) (“What the Commission is prohibited from doing directly it may not achieve by indirection.”) (footnote omitted).

²⁹ *See Methow Valley*, 490 U.S. at 352-53 (“There is a fundamental distinction, however, between a requirement that mitigation be discussed in sufficient detail to ensure that environmental consequences have been fairly evaluated, on the one hand, and a substantive requirement that a complete mitigation plan be actually formulated and adopted, on the other Even more significantly, it would be inconsistent with NEPA’s reliance on procedural mechanisms—as opposed to substantive, result-based standards—to

II. Uncertainty

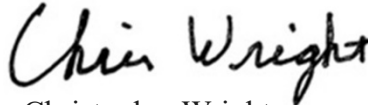
Second, the draft Updated Certificate Policy Statement creates uncertainty, both because, as a “draft” statement, it may still be adopted by the Commission, and because of the policies it advances. Although the March 2022 Order redesignated the Updated Certificate Policy Statement as a draft, rendering it temporarily inoperative, it stopped short of rescission. The possibility thus remains that the Commission could apply the draft Updated Certificate Policy Statement or a derivative of it in the future as long as the draft Updated Certificate Policy Statement remains pending. Additionally, during its pendency, and given the timeline necessary to develop natural gas infrastructure, current and future project sponsors cannot have confidence that the Commission will not resurrect it in the future.

To restore consistency and remove the guesswork from project applications, the Commission should rescind the draft Updated Certificate Policy Statement.

III. Conclusion

To meet the needs of this moment, we must follow the NGA’s command to encourage the development of the infrastructure necessary to ensure abundant and affordable natural gas. On behalf of the American people, I look forward to your immediate and final action (and no later than September 30, 2025) to provide assurance to the natural gas industry.³⁰

Sincerely,



Christopher Wright
Secretary of Energy

demand the presence of a fully developed plan that will mitigate environmental harm before an agency can act.”) (citing *Baltimore Gas & Elec. Co.*, 462 U.S. at 100 (“NEPA does not require agencies to adopt any particular internal decisionmaking structure”)).

³⁰ “The Commission . . . shall consider and take final action on any proposal made by the Secretary . . . in an expeditious manner in accordance with such reasonable time limits as may be set by the Secretary for the completion of action by the Commission on any such proposal.” 42 U.S.C. § 7173(b).

[X] FERC ¶ [X]
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners:

Certification of New Interstate Natural Gas Facilities

Docket Nos. PL18-1-000
PL18-1-001

ORDER TERMINATING PROCEEDING

(Issued [DATE], 2025)

1. On February 18, 2022, the Commission issued an Updated Certificate Policy Statement describing how the Commission will evaluate all factors bearing on the public interest in determining whether a new interstate natural gas transportation project is required by the public convenience and necessity under section 7 of the Natural Gas Act (NGA).¹ On March 24, 2022, the Commission issued an order making the Updated Certificate Policy Statement a draft, rendering it temporarily inoperative.² The Commission invited further comment, and stated that the Commission would not apply the draft Updated Certificate Policy Statement to pending applications or applications filed before the Commission issued any final guidance in this docket.³ On August 21, 2025, pursuant to section 403 of the Department of Energy Organization Act,⁴ the Secretary of Energy (Secretary) directed the Commission to consider a proposed statement of policy of general applicability to rescind the draft Updated Certificate Policy Statement.⁵ For the reasons discussed herein, we terminate the draft Updated Certificate Policy Statement proceeding.

¹ *Certification of New Interstate Nat. Gas Facilities*, 178 FERC ¶ 61,107 (2022) (Updated Certificate Policy Statement).

² *Certification of New Interstate Nat. Gas Facilities and Consideration of Greenhouse Gas Emissions in Nat. Gas Infrastructure Project Reviews*, 178 FERC ¶ 61,197 (2022).

³ *Id.* at P 2.

⁴ 42 U.S.C. 7173

⁵ 42 U.S.C. 7173(a).

I. Background

2. On April 19, 2018, the Commission issued a Notice of Inquiry⁶ seeking information to help the Commission explore whether, and if so, how, it should revise its approach for determining whether proposed projects are consistent with the public convenience and necessity under the then-currently effective policy statement on the certification of new interstate natural gas transportation facilities.⁷ The 2018 NOI included a background section discussing how the legal standards and historical context informed the creation of the Certificate Policy Statement in 1999, how the Commission's evaluations under the Certificate Policy Statement and under NEPA have evolved, and how changed circumstances since 1999 have required the present review.⁸ The Commission sought input on whether, and if so, how, the Commission should adjust its evaluation of the environmental impacts of a proposed project.

3. The Commission identified four general areas for examination in the 2018 NOI: (1) the reliance on precedent agreements to demonstrate need for a proposed project; (2) the potential exercise of eminent domain and landowner interests; (3) the Commission's evaluation of alternatives and environmental effects under NEPA and the NGA; and (4) the efficiency and effectiveness of the Commission's certificate processes.

4. In response to the 2018 NOI, the Commission received more than 3,000 comments from stakeholders including landowners; tribal, federal, state, and local government officials; non-governmental organizations; consultants, academic institutions and think tanks; natural gas producers, Commission-regulated companies, local distribution companies, and industry trade organizations; electricity generators and utilities; and others.

⁶ *Certification of New Interstate Nat. Gas Facilities*, 163 FERC ¶ 61,042 (2018) (2018 NOI).

⁷ *Certification of New Interstate Nat. Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *clarified*, 90 FERC ¶ 61,128, *further clarified*, 92 FERC ¶ 61,094 (2000) (1999 Certificate Policy Statement).

⁸ 2018 NOI, 163 FERC ¶ 61,042 at PP 5-50.

5. On February 18, 2021, the Commission issued a new Notice of Inquiry, seeking comments to build upon the existing record established by the 2018 NOI.⁹ The Commission received over 35,000 comments and approximately 150 unique comment letters from a wide range of stakeholders.

6. After issuing the Updated Certificate Policy Statement and draft Updated Certificate Policy Statement in 2022 and soliciting further input from stakeholders, the Commission received numerous additional comments.

II. Discussion

7. As described above, the Commission developed a lengthy record over the course of the Updated Certificate Policy Statement and Draft Updated Policy Statement proceedings. Having thoroughly reviewed that record, we are now rescinding the draft Updated Certificate Policy Statement and terminating these proceedings. We find, based on the record that has been developed, that the issues addressed in these proceedings are better considered under the 1999 Certificate Policy Statement, the framework that has been employed for over 25 years, and the paradigm under which it has operated throughout the pendency of the draft Updated Certificate Policy Statement.¹⁰

The Commission orders:

The *Certification of New Interstate Natural Gas Facilities* proceedings are terminated.

By the Commission.

(S E A L)

⁹ *Certification of New Interstate Nat. Gas Facilities*, 174 FERC ¶ 61,125, at P 4 (2021).

¹⁰ See e.g., *Transcon. Gas Pipe Line Co.*, 190 FERC ¶ 61,048, at PP 25-31, 37-40 (2025).

Department of Energy
Federal Energy Regulatory Commission

[Docket Nos. PL18-1-000, PL18-1-001]

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of Proposed Statement of Policy of General Applicability.

SUMMARY: Pursuant to section 403 of the Department of Energy Organization Act (DOE Act), the Secretary of Energy proposes a statement of policy of general applicability for final agency action by the Federal Energy Regulatory Commission (FERC or Commission). The Secretary proposes that the Commission exercise its authority under section 7 of the Natural Gas Act to rescind the draft policy statement issued in Docket No. PL18-1-001 and terminate the ongoing proceeding at FERC in Docket Nos. PL18-1-000 and PL18-1-001. The Commission shall consider and take final action on this proposal by September 30, 2025. Any final action on this proposal shall take effect [date of publication in the Federal Register].

DATES: The Commission is directed to take final action by September 30, 2025. Comments are due according to a schedule and procedures to be published by the Commission.