

4/25/22

UNITED STATES OF AMERICA BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Certification of New Interstate Natural Gas Facilities)	
)	Docket No. PL18-1-001
)	
Consideration of Greenhouse Gas Emissions in Natural Gas Infrastructure Project Review)	
)	Docket No. PL21-3-001
)	

COMMENTS OF THE AMERICAN CHEMISTRY COUNCIL

In response to the proposed policies governing Certification of New Interstate Natural Gas Facilities (“Certification Policy”) and Consideration of Greenhouse Gas Emissions in Natural Gas Infrastructure Project Review (GHG Policy”), (together, “Proposed Natural Gas Policies”) issued by the Federal Energy Regulatory Commission (“FERC” or “Commission”) in the above-captioned proceedings on February 22, 2022, the American Chemistry Council hereby respectfully submits these comments to aid the Commission in its deliberations.¹

INTRODUCTION AND SUMMARY

ACC submits these comments on behalf of the U.S. chemical manufacturing industry. ACC represents a diverse set of companies engaged in the business of

¹ See *Certification of New Interstate Natural Gas Facilities*, 178 FERC ¶ 61,107 (2022); *Consideration of Greenhouse Gas Emissions in Natural Gas Infrastructure Project Reviews*, 178 FERC ¶ 61,108 (2022); *Order on Draft Policy Statements*, 178 FERC ¶ 61,197 (March 24, 2022).

chemistry. Our members work to solve some of the biggest challenges facing our nation and our world, driving innovation through investments in research and development (R&D) that exceed \$10 billion annually, providing 529,000 skilled, good-paying jobs—plus over 4.1 million related jobs—that support families and communities, and enhances safety through a diverse set of products.²

Our members help drive down our nation’s carbon emissions by supplying chemical products and inputs needed to advance our nation’s sustainability and carbon reduction goals. Chemical-based products and technologies support the fight against climate impacts in a range of applications, including carbon capture and use, renewable energy sources like solar and wind, battery storage, electric and high-efficiency vehicles, and building materials that reduce energy consumption.

Our members are also reducing their own emissions intensity and have made significant progress over the last decade. Many of those gains have come from transitioning from coal and coke to lower-carbon natural gas fuels. Indeed, for many of ACC’s members, maintaining reliable, affordable access to industrial-scale supplies of natural gas (NG) and natural gas liquids (NGLs) is critical to the competitiveness, if not the viability of US operations, as well as their long-term greenhouse gas emissions reduction strategies.

² ACC’s mission is to deliver value to our members through evidence-based advocacy, using best-in-class member engagement, political advocacy, communications, and scientific research. We are committed to fostering progress in our economy, environment, and society.

Given these interests and the significant impact FERC natural gas policies have on our members' ability to remain competitive while achieving sustainability goals, ACC respectfully offers the following comments and recommendations.

A. Maintaining the nation's competitive advantage, production capacity, and job base will require continued investment and expansion of industrial-scale pipelines and distribution infrastructure for NG/NGLs

It is important for FERC to recognize the significant role natural gas has played in the industrial renaissance of the last 10 years and its importance to continued economic health and competitiveness of the domestic manufacturing sector. Affordable domestic natural gas has made the U.S. a global destination of choice for chemical manufacturers, allowing the U.S. to compete in global markets with existing assets and driving billions of dollars in expansion and new plants since 2010. Natural gas and natural gas liquids are now the primary feedstocks, or raw materials, used in the U.S. to create thousands of chemical products. Natural gas also provides the energy used to run complex chemical operations and is responsible for many of the emissions reductions gains made over the last 10 years. Today, natural gas is often the only adequate source of the heat energy available to chemical plants for cracking and other heat-intensive processes.

Natural gas will also be a crucial fuel well into the future as the nation expands deployment of renewable energy sources and infrastructure. Chemical manufacturing and other heavy industries require 24/7, year-round access to high volumes of electrical and heat energy. As renewable generation and storage capacity continues to grow, natural gas will be a necessary component of a reliable energy grid to smooth out the

intermittency issues associated with wind and solar generation.³ This is particularly the case for energy-intensive industrial operations like chemical production, where the demand for electric and heat energy can already challenge traditional grid demands, and process electrification will require radical expansions to the power grid. Natural gas supply and infrastructure is also important to the development and expansion of industrial hydrogen as an alternative fuel source.

In short, natural gas is and will continue to be an irreplaceable part of a strong U.S. economy. Congress recognized the importance of natural gas in establishing FERC's mandate, and it is more important than ever today. FERC policy needs to continue to support its fundamental mandate under the Natural Gas Act (NGA), best summarized by the U.S. Supreme Court in *NAACP v. FPC*, as to "[e]ncourage the orderly development of plentiful supplies of . . . natural gas at reasonable prices."⁴ As discussed below, the Proposed Natural Gas Policies turn their back on this long-standing approach.

B. The Natural Gas Policies would discourage needed investments in energy infrastructure, undermining traditional and alternative energy and manufacturing sector security

Despite the importance of natural gas to the nation's current and prospective economic health and sustainability, the Proposed Natural Gas Policies would constitute

³ See UNEC, *How Natural Gas Can Support the Uptake of Renewable Energy*, ECE Energy Series No. 66 (2019), available at https://unece.org/DAM/energy/se/pdfs/CSE/PATHWAYS/publ/NG_RE.pdf.

⁴ *NAACP v. FPC*, 425 U.S. 662, 669-70 (1976) (citations omitted) (NAACP).

a radical shift in federal policy, essentially discouraging and deprioritizing natural gas development by imposing new procedural hoops and unspecified substantive expectations.

Rather than providing the markets with certainty and clarity needed to support efficient and timely energy infrastructure investments, the proposed policy statements open FERC-regulated projects to unlimited scrutiny, subjective manipulation, and delays. The likely impact will be longer timelines for project reviews, additional avenues to challenge infrastructure development and deny an application, and higher costs on customers. The added risk, cost, and uncertainty will reduce or distort future investment, and threaten energy security, reliability, affordability, and jobs.

Commissioner Christie spoke to this challenge in his dissent, noting:

The new policy also threatens to do fundamental damage to the nation's energy security by making it even more costly and difficult to build the infrastructure that will be critically needed to maintain reliable power service to consumers as the generation mix changes to incorporate lower carbon-emitting resources such as wind and solar.

The majority's proposal on GHG impacts . . . will actually make it more difficult to expand the deployment of low or no-carbon resources, because it will make it more difficult to build or

*maintain the gas infrastructure essential to keep the lights on as more intermittent resources are deployed.*⁵

ACC encourages the Commission to reconsider the need for the proposed policies at this time and, if more is needed, to ensure that any changes recognize and honor the FERC's fundamental mandate under the NGA.

C. The GHG Policies are inconsistent with and contradict the Commission's statutory authority under the NGA, NEPA, long-standing Commission practice, and court precedent.

ACC has fundamental concerns with the proposed Policy Statements on multiple levels, including the apparent lack of legal or policy support for the sweeping changes proposed. As articulated by Commissioner Christie, "what the majority does today is arrogate to itself the power to rewrite both the Natural Gas Act (NGA) and the National Environmental Policy Act (NEPA), a power that *only* the elected legislators in Congress can exercise." The changes proposed in the Policy Statements "are wrong as both law and policy [and] clearly exceed the Commission's legal authority under the NGA and NEPA."⁶

This is not the only case where the administration is attempting to transform statutory structures into tools to attempt to address GHG emissions. As seen in the recent CEQ CCUS Guidance, which imposed onerous new requirements on carbon

⁵ *Certification of New Interstate Natural Gas Facilities*, 178 FERC ¶ 61,107 (2022), Christie Dissent at 3.

⁶ *Id.* at 2.

capture, use, and sequestration projects, and the massive, proposed expansion to the Security and Exchange Commission’s (SEC) greenhouse gas emissions disclosure requirements, the Administration has sought to use authority from disparate Congressional enactments to achieve its policy priorities related to GHGs.⁷ No matter how laudable the Administration’s policy goals may be, the results in these cases, as with the FERC proposals, are policy frameworks poorly fit to achieve Congress’ goals under the statute, and even less suitable for the Administration’s objective because of the use of statutory authority that was neither designed nor intended to serve the Administration’s climate change policy. ACC urges the Commission to reconsider this “truly radical departure from decades of Commission practice and precedent implementing the NGA.”⁸

Thank you for your consideration of these comments. If you have any questions or would like more information, please free to contact ACC via phone at (202) 297-4420 or email Charles_Franklin@americanchemistry.com.

⁷ See, e.g., Council on Environmental Quality (CEQ), *CCUS Project Permitting Guidance*, 87 Fed. Reg. 8808 (March 18, 2022); Securities and Exchange Commission, *The Enhancement and Standardization of Climate-Related Disclosures for Investors*, 87 Fed. Reg. 21334 (April 11, 2022).

⁸ *Certification of New Interstate Natural Gas Facilities*, 178 FERC ¶ 61,107 (2022), Christie Dissent at 2.