United States House of Representatives
Committee on Energy and Commerce
Subcommittee on Energy, Climate, and Grid Security
July 24, 2024 Hearing
The Fiscal Year 2025 Federal Energy Regulatory Commission Budget

Questions for the Record
Responses of the Honorable Willie L. Phillips, Chairman
Federal Energy Regulatory Commission
December 6, 2024

The Honorable Cathy McMorris Rodgers

1. FERC has discretion under the Federal Power Act (FPA) to issue permits for hydropower projects with certain conditions, including that the licensee shall commence construction within a fixed period of time. If a hydropower project applicant requires more time to comply with conditions set forth by FERC, it must file a request for extension of time. Under the America's Water Infrastructure Act of 2018 (AWIA), Congress authorized FERC to extend the period for commencement of construction for up to 8 additional years if the Commission finds that the permittee has carried out activities under such permit in good faith and with reasonable diligence when not incompatible with the public interest. H.R. 4045, the Hydropower Clean Energy Future Act would authorize FERC to extend the commencement period for an additional 4 years beyond the 8 years authorized under AWIA to account for additional delays caused by the COVID-19 pandemic.

    a. Please list all hydropower projects that have requested an extension of time to commence construction since the passage of AWIA. Please also describe the current status of those projects, and whether FERC approved or rejected the request for extension.

Answer: Since the passage of AWIA, the Commission has acted on 47 requests for an extension of time to commence construction up to the maximum period of time allowed under statute. The Commission has not rejected any of these requests. The project status, as well as current deadline to commence construction, for these 47 projects is as follows:

FERC No.	PROJECT NAME	STATUS OF REQUESTED EXTENSIONS TO COMMENCEMENT OF CONSTRUCTION DEADLINE	CURRENT PROJECT STATUS
P-12478	Gibson	Granted until 1/12/2022.	License terminated per statute
P-12613	Tygart	Granted until 4/29/2026.	Unconstructed
P-12626	Dresden Island	Granted until 9/23/2026.	Unconstructed
P-12686	Mason Dam	Granted until 9/6/2024.	Unconstructed

P-12715	Jennings Randolph Dam	Granted until 4/30/2023. Start of construction requirement stayed until 6/30/2027.	Unconstructed
P-12717	Brandon Road	Granted until 7/22/2026.	Unconstructed
P-12726	Rock Creek	Granted until 3/18/2027.	Unconstructed
P-12737	Gathright	Granted until 3/13/2022.	Unconstructed
P-12740	Flannagan	Granted until 1/27/2022.	License terminated per statute
P-12756	Lock and Dam No. 3	Granted until 4/14/2024.	Unconstructed
P-12757	Lock and Dam No. 4	Granted until 2/17/2025.	Unconstructed
P-12758	Lock and Dam No. 5	Granted until 3/28/2025.	Unconstructed
P-12790	Pomperaug	Granted until 10/16/2024.	Unconstructed
P-12796	Robert C. Byrd	Granted until 1/5/2024.	License surrendered
P-13102	Demopolis Lock and Dam	Granted until 12/14/2025.	Unconstructed
P-13123	Eagle Mountain Pumped Storage	Granted until 6/19/2024. Start of construction requirement stayed until 2/15/2027.	Unconstructed
P-13160	Overton Lock and Dam	Granted until 4/2/2022.	Unconstructed
P-13212	Grant Lake	Granted until 8/28/2027.	Unconstructed
P-13213	Heidelberg	Granted until 12/21/2022.	Under construction
P-13272	Old Harbor	Granted until 4/29/2026.	Unconstructed
P-13318	Swan Lake North Pumped Storage	Granted until 4/30/2027.	Unconstructed
P-13404	Beverly Lock and Dam	Granted until 12/30/2023.	License surrendered
P-13405	Devola Lock and Dam	Granted until 3/30/2024.	License surrendered
P-13406	Malta/McConnelsville Lock and Dam	Granted until 12/30/2023.	License surrendered
P-13407	Lowell Lock and Dam	Granted until 3/30/2024.	License surrendered
P-13408	Philo Lock and Dam	Granted until 12/30/2023.	License surrendered
P-13411	Rokeby Lock and Dam	Granted until 12/30/2023.	License surrendered
P-13563	Sweetheart Lake	Granted until 9/8/2026.	Unconstructed
P-13642	Gordon Butte Pumped Storage	Granted until 12/14/2026.	Unconstructed

P-13701	Sardis Lake	Granted until 12/28/2025.	Unconstructed
P-13702	Grenada Lake	Granted until 12/28/2025.	Unconstructed
P-13703	Enid Lake	Granted until 12/28/2025.	Unconstructed
P-13704	Arkabutla Lake	Granted until 12/28/2025.	Unconstructed
P-13739	Braddock Locks and Dam	Granted until 6/4/2025.	Unconstructed
P-13753	Opekiska Lock and Dam	Granted until 9/29/2025.	Unconstructed
P-13755	Allegheny Lock and Dam 2	Granted until 3/13/2027.	Unconstructed
P-13757	Emsworth Locks and Dam	Granted until 5/5/2025.	Unconstructed
P-13761	Emsworth Back Channel Dam	Granted until 5/5/2025.	Unconstructed
P-13762	Morgantown Lock and Dam	Granted until 9/29/2025.	Unconstructed
P-13763	Grays Landing Lock and Dam	Granted until 8/9/2025.	Unconstructed
P-13766	Maxwell Locks and Dam	Granted until 7/21/2025.	Unconstructed
P-13767	Monongahela Locks and Dam 4	Granted until 7/21/2025.	Unconstructed
P-13768	Montgomery Locks and Dam	Granted until 5/17/2025.	Unconstructed
P-13771	Point Marion Lock and Dam	Granted until 8/30/2025.	Unconstructed
P-14276	Kentucky River Lock and Dam No. 11	Granted until 5/5/2026.	Under construction
P-14677	Clark Canyon Dam	Granted until 3/31/2023.	License surrendered
P-14799	Evelyn	Granted until 6/17/2025.	Unconstructed

b. Please describe FERC's procedures and criteria for evaluating requests for extension.

Answer: Licensees can file requests for an extension of time of the deadline to commence project construction. There are no specific requirements for such filings. In acting on extension requests, the Commission determines whether the licensee has pursued project development in good faith and with due diligence.

c. H.R. 4045 would require additional justification with "reasonable notice and for good cause shown." Please describe how FERC would implement this requirement and whether it would be required to modify its current procedures and criteria.

Answer: The Commission will consider extensions under any standard that Congress establishes. If H.R. 4045 were enacted as currently drafted, the Commission would issue public notice of extension requests and determine whether the licensee had shown good cause for the extension.

The Honorable Jeff Duncan

1. Under the Natural Gas Act, Congress made it clear that there is a public interest in the interstate transportation of natural gas, and it gave FERC the role of reviewing and approving proposed interstate natural gas pipelines. In your opinion, does FERC have the expertise needed to review applications to construct such pipelines and process them in a timely fashion, including the review of potential environmental impacts?

Answer: Yes, I believe that the Commission has expertise consistent with current statutory authorities to process applications filed under the Natural Gas Act. Specifically, the Commission has 52 staff tasked with reviewing requests for authorization for natural gas facilities in a timely fashion.

2. I have supported legislation to restore the balance of the Natural Gas Act by bringing water quality impact reviews under the FERC-led NEPA process. Communities that need reliable and affordable energy should no longer be denied the opportunity to build natural gas pipelines - or worse - forced to import foreign natural gas to meet their basic energy needs. Is it the opinion of FERC that the agency should prioritize pipeline projects that enable Americans ability to access affordable, clean, American natural gas instead of gas from countries like Russia, Trinidad and Tobago and others?

Answer: Yes, by statute and by the Commission's analysis, proposed pipeline projects are valued for their benefits to end users through access to domestically-sourced natural gas, which often results in more affordable and more reliable energy. I am not aware of any proposed pipeline projects that would transport natural gas from other nations.

3. Please provide a list of all pending applications for construction and operation of interstate natural gas pipelines under authority of Section 7 of the Natural Gas Act.

    a. Please provide relevant details for each pipeline project, including the filing date, FERC's schedule for review, and the anticipated in-service date.

Answer:

Project Name	**Project Application Filing Date**	**In-Service Target Date as Identified by the Project Sponsor**	**Environmental Review Document Issuance Date**	**Section 401 of the Clean Water Act/State Reviewing Agency**

Rio Bravo Pipeline Project Docket No. CP16-455-000	May 6, 2016[1]	Pending conclusion of court remand	July 31, 2025 (final supplemental Environmental Impact Statement)	Project sponsor confirmed issuance of Section 401 approval by the Texas Railroad Commission on February 14, 2020
Ridgeline Expansion Project Docket No. CP23-516-000	July 18, 2023	Nov. 1, 2026	December 20, 2024 (final Environmental Impact Statement)	Project sponsor anticipates Tennessee Department of Environment and Conservation will issue Section 401 approval in December 2024.
Worcester Resiliency Upgrade Project Docket No. CP23-536-000	August 31, 2023	Second quarter of 2025	April 26, 2024 (Environmental Assessment)	Project sponsor confirmed issuance of Section 401 approval by the Maryland Department of the Environment on July 24, 2024.
Texas-Louisiana Expansion Project Docket No. CP24-8-000	October 18, 2023	July 1, 2026	June 6, 2024 (Environmental Assessment)	No Review Required
Mississippi Hub Capacity Expansion Project Docket No.	March 5, 2024	Fourth quarter of 2031	October 30, 2024 (Environmental Assessment)	Project sponsor filed the Section 401 application filed to Mississippi

[1] On August 6, 2024, the U.S. Court of Appeals for the District of Columbia Circuit issued an opinion vacating and remanding the Commission's April 21, 2023 Order on Remand and Amending Section 7 Certificate that approved the Rio Bravo Pipeline Project.

CP24-80-000				Department of Environmental Quality on August 30, 2024. Project sponsor anticipates MDEQ will issue Section 401 approval in November 2025.
Rover-Bulger Delivery Meter Station Project Docket No. CP24-88-000	March 8, 2024	Fourth quarter of 2024	July 15, 2024 (Environmental Assessment)	No Review Required
Northern Lights 2025 Expansion Docket No. CP24-60-000	March 16, 2024	November 1, 2025	September 13, 2024 (Environmental Assessment)	No Review Required
Totem Enhanced Deliverability Project Docket No. CP24-124-000	April 8, 2024	February 2026	November 7, 2024 (Environmental Assessment)	No Review Required
Eunice Reliability and Lake Charles Supply Project Docket No. CP24-468-000	May 8, 2024	April 2027	January 31, 2025 (Environmental Assessment)	No Review Required
Black Bayou Storage Project Docket No. CP24-494-000	July 17, 2024	First quarter of 2026	February 14, 2025 (Environmental Assessment)	Project sponsor anticipates Louisiana Department of Environmental Quality will issue Section 401 approval in July 2025.

Rover-Wick Meter Downsize Project Docket No. CP24-504-000	July 25, 2024	First quarter of 2025	August 8, 2024 (Categorical Exclusion)	No Review Required
Rover-Sunny Farms Receipt and Delivery Meter Station Project Docket No. CP24-508-000	August 2, 2024	Second quarter of 2025	January 24, 2025 (Environmental Assessment)	No Review Required
Texas Connector Project Amendment Docket No. CP24-512-000	August 12, 2024	Second quarter of 2028	The project amendment application was recently filed. Environmental document issuance date is pending.	Project sponsor anticipates Texas Railroad Commission will issue Section 401 approval in April of 2025.
Tioga Pathway Project Docket No. CP24-514-000	August 21, 2024	November 1, 2026	February 14, 2025 (Environmental Assessment)	Project sponsor anticipates Pennsylvania Department of Environmental Protection will issue Section 401 approval in September of 2025.
Southeast Supply Enhancement Project Docket No. CP25-10-000	October 29, 2024	November 2027	The project application was recently filed. Environmental document issuance date is pending.	Project sponsor plans to file the Section 401 applications to Virginia Department of Environmental Quality and North Carolina Department of Environmental Quality in first quarter of 2025. Project sponsor anticipates

				VDEQ and NCDEQ will issue Section 401 approvals in first quarter of 2026.
Rover-Bulger Compressor Station and Harmon Creek Meter Station Expansion Project Docket No. CP25-12-000	October 31, 2024	Second quarter of 2026	The project application was recently filed. Environmental document issuance date is pending.	Project sponsor plans to file the Section 401 application to Pennsylvania Department of Environmental Protection in November 2024. Project sponsor anticipates PADEP will issue Section 401 approval in third quarter of 2025.

b. Please identify each pipeline project that may also require certification under Section 401 of the Clean Water Act. Please also identify the relevant State or Tribal authority reviewing the application and the timeline for review.

Answer: This information has been included in the table above in the response to your question 3.a.

4. H.R. 7655, the Pipeline Safety, Modernization, and Expansion Act of 2024 includes a provision that would authorize FERC to issue any federal authorization for pipelines that are proposed to be co-located within the boundary of an existing pipeline or electrical right-of-way. This provision allows FERC to issue a federal authorization only in instances where the relevant permitting agency waives its authority or fails to complete a proceeding within one year of filing.

    a. Please identify all pending applications under NGA Section 7 that involve construction in an existing right-of-way.

Answer: There are currently no pending projects under Section 7 of the Natural Gas Act (NGA) before the Commission that are proposed to be co-located within the boundary of another existing pipeline or electrical right-of-way.

    b. Please identify all federal authorizations that may be required under federal law. Please list each federal authorization that has been pending for more than one

year.

Answer: There are currently no pending projects under Section 7 of the NGA before the Commission that are proposed to be co-located within the boundary of another existing pipeline or electrical right-of-way.

The Honorable Robert E. Latta

1. I recently introduced the Securing Community Upgrades for a Resilient Grid Act, otherwise known as the SECURE Grid Act, with my friend, the gentlelady from California's 7th District. This bipartisan legislation is in response to the increased cybersecurity threats, and in some instances, outright physical attacks on our grid infrastructure in recent years. It would amend the State Energy Program under the Department of Energy to ensure State Energy Security Plan's consider additional factors such as threats to physical infrastructure, technologies that can mitigate these threats and meet rising load demand, and consider financing models that save taxpayers money. A specific aspect of the legislation is that it leverages the States and helps them to tailor their State Energy Security Plans to threats they are experiencing in their backyards. Because you were a Public Service Commissioner, I am curious what your experience was like with addressing threats in your respective areas, and if you see this legislation being useful for empowering more states?

Answer: As the former Chairman of the Public Service Commission of the District of Columbia, I welcomed assistance from the North American Electric Reliability Corporation (NERC) as well as federal agencies, including the Commission, to help identify and address both cyber and physical threats to the critical infrastructure that we regulated, including the electrical grid. I believe that there can be no higher priority than protecting the reliability and security of the power grid as well as the other infrastructure that the Commission regulates. I believe that it is essential that the Commission continue to work with the states and offer them our support.

My understanding is that the SECURE Grid Act would allow the states to include information in their State Energy Security Plans to help them better identify and address the specific threats that they face. I believe that identifying threats and developing a plan to address them in the context of conferring with federal agencies can help to assure timely and effective action to mitigate those threats.

2. How do the States and District of Columbia currently communicate the threats they are facing with NERC, and are there proactive pathways to assist the States in threat deterrence and mitigation?

Answer: Although the Commission is not involved in the process that the states and District of Columbia (D.C.) use to communicate with NERC about threats they are facing, we are aware that NERC's Electricity Information Sharing and Analysis Center (E-ISAC) shares threat information with the states and others through its website as well through monthly threat briefings. In addition to NERC, federal agencies such as the Federal Bureau of Investigation, Department of Energy, and Department of Homeland Security have the authority to receive and

share threat information. In addition, fusion centers serve as focal points in the states for the receipt, analysis, gathering, and sharing of threat-related information. The Commission also offers assistance to the states through collaborative outreach to help identify and communicate cyber and physical security threats as well as best practices that can address them.

The Honorable Debbie Lesko

1. We have repeatedly been warned by former FERC Commissioners and NERC about the grid reliability crisis. You have authority over electric reliability. The new transmission rule, Order No. 1920, does virtually nothing to address adding the right kind of new power generation such as natural gas, which will add to grid reliability.

    a. Should FERC establish grid reliability markets?

Answer: The Commission takes seriously its mission to assist consumers in obtaining reliable, safe, secure, and economically efficient energy services at a reasonable cost. As you are aware, the states are primarily responsible for determining the electric generation mix. However, the Commission works closely with state officials and regional electric grid operators to ensure the reliability of the grid is maintained. The Commission uses both wholesale electricity markets and traditional regulatory means in support of that goal.

The wholesale electric markets that the Commission regulates are designed to send investment signals to resource developers about the resources that will be needed to support consumer and reliability needs. This task is accomplished, in part, in several Commission-jurisdictional wholesale capacity markets through the capacity resource accreditation process, which determines how much capacity a given resource can offer into the market based on its expected availability during times of system stress. Under such capacity accreditation methods, natural gas resources are accredited at higher levels relative to other resources, which sends investment signals that align with grid reliability. Energy and ancillary services markets are also designed to support grid reliability and reward resources of all types that are needed to reliably serve electric loads. Last April, the Commission directed regional grid operators to provide us with plans for potential system reforms in light of the energy transition (Docket No. AD21-10). We continue to prioritize this important issue as we analyze the comments and reports filed in those proceedings.

In addition, under my leadership, I have prioritized reforms to address interconnection queue delays and regional transmission planning and cost allocation through the issuance of Order Nos. 2023 and 1920, respectively, because building out the transmission system to connect new generation and serve demand is a critical component to ensuring reliability.

    b. What new authorities would you need to do so?

Answer: If Congress determines that grid reliability markets are warranted in addition to the markets discussed in my response to your question 1.a above, then the Commission would implement any additional statutory authority Congress may enact.

2. In the past, when communities needed more power, the utilities would go to their state regulators and get approval to build new power plants. Now, in much of the country, we let markets decide when new power is needed, and what kind to build, which has resulted in a lot of power that can't be counted on when it's needed.

    a. Are power markets protecting consumers as well as regulation did?

Answer: I believe that the wholesale electric markets are serving consumers as well as traditionally regulated electric systems do. These wholesale markets have adopted a variety of constructs to support the development of new generation resources. The capacity that has been developed over the past decade in RTOs/ISOs with centralized capacity markets shows that, although each market presents its own challenges and tradeoffs, these constructs support the development of new capacity to meet consumer needs reliably.

3. Regarding Order No. 1920, since the Commission has a duty to protect consumers under the Federal Power Act, why isn't the Notice of Proposed Rulemaking's regional flexibility approach, which acknowledges that utilities on the ground are in the best position to know how to provide reliable, affordable service to consumers, the better approach than the final order's more restrictive rules?

Answer: I believe that Order No. 1920 appropriately balances regional flexibility with the need to establish specific requirements to ensure that the transmission infrastructure that our country needs for the future is planned for and built. Many of Order No. 1920's requirements provide regional flexibility to transmission providers in identifying, evaluating, and selecting transmission facilities for development. Further, in response to requests for rehearing of Order No. 1920, the Commission in Order No. 1920-A provided additional flexibility by, for example, giving more discretion to transmission providers in how they identify long-term transmission needs.

4. Regarding Order No. 1920, can you explain why the Commission is prohibiting regional flexibility by requiring that the same cost allocation rules be used for all transmission projects, regardless of whether the project is identified to address economic, reliability or public policy needs, each of which benefits different types of consumers?

Answer: I believe that Order No. 1920 provides a good deal of regional flexibility with regard to cost allocation. Order No. 1920 provides unprecedented new flexibility for states to inform cost allocation, including the opportunity for transmission providers to establish a process for states to negotiate alternate cost allocation methods for specific transmission projects or groups of transmission projects. Further, Order No. 1920 does not require transmission providers to adopt any particular cost allocation method. Instead, it allows the transmission providers in each transmission planning region to craft their own cost allocation method and propose it to the Commission for approval. As the Commission clarified in Order No. 1920-A, transmission providers are not precluded from proposing methods that allocate costs commensurate with reliability and economic benefits region-wide, while allocating costs commensurate with additional benefits to a subset of states that agree to such cost allocation. Moreover, Order No. 1920 requires transmission providers to provide a forum for states to negotiate a cost allocation method for the region. Order No. 1920-A provides further flexibility by clarifying that states can secure an

extension of time if needed to continue those negotiations.

5. While FERC's recent Order 1920 made changes to how transmission projects are planned and how cost allocation determinations are made, it didn't make any changes that would contain transmission costs, which are skyrocketing across the country. The American Public Power Association and other public power entities argued that FERC should have included strong cost containment measures, including eliminating unnecessary incentives and encouraging joint ownership, however, these didn't make it in the final rule. Increased transmission costs mean higher electric bills for my constituents, does FERC have a plan to address cost containment for transmission projects in the future?

Answer: A fundamental responsibility of the Commission is to ensure that Commission-jurisdictional rates are just and reasonable, and I take that responsibility extremely seriously. In support of that responsibility, the Commission is evaluating potential actions to incentivize joint ownership. For example, as I stated in my joint concurrence on Order No. 1920, I believe that a proposal in the underlying notice of proposed rulemaking to allow a federal right of first refusal for certain transmission facilities developed through a joint ownership structure is better considered as part of the Commission's generic proceeding on Transmission Planning and Cost Management (Docket No. AD22-8), where it can be evaluated alongside other proposals for ensuring that transmission facilities are developed as efficiently and cost-effectively as possible. The Commission has held a technical conference in that generic proceeding and invited the public to comment on these important issues. We are continuing to review those comments and evaluating potential next steps to determine whether, and if so, what reforms are appropriate.

The Honorable Greg Pence

1. The Commission's issuance of Order 1920, in its Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection proceeding (FERC Docket No. RM21-17), shines a spotlight on a related FERC proceeding on Transmission Planning and Cost Management (FERC Docket No. AD22-8). The objectives of the latter proceeding—enhancing cost management measures and greater transparency and oversight to ensure just and reasonable transmission rates—take on greater importance in the context of the anticipated transmission build-out to support our changing generation mix and growing electricity needs. Order 1920 deferred to the Cost Management proceeding many issues crucial to minimizing the burden on consumers.

   Joint ownership of transmission is one of those issues. In Order 1920, the Commission declined to finalize its proposal to promote such arrangements through a conditional right of first refusal, but committed to continue to consider such reforms, noting the Cost Management proceeding. The Joint Concurrence of Chairman Phillips and then-Commissioner Clements confirmed that "the Commission will continue to evaluate other potential actions to incentivize joint ownership, including considering in the Commission's Cost Management proceeding whether to provide a right of first refusal or other mechanisms to encourage its use." In particular, the Joint Concurrence focused on potential actions to incentivize transmission owner joint ownership with public power and cooperatives in their footprint, which "can provide many benefits and should be encouraged." It describes how

such arrangements "can reduce costs for customers in the footprint" and "leverage additional sources of capital, including those that do not typically invest in transmission facilities, which can itself have significant benefits for customers," citing record evidence documenting substantial consumer savings. What priority should the Commission give to promoting arrangements, such as joint transmission ownership arrangements with public power and cooperatives, that reduce the cost burden imposed on consumers due to needed grid expansion?

Answer: As I noted in my joint concurrence to Order No. 1920, I believe that joint ownership arrangements are very important to the efficient and cost-effective development of needed transmission. For this reason, I believe that the Commission should continue to seek ways to promote these kinds of arrangements.

The Honorable Randy K. Weber

1. The U.S. LNG export industry is regulated by multiple federal, state, and local agencies. I am concerned about FERC's overlapping, duplicative, and sometimes conflicting requirements with these entities. For example, Section 717b-1 of the Natural Gas Act requires LNG operators to prepare an Emergency Response Plan (ERP) in consultation with the U.S. Coast Guard and State and local agencies. However, in recent issuances, FERC appears to be conditioning LNG Authorizations on operators implementing ERPs along the waterway that go beyond what is required by the U.S. Coast Guard—the Federal agency responsible for, and has expertise over, waterway safety. FERC also appears to be requiring operators to put ERPs in place that would impinge upon the jurisdiction of State and local governments.

   The Coast Guard has rules and regulations in place that protect the safety of the waterway. These regulations have been enforced for over three decades. Has FERC issued LNG Authorizations that impose waterway safety conditions that exceed the requirements of the U.S. Coast Guard?

Answer: The Commission has not imposed waterway safety conditions that exceed Coast Guard requirements. Section 717b-1 of the NGA requires the Commission to review and approve the ERP prepared by the terminal operator in consultation with the Coast Guard and state and local agencies. As required by the NGA, the ERP is to address security and safety at the LNG terminal and in proximity to vessels that serve the terminal. Accordingly, the Commission relies on the Coast Guard to establish the measures needed to ensure the safety and security of the waterway. For example, each Commission authorization for an LNG project with new or increased capacity of LNG marine vessels typically includes a condition that prohibits commencement of service until determination is made by the Coast Guard that appropriate measures on the waterway and at the facility have been put into place.

2. If so, please thoroughly explain why FERC's requirements are more stringent. If not, please thoroughly explain your reasoning citing to specific conditions in LNG Authorizations issued in 2023 and that are no longer subject to FERC's *ex parte* regulations.

Answer: The Commission has not issued requirements more stringent than the Coast Guard's for waterway safety and security. The Coast Guard has advised Commission staff that the Coast Guard does not have jurisdiction over onshore emergency response in proximity to LNG marine vessels and does not have the authority to implement onshore measures related to public notification, public evacuation, or public shelter-in-place. Those authorities rest with State and local agencies. Environmental Condition #21 from the Commission's order on Port Arthur Phase II is representative of the specific requirement the Commission uses to ensure that a terminal operator is consulting and coordinating with the Coast Guard; state, county, and local emergency planning groups; fire departments; and state and local law enforcement in the development of the ERP.[2]

3. Does FERC consider conditions for an ERP on a case-by-case basis, or does FERC apply the same conditions for an ERP to all LNG projects? If it applies the same conditions to all projects, how does FERC account for local project-specific differences?

Answer: Although the wording may differ in each Commission order, the Commission imposes the requirement in all LNG project authorizations for the terminal operator to develop pre-incident response plans with the Coast Guard; state, county, and local emergency planning groups; fire departments; and state and local law enforcement agencies. This approach allows the terminal operator to develop the ERP along with agencies that have local knowledge and to tailor the plan's conditions around the needs of each terminal, the waterway, and the onshore areas along the waterway.

4. What happens if a State or local authority disagrees with FERC's ERP conditions? How should the LNG operator manage the competing desires of State/local authorities against FERC's ERP directives?

Answer: The NGA requires an LNG terminal operator to engage in pre-incident planning and coordination with the local first responder agencies. The Commission's implementation of this Congressional mandate ensures that the terminal operator works with the local emergency providers to identify resource needs based on the hazards that could be present due to the terminal and the ship transit along the waterway. The result is pre-incident planning to establish procedures, training, and capabilities that would be available to first responders. During an incident, decisions regarding response tactics, evacuation, sheltering in place, and public notification would be made by local emergency responders according to the conditions and needs as assessed by those responders at the time of the incident.

[2] See Appendix A of *Port Arthur LNG Phase II, LLC & PALNG Common Facilities Company, LLC, 184 FERC ¶ 61,184 (2023).*

The Honorable Mariannette Miller-Meeks

1. FERC's most critical functions are to maintain reliability and protect consumers. Do you feel that efficiency improvements to existing interregional transmission lines – such as intertie optimization – could achieve either or both outcomes? And what measures, if any, can FERC take to encourage intertie optimization?

Answer: I share your commitment to these important issues. I believe it is important to enhance the efficiency of interchange transactions between adjacent RTOs/ISOs and between RTOs/ISOs and non-RTO/ISO regions. I also encourage the continued development of and refinements to approaches that increase the efficiency, reliability, and coordination of interregional power flows, including coordinated transaction scheduling at interties, joint operating agreements between adjacent RTOs/ISOs that support enhanced congestion management across seams, and intertie optimization. In addition, the Commission is currently considering public comments on the best ways to develop interregional transfer capability (Docket No. AD23-3-000) and what next steps to take based on that record.

2. FERC has long adhered to a predictable permitting and ratemaking process for natural gas pipelines to accomplish Congress' goal of encouraging the orderly development of plentiful supplies of electricity and natural gas at reasonable prices. Under the Natural Gas Act (NGA), FERC approves natural gas infrastructure that it determines to be in the "public convenience and necessity." Last August, the North American Reliability Corporation's (NERC) Reliability Issues Steering Council for the first-time identified energy policy as a risk to the electric grid, explaining that energy policy, including timelines for implementation, can be a reliability risk factor. To what extent do state energy and environmental policies impact FERC determinations on projects the agency finds to be in the national interest?

Answer: In determining whether proposed natural gas projects are required by the public convenience and necessity, the Commission considers all evidence in the record, including information on state energy and environmental policies.

The Honorable Diana DeGette

1. In March 2023 you held a roundtable on environmental justice and equity in infrastructure permitting decisions. You promised the findings of that roundtable would lead to substantive change in the way infrastructure permitting decisions consider environmental justice, considerations that would be outlined in a public guidance document. Can you please provide a status update on the environmental justice guidance document, including a timeline for publication, what will be included, and any opportunities for additional public input?

Answer: As stated in the Commission's most recent Equity Action Plan, the Commission is currently engaged in a multi-office effort to develop and, as appropriate, update internal staff guidance with best practices for analyzing and addressing impacts to environmental justice communities associated with Commission-jurisdictional infrastructure development projects. The

guidance will address all aspects of integrating the consideration of environmental justice of infrastructure development proposals, including: (1) meaningful involvement of environmental justice and Tribal communities; (2) determining the geographic scope of project impacts on environmental justice communities; (3) identifying environmental justice concerns; (4) assessing whether the project will have disproportionate and adverse impacts on environmental justice communities; and (5) addressing adverse impacts on environmental justice communities. This staff guidance is for internal use and will be distributed within the Commission.

The Commission also is continuing its work to develop external guidance regarding environmental justice in the context of infrastructure proceedings. The working timeline to publish a draft version of this external guidance is January 2025, which will open a period of public comment.

The Honorable Frank Pallone, Jr.

1. In addition to investing in new grid infrastructure, we must also make better use of the existing grid. A recent report by the Brattle Group identified a number of economic and reliability benefits that would result from more efficient use of existing interregional transmission lines.

    a. Do you agree that so-called "intertie optimization" can reduce system costs and promote reliability? If so, will you consider how to better promote such optimization?

Answer: I am committed to optimizing the use of the existing transmission system because doing so reduces system costs and enhances electric reliability. I encourage the continued development of and refinements to approaches that increase the efficiency, reliability, and coordination of interregional power flows, including coordinated transaction scheduling at interties, joint operating agreements between adjacent RTOs/ISOs that support enhanced congestion management across seams, and intertie optimization.

The Honorable Kathy Castor

1. As electrification, new data centers, and AI increase our demand for power, the country needs new, larger transmission projects taking power from where it is available to where it is most needed. But at the same time, it is critical that we ensure new transmission projects do not unduly burden ratepayers, and that those who benefit from transmission lines are primarily responsible for their costs. Fortunately, there is a solution – high voltage, direct current merchant transmission – which can carry gigawatts of power long distances while sidestepping ratepayer concerns. Will you commit to evaluating market rules to ensure there are not undue barriers to entry for these projects, and will you consider holding a technical conference on merchant high voltage, direct current transmission to discuss this critical technology?

Answer: I recognize the potential benefits of high voltage, direct current merchant transmission facilities. At this time, I cannot comment on whether market rules related to high voltage, direct current merchant transmission require further evaluation, as that issue is raised in pending, contested Commission proceedings. I will, however, consider whether it would be beneficial to hold a Commission workshop or technical conference to discuss that issue.

2. As we experience what is likely the hottest summer on record, it is impossible to ignore the worsening impacts of climate change on Americans across the country and people around the globe. The U.S. is the world's number one oil and gas producer, and the Energy Information Administration has confirmed that LNG exports are the driving force behind expanding U.S. gas production. I was pleased to see the DC Circuit decision on Commonwealth LNG, which determined that FERC does have the authority and ability to determine the significance of greenhouse gas (GHG) emissions as part of its public interest determination for LNG exports. This seems to underscore the need to finalize a policy like the 2022 gas pipeline policy statement and greenhouse gas guidance, which were later pulled back to draft form. Can you please speak to your progress on establishing a transparent framework for how FERC will evaluate the significance of GHGs in its decisions on gas certificates?

Answer: We are carefully considering this issue in light of ongoing developments, including recent Federal court decisions. As part of that consideration, I recognize the importance of transparency in any updated method that the Commission will establish on this issue.

3. Also in the Commonwealth, the DC Circuit ruled that FERC needed to redo the cumulative impacts analysis of air pollution from the Commonwealth LNG facility on nearby communities, which are already overburdened by industrial pollution. What steps does FERC plan to take to ensure that it is adequately evaluating cumulative impacts, not only in the Commonwealth case, but more broadly?

Answer: The Commission always seeks to appropriately evaluate cumulative environmental impacts. In response to the D.C. Circuit's recent opinions, the Commission unanimously decided to undertake supplemental environmental review of this air pollution issue for both the Commonwealth LNG facility and the CP2 LNG Terminal, which has similar facts. This is the most prudent way to ensure that our decisions are well-reasoned and legally durable.

4. I've been interested in the role of virtual powerplants in meeting grid challenges, especially load growth. So far, FERC Order 2222 implementation has been mixed. Are there additional ways that FERC can support increased utilization of aggregated distributed energy resources?

Answer: I strongly believe that reliability is job number one here at the Commission, and that it is incumbent on us to use every tool in our toolbox to meet grid challenges. As of today, the Commission has issued more than 20 orders to advance implementation of Order No. 2222. Continuing to address the remaining issues before the Commission in Order No. 2222 compliance filings in a clear and timely manner will further that important goal.

The Honorable Lisa Blunt Rochester

1. FERC has been asked to look at a particular data center that intends to co-locate at a nuclear facility to have direct access to round-the-clock clean, reliable power. Without commenting on this specific case, can you opine on whether any FERC action on "behind the meter" data centers could have implications for other behind the meter generation arrangements, such as rooftop solar, or large industrial users like universities and refineries that have onsite co-generation facilities?

Answer: On November 1, 2024, the Commission held a technical conference to explore the complex issues that arise when large loads choose to co-locate at existing generating facilities. The Commission is requesting public comments following that technical conference to further develop the record. I look forward to working closely with my colleagues to address these important issues.

2. Based on multiple reports, data centers and AI are driving demand for power, but energy shortages are occurring in various states and regions of the country due in large part to long lead times for permitting and constructing new transmission. The inability to serve this new demand can harm both the local and national economies. How is FERC considering "non-wire" alternatives to transmission?

Answer: I believe that we need to get as much as we can out of the existing transmission system. "Non-wire" alternatives, or grid-enhancing technologies, allow us to do just that; they allow transmission providers to increase the capacity of transmission facilities to meet the increasing demand for electricity without constructing new transmission lines. In Order No. 1920 and in Order No. 2023, the Commission required transmission providers to consider such technologies in planning the system and in interconnecting generation. Further, as to one type of grid-enhancing technology, the Commission in Order No. 881 required transmission providers to reflect ambient adjusted ratings in their transmission line ratings. In addition, in June 2024, the Commission issued an Advance Notice of Proposed Rulemaking (ANOPR) on dynamic line ratings to consider requiring transmission providers to incorporate into their line ratings the effects of solar heating and wind. I, along with my colleagues, will review comments on that ANOPR as we consider further ways to enhance the use of the existing transmission system.

3. The Commission is commended on taking action to further reform interconnection rules, and I understand that FERC intends to hold a technical conference in September to address additional interconnection reforms. I'm concerned about unintended consequences. In order to serve new demand from data centers and AI, there undoubtedly will be greater focus on behind-the-meter microgrids and distributed energy resources. But these resources may get caught up in long interconnection "cluster" queues resulting from the recent interconnection reforms. Will you commit to looking at whether additional interconnection reforms are needed to remove red tape that may adversely affect the resilience of local, state jurisdictional distribution systems?

Answer: As you know, in July 2023, the Commission issued Order No. 2023, a landmark reform of our nation's generator interconnection processes. Building on that action, in September 2024,

the Commission convened a workshop to discuss innovations and efficiencies in interconnection. Comments were due on November 14, 2024. As my colleagues and I review those comments, I commit to considering whether and what further interconnection reforms may be needed.

4. The Regional Transmission Organization (RTO) that manages the electric grid of my state of Delaware, as well as other states in the Mid-Atlantic, Midwest, and Southern states, PJM has conducted capacity auctions since 2022 that have resulted in significant price increases for capacity for states including Delaware. These increases are expected to continue in future auctions. Can you provide insight into how you recommend or would recommend RTO's like PJM to manage these auctions so these costs increases are not put on consumers?

Answer: Congress created the Commission for the primary purpose of protecting consumers, and I will continue to do everything that I can as Chairman to see to it that we fulfill that mission. To that end, the Commission will continue to closely review proposed capacity market reforms that support competitive prices at just and reasonable rates. I also recognize the need for strong market power mitigation provisions to prevent resources from driving up prices through the exercise of market power.