

**BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

**Florida Gas Transmission Co., LLC
Docket No. CP23-11-000; CP82-553-000
Tampa West Project**

February 14, 2023

**FOOD & WATER WATCH PROTEST TO
PROPOSED BLANKET CERTIFICATE ACTIVITY**

Food & Water Watch (“FWW”) hereby protests the request filed by Florida Gas Transmission Company, LLC (“Florida Gas”) to conduct an installation of additional pipeline flow capacity (“Tampa West Project”) under 18 C.F.R. §§ 157.205, 157.208, 157.210, and 157.211 of the Commission’s regulations. FWW seeks to have this request processed as a separate application per the case-specific certificate provision at 18 C.F.R. §157.201(d).

I. Protest to Proposed Blanket Certificate Activity

The Commission must reject Florida Gas’s request for authorization under its four-decade old blanket authorization, granted under Docket No. CP82-553-000, for two primary reasons. First, the Tampa West Project would have significant indirect effects due to downstream growth inducement and upstream production incentivization caused by the significant expansion of interconnection and flow capacity within Florida Gas’s existing line. As such, the Tampa West Project requires environmental review under the National Environmental Policy Act (“NEPA”). Second, the Tampa West Project is a prerequisite for additional downstream gas-powered electric generation, and failure to review connected actions together is

impermissible segmentation in violation of NEPA. Therefore, FWW protests Florida Gas’s request to authorize the Tampa West Project under its blanket authorization.

A. The Commission Should Reject Blanket Authorization Because the Tampa West Project Would Have Significant Impacts Requiring an Environmental Impact Statement under NEPA

The Tampa West Project has clear potential to cause significant indirect effects that require consideration under NEPA,¹ as well as the Commission’s draft Gas Certification and Interim Greenhouse Gas Policies.² The D.C. Circuit recently stated that “the Commission must attempt to gather the information necessary to assess [a] project’s potential indirect effects[, and] must consider the reasonably foreseeable effects of [a] proposed project.”³ Further, it “is completely inadequate” for an agency to ignore a project’s “growth inducing effects” where the project has a unique potential to spur demand.⁴ This is true even when the full extent of impacts are not crystal clear, as “it must be remembered that the basic thrust of an agency’s responsibilities under NEPA is to predict the environmental effects of proposed action before the action is taken and those effects fully known.”⁵

The Tampa West Project would have significant indirect environmental impacts that have not been assessed and require an Environmental Impact Statement (“EIS”) under NEPA. Florida Gas failed to address these issues in its February 7, 2023 Response to Environmental Information Request.⁶ In fact, both Florida Gas and the Commission have ignored downstream combustion as

¹ 42 U.S.C. § 4321, *et seq.*

² FERC, Docket No. PL18-1-000, *Certification of New Interstate Natural Gas Facilities*, 178 FERC ¶ 61,107 (Feb. 18, 2022); FERC, Docket No. PL21-3-000, *Consideration of Greenhouse Gas Emissions in Natural Gas Infrastructure Project Reviews*, 178 FERC ¶ 61,108 (Feb. 18, 2022), as amended by FERC, *Order on Draft Policy Statements*, 178 FERC ¶ 61,197 (Mar. 24, 2022). While both the certification and greenhouse gas policies were made draft policies on March 24, 2022 and non-binding on new applications, the Commission must still assess reasonably foreseeable indirect effects and analyze the significance of those effects.

³ *Food & Water Watch v. FERC*, 28 F.4th 277 (D.C. Cir. 2022).

⁴ *Barnes v. U.S. Dep’t of Transp.*, 655 F.3d 1124, 1138–39 (9th Cir. 2011).

⁵ *Methow Valley Citizens Council v. Regional Forester*, 833 F.2d 810, 816–817 (9th Cir. 1987).

⁶ FERC Doc. Accession No. 20230207-5164.

well as the significant upstream emissions and growth inducement that are related and foreseeable. Therefore, NEPA review of this request is required.

1. The Commission Must Consider the Tampa West Project's Climate Change Impacts

Florida Gas requests approval of the proposed project for expansion of pipeline flow rate capacity in order to accommodate a near doubling of peak hourly flow rates at its Peoples Gas System Tampa West delivery point in Hillsborough County, Florida. This would include construction of an additional 1.26 miles of pipeline and installation of new pipe assemblies and appurtenances within its existing Tampa West Lateral and St. Petersburg Lateral pipelines. This will allow for a relatively large increase in capacity, from 360 MMBtu/hr to 667 MMBtu/hr, which would facilitate downstream usage growth and incentivize greater regional gas production. In fact, this project is designed to supply additional gas for electric generation at gas facilities in the Tampa Bay area at a time where power plants, like Tampa Electric Company's Big Bend generating facility in Hillsborough County, Florida, are converting from coal to gas.⁷ As such, indirect downstream growth inducing effects are clearly foreseeable and the D.C. Circuit will "reject any attempt by agencies to shirk their responsibilities under NEPA by labeling any and all discussion of future environmental effects as 'crystal ball inquiry.'"⁸

Florida Gas makes no mention of how much gas the increased flow capacity would facilitate for future contracts and only addresses localized construction and operation emissions. However, NEPA requires consideration of direct, indirect, and cumulative impacts of a proposed project. Employing EPA's greenhouse gas (GHG) calculation metrics, the use of this project's additional flow capacity of 307 MMBtu a day would, over a year's time, total 142,533 metric

⁷ Jake Stofan, *TECO coal to natural gas conversion planned*, wfla.com, July 25, 2019, <https://www.wfla.com/news/local-news/teco-coal-to-natural-gas-conversion-approved/>.

⁸ *Methow Valley Citizens Council*, 833 F.2d at 816–817.

tons of CO₂e GHG emissions from additional downstream usage.⁹ This is significantly higher than FERC’s Interim GHG Policy’s proposed significance threshold for requiring an EIS,¹⁰ and therefore requires NEPA review.

2. The Commission Must Also Consider the Significance of the Tampa West Project’s Impact on Climate Change

In addition to evaluating a project’s indirect and cumulative impacts under NEPA, the Commission is required to calculate the estimated GHG emissions resulting from a project and “include a discussion of the significance of” those emissions and their resultant impact on climate change in the NEPA review.¹¹ NEPA was expressly enacted to ensure that “environmental information is available to public officials and citizens *before decisions are made and before actions are taken.*”¹² Identifying and evaluating the consequences that a project’s GHG emissions may have for climate change is essential if the Commission’s NEPA review is to provide for the full disclosure and informed decision-making Congress intended.¹³ Agencies cannot overlook a single environmental consequence if it is even “arguably significant.”¹⁴

Here, Florida Gas provides no significance analysis – instead only providing total volumes for the project’s construction and operational emissions, omitting upstream and

⁹ U.S. EPA, Greenhouse Gases Equivalencies Calculator – Calculations and References (0.0053 metric tons CO₂/therm), <https://www.epa.gov/energy/greenhouse-gases-equivalencies-calculator-calculations-and-references>.

¹⁰ FERC, Docket No. PL21-3-000, *Consideration of Greenhouse Gas Emissions in Natural Gas Infrastructure Project Reviews*, 178 FERC ¶ 61,108, at p.79. While FERC has retroactively made its policy a draft, it must still assess the significance of all reasonably foreseeable GHG emissions per the Natural Gas Act and D.C. Circuit case law.

¹¹ *Sierra Club v. FERC*, 867 F.3d 1357, 1374 (D.C. Cir. 2017).

¹² 40 C.F.R. §§ 1500.1–2 (emphasis added).

¹³ *See, e.g., Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989) (explaining that one of NEPA’s purposes is to ensure that “relevant information will be made available to the larger audience that may also play a role in both the decision-making process and the implementation of that decision”).

¹⁴ *Myersville Citizens for a Rural Cmty., Inc. v. FERC*, 783 F.3d 1301, 1322 (D.C. Cir. 2015).

downstream emissions.¹⁵ As one federal court recently recognized, “[t]he global nature of climate change and greenhouse-gas emissions means that any single ... project likely will make up a negligible percent of state and nation-wide greenhouse gas emissions,”¹⁶ but even a seemingly “very small portion of a gargantuan source of ... pollution” may “constitute[] a gargantuan source of ... pollution on its own terms.”¹⁷ The Commission must recognize that the mere fact that a project emits a small percentage of a statewide, national, or global target or total does not mean that its effects are insubstantial. Rather, those effects can be significant in the context of climate change and must be analyzed as such.

B. The Commission Should Reject Blanket Authorization Due to Potential Segmentation of NEPA Review

The Commission should reject Florida Gas’s request for authorization to proceed under a blanket authorization because that would impermissibly segment this project from related and interdependent infrastructure development. As explained above, this project is not a mere upgrade of flow capacity, it is a prerequisite for the addition of greater gas electricity generating capacity and the potential conversion of old coal plants to gas, as seen with Tampa Electric Company’s Big Bend generating facility.¹⁸ Failure to consider a project in tandem with connected, cumulative, or similar federally permitted projects is impermissible segmentation of NEPA review.¹⁹ Actions are “connected” if they “cannot or will not proceed unless other actions are taken previously or simultaneously;” or “are interdependent parts of a larger action and

¹⁵ *Florida Gas Transmission Company, LLC submits Responses to FERC's February 2, 2023 Environmental Information Request for the Tampa West Project under CP23-11*, FERC Doc. Accession No. 20230207-5164.

¹⁶ *WildEarth Guardians v. Bureau of Land Mgmt.*, 457 F. Supp. 3d 880, 894 (D. Mont. 2020).

¹⁷ *Sw. Elec. Power Co. v. EPA*, 920 F.3d 999, 1032 (5th Cir. 2019) (internal quotation marks omitted).

¹⁸ Jake Stofan, *TECO coal to natural gas conversion planned*, wfla.com, July 25, 2019, <https://www.wfla.com/news/local-news/teco-coal-to-natural-gas-conversion-approved/>.

¹⁹ *Del. Riverkeeper Network*, 753 F.3d at 1313 (finding the Commission unlawfully segmented environmental review of four separate proposals by the same pipeline companies to upgrade different sections of the same line).

depend on the larger action for their justification.”²⁰ Here, developers are constructing additional capacity as a prerequisite for a additional downstream gas powered electricity generation. Additional gas plant capacity is likely dependent upon Florida Gas’s pipeline capacity expansion.²¹ Therefore, failure to consider them together risks impermissible segmentation.

II. Conclusion

WHEREFORE, for the foregoing reasons, FWW respectfully requests that the Commission deny Florida Gas’s request to authorize the Tampa West Project under a blanket authorization, and instead require a separate Natural Gas Act Section 7 application and robust EIS addressing the full scope of upstream and downstream impacts, as well as interconnected development.

Respectfully submitted this 14th day of February, 2023.

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²⁰ 40 C.F.R. § 1508.25(a)(1); *see also* *Native Ecosystems Council*, 304 F.3d at 894–95.

²¹ *Florida Gas Transmission Company, LLC submits Response to FERC's February 2, 2023 Data Request for the Tampa West Project under CP23-11*, FERC Doc. Accession No. 20230209-5080.