

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426
February 23, 2015

OFFICE OF ENERGY PROJECTS

Council on Environmental Quality
Attn: Horst Greczmiel
722 Jackson Place, NW
Washington, DC 20503

**Reference: Comments on Revised Council on Environmental Quality
Guidance on Considering Greenhouse Gas Emissions and Climate
Change**

Dear Mr. Greczmiel:

Staff of the Federal Energy Regulatory Commission offers the following comments on the Council on Environmental Quality's (CEQ) December 17, 2014 revised draft Guidance on Considering Greenhouse Gas Emissions and Climate Change in National Environmental Policy Act (NEPA) Reviews (Revised Draft Guidance).

As the Revised Draft Guidance notes, climate change is a complex issue. We support the CEQ's recognition that inherent in NEPA and CEQ regulations is a rule of reason which ensures that agencies are afforded the discretion, based on their expertise and experience, to determine whether and to what extent to prepare an environmental analysis based on the availability of information, the usefulness of that information to the decision making process, and the extent of the anticipated environmental consequences.¹ We also support the Revised Draft Guidance's statement that agencies continue to have substantial discretion in how they tailor their NEPA processes to address the concerns raised in the Revised Draft Guidance, so long as they provide explanations of the bases of their determinations.²

Staff also supports the Revised Draft Guidance's recognition that GHG emissions only need to be considered where the upstream or downstream activities have a "reasonably close causal relationship to the proposed action."³ Commission staff believes it is important that the Revised Draft Guidance not direct agencies to expand their NEPA analyses to consider the impacts of wide-ranging upstream and

¹ Revised Guidance at 5.

² Revised Guidance at 3.

³ Revised Guidance at 10-11.

downstream activities that are neither causally related to the proposed action nor reasonably foreseeable. Thus, although the Revised Draft Guidance encourages agency consideration of both upstream and downstream emissions, Commission staff does not interpret this language to require consideration of life-cycle GHG emissions associated with natural gas production or consumption in all cases where the Commission is reviewing applications for natural gas pipelines and liquefied natural gas (LNG) facilities.

The Revised Draft Guidance's recognition of agency discretion, the rule of reason, and causal relationships between actions and impacts as a prerequisite to agency evaluations is particularly important in the context of the Commission's work. The Commission is required by statute to consider applications for certificates for natural gas facilities and for hydroelectric facility licenses.⁴ Thus, Commission staff reviews natural gas and hydroelectric project applications on a project-by-project basis, preparing NEPA analyses that are reflective of the specific facts and circumstances of each case, including discussing greenhouse gas emissions and potential impacts on climate change where appropriate. As required by NEPA, Commission staff's reviews include consideration of the direct, indirect, and cumulative impacts of proposed projects based on available sound science.

The Commission has concurred with staff's findings that the future development of upstream natural gas production and any potential climate effects of end use emissions is so highly attenuated and speculative as to preclude meaningful analysis that would aid the Commission's decision-making process. As the Commission has noted, with respect to both pipelines and LNG facilities, meaningful details about the location of the source of the gas which will be transported through the facilities over their life spans, the number of new or existing wells that might produce the gas, and the potential impacts associated with such wells have thus far been unknown. In addition, no reliable, detailed information has been brought to Commission staff's attention that quantifies the environmental impacts of producing natural gas in the specific areas from which proposed projects might receive their supplies. Accordingly, there has not been sufficient information on upstream impacts to assist the Commission in either choosing between alternatives or developing mitigation measures. There is often even less information regarding the location and manner of the end uses of the gas to be transported; where such information is known – for example, where a pipeline will directly interconnect with a gas-fired electric generation facility – Commission staff has analyzed impacts associated with that end use.

⁴ 15 U.S.C. § 717 *et seq.*; 16 U.S.C. § 791 *et seq.*

Commission staff also believes that its NEPA reviews are consistent with the Revised Draft Guidance's suggestion that agencies should consider the effects of climate change on proposed projects, such as future reduced water quantity in a stream or rising sea levels, so as to minimize impacts on the environment and to inform possible adaptation measures.

With respect to hydroelectric projects, Commission staff reviews a range of historical water flows as part of its analysis of project operation and resource effects in NEPA documents, and often includes monitoring and adaptive management provisions. Commission staff also believes that the Commission's longstanding practice of including in hydropower licenses reopener provisions that allow the Commission to alter license requirements in response to changed environmental conditions gives the Commission the ability to respond to the impacts of climate change, and provides appropriate environmental safeguards. The Commission has explained, however, that it is unaware of any current climate model that would allow the Commission to predict matters such as water flows in a given basin during the 30 to 50 year term of a typical hydropower license in such a manner as to assist the Commission in analyzing alternatives and determining appropriate mitigation for environmental impacts.

With respect to natural gas facility applications, the Commission's regulations at 18 C.F.R. Part 380.12 require information regarding any hazards that could place the proposed facilities at risk, the potential effects of those hazards on the facility, and the methods, procedures, and design features proposed to reduce risks and enhance reliability. The information must include an evaluation of the potential hazards to the facility resulting from natural catastrophes and may include evaluation of hurricanes, tsunamis, floods, sea level rise, earthquakes, landslides, avalanches, ground settlement, and other natural phenomena relevant to the proposed site location. Commission staff believes that this information will result in a project design that appropriately accounts for the potential effects of climate change.

In summary, Commission staff believes that the Commission's approach in conducting NEPA analysis related to natural gas and hydroelectric applications satisfies the important goals of appropriately analyzing potential GHG emissions and climate change, and of fulfilling the statutory mandates set forth in the Natural Gas Act and the Federal Power Act. Notwithstanding the challenges previously discussed, including the difficulty in identifying meaningful ways in which to measure a causal connection between individual project GHG emissions and specific climate change impacts, as well as the impacts of climate change on proposed projects, Commission staff is committed to monitoring the evolution of climate change science and models, and to ensuring that the Commission's environmental reviews include an appropriate

analysis of GHG emissions and climate change impacts.⁵

Thank you for the opportunity to comment. If you have any questions, please contact Elisabeth Blaug at 202-502-8189.

Sincerely,

Ann F. Miles
Director
Office of Energy Projects

⁵ Commission staff notes that the Commission recently issued a *Notice of Proposed Policy Statement, Cost Recovery Mechanisms for Modernization of Natural Gas Facilities* that recognizes growing concerns over GHG emissions in the production and transportation of natural gas. The Proposed Policy Statement would allow interstate natural gas pipelines to recover the costs associated with replacing old and inefficient compressors and leak-prone pipes and performing other infrastructure improvements and upgrades to enhance the efficient and safe operation of their pipelines.