UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Revisions to the Blanket Certificate Program	))	Docket No. RM25-12-001

COMMENTS OF AMERICAN FOREST & PAPER ASSOCIATION,
INDUSTRIAL ENERGY CONSUMERS OF AMERICA, AND
PROCESS GAS CONSUMERS GROUP

The Industrial Trade Associations – American Forest & Paper Association,[1] Industrial Energy Consumers of America,[2] and Process Gas Consumers Group[3] – submit these comments to the NOPR[4] to support *both* the buildout of natural gas infrastructure *and* the assurance that ratepayers, including American manufacturers, only pay just and reasonable transportation rates that are consistent with cost causation principles.

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[1] American Forest and Paper Association ("AF&PA") serves to advance public policies that foster economic growth, job creation and global competitiveness for a vital sector that makes the essential paper and packaging products Americans use every day. The U.S. forest products industry employs more than 925,000 people, largely in rural America, and is among the top 10 manufacturing sector employers in 44 states. Our industry accounts for approximately 4.7% of the total U.S. manufacturing GDP, manufacturing more than $435 billion in products annually. AF&PA member companies are significant producers and users of renewable biomass energy and are committed to making sustainable products for a sustainable future through the industry's decades-long initiative — Better Practices, Better Planet 2030.

[2] The Industrial Energy Consumers of America ("IECA") is a nonpartisan association of leading manufacturing companies with $1.3 trillion in annual sales, over 12,000 facilities nationwide, and with more than 1.9 million employees. One hundred percent of IECA members are manufacturing companies whose competitiveness is largely determined by the cost and reliability of natural gas and electricity. IECA's sole mission is to reduce and avoid energy costs and increase energy reliability through advocacy in Congress and regulatory agencies, such as the Federal Energy Regulatory Commission. IECA membership represents a diverse set of industries including chemicals, plastics, steel, iron ore, aluminum, paper, food processing, fertilizer, insulation, glass, industrial gases, pharmaceutical, consumer goods, building products, automotive, independent oil refining, and cement.

[3] Process Gas Consumers Group ("PGC") is a trade association that represents energy-intensive large industrial and manufacturing natural gas consumers who are typically longstanding, significant employers within their respective communities. PGC members own and operate hundreds of manufacturing plants and facilities in nearly every state in the nation and consume natural gas delivered through transmission pipeline systems throughout the United States.

[4] *See also Revisions to the Blanket Certificate Program*, 195 FERC ¶ 61,128 (2026) ("NOPR").

Our members welcome reforming the blanket certificate program to "further streamline the permitting process and speed up construction of infrastructure on which Americans rely."[5] Timely access to firm transportation capacity on interstate natural gas pipelines is critical for American manufacturers, many of which depend on natural gas as a feedstock for their processes or fuel to power their plants.[6] While our members have benefitted from our nation's abundant natural gas supplies, access to those supplies has become increasingly competitive and constrained. With the anticipated surge of natural gas demand – some estimating data center demand will reach 6.1 Bcf/d by 2030[7] – constraints are only tightening.

Permitting reforms are certainly critical, but they cannot be at the expense of existing ratepayers. Increasing the cost limit for pipeline projects to $86 million and *eliminating* the cost limit for compression projects to qualify for prior notice procedures has the potential to cause *severe* financial impacts on existing ratepayers.[8] These projects will be automatically granted a

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[5] FERC News Release, FERC Unleashes Natural Gas Permit Reforms, Accelerating Infrastructure Upgrades for Affordable, Reliable Energy Nationwide (May 21, 2026), https://www.ferc.gov/news-events/news/ferc-unleashes-natural-gas-permit-reforms-accelerating-infrastructure-upgrades.

[6] *See, e.g.*, IECA and PGC, Joint Letter to Senator Thune, at 1 (Sept. 8, 2025), 09.08.25_Letter-to-Congressional-Leadership_Support-Energy-Permitting-Reform-Legislation_FINAL-2.pdf ("No one is more impacted by inadequate natural gas pipeline capacity than the manufacturing sector."); *Id.* ("Manufacturing companies need more natural gas pipeline capacity to expand existing facilities, invest in new facilities, reshore, and create high paying middle class jobs that average $102,629 per year."); AF&PA, APGA, IECA, and PGC, Joint Letter to Senator Chuck Schumer et al., at 2 (May 18, 2023), 05.18.23_Energy-Permitting-Reform-Letter-2023_FINAL.pdf ("America's manufacturing companies need natural gas to manufacture the products used every day. Regionally, manufacturing companies already face pipeline capacity shortfalls during winter peak demand that disrupt operations at costs of millions of dollars per day. Without increased pipeline capacity, companies cannot reshore, invest and create jobs.").

[7] RBC Capital Markets, Natural gas powers the data center boom, https://www.rbccm.com/en/insights/2026/05/natural-gas-powers-the-data-center-boom.

[8] NOPR, 195 FERC ¶ 61,128 at PP 16, 71. Because automatic authorization projects will generally be strictly minor maintenance and integrity projects, we do not comment on the automatic pre-determination of rolled in rate treatment for those projects. *Id.* P 67 (requesting comment on "whether the Commission should apply its policy of granting automatic predeterminations of rolled-in rate treatment for those projects" "because the Commission has not previously authorized mainline facilities under the automatic program").

predetermination of rolled-in rate treatment.[9] As PGC previously explained, because of the high bar for challenging a predetermination combined with the Commission's lack of section 5 refund authority and preference for settlements, a predetermination of rolled-in rate treatment is in effect a guarantee of roll-in unless parties in opposition can demonstrate changed circumstances, which are hard to show because the initial showing required is so vague.[10] Without sufficient safeguards in place to protect ratepayers, Industrial Trade Associations' members may be compelled to protest prior notice filings to prevent or mitigate severe cost increases that could threaten their global competitiveness and viability. Effectively, a lack of safeguards will have defeated the entire purpose of the Commission's reforms. Because the Industrial Trade Associations' goal is not to block infrastructure development, but to ensure affordability, we offer our comments to provide a path forward for blanket certificate program reform.

First, our comments make clear how the NOPR's elimination of a cost limit for compression projects has the potential to drive "major" rate increases that would warrant "close scrutiny and case-specific deliberation by the Commission . . . prior to the issuance of a certificate."[11] "Compression-only" projects can range in the hundreds of millions of dollars, some recently proposed projects costing $453 million.[12] For context, a recently rolled-in $390 million reliability project increased system rates by 22% alone.[13]

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[9] *Blanket Certificate Cost Limitations*, 191 FERC ¶ 61,207, at P 5 (2025) ("Services using capacity constructed under blanket certificate authorization are provided at a certificate holder's existing Part 284 rates, and blanket project costs are afforded the presumption that they will qualify for rolled-in rate treatment in a future NGA section 4 proceeding.").

[10] Process Gas Consumers Group, Limited Comments on the Notice of Inquiry, Docket No. RM25-12-000, at 8-9 (Sept. 24, 2025) (Accession No. 20250924-5154) ("PGC Limited Comments").

[11] Order No. 234, FERC Stats. & Regs. ¶ 30,368 at 30,200.

[12] *See infra* page 5-6.

[13] *See infra* page 6.

Second, we strongly agree with the Commission that applicants for prior notice projects must provide "evidence that the project benefits existing customers" "to ensure there will be no major impacts on existing customers,"[14] and propose an evidentiary framework based on well-understood Commission practice.

Third, we agree with the Commission that it should "maintain [its] current regulations governing protests."[15] The protest mechanism is critical for consumers to protect themselves from projects that are not in the public interest and rate structures that are inconsistent with cost causation principles and to enable the Commission to ensure just and reasonable rates consistent with the Commission's consumer protection mandate. Any concerns about illegitimate protests can be addressed under the Commission's existing regulations requiring the Director of the Office of Energy Projects to dismiss illegitimate protests.[16]

Fourth, the Industrial Trade Associations support the Commission's expeditious adjudication of prior notice protest proceedings but recommend that if the Commission establishes a processing timeline, that timeline be a target versus a strict deadline to recognize that there are different circumstances in individual filings.

Fifth, while we do not necessarily oppose the Commission adopting the Handy-Whitman Index, we raise concerns regarding the index's transparency and consumers' access to the subscription. The Industrial Trade Associations also support using a three-year rolling average to minimize outliers regardless of any index chosen.

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[14] NOPR, 195 FERC ¶ 61,128 at P 37.

[15] *Id.* P 44.

[16] 18 C.F.R. § 157.205(g).

I. Without Sufficient Safeguards, Unlimited "Compression-Only" Projects Can Severely Impact Ratepayers.

Granting a predetermination of rolled-in rate treatment can drive significant rate increases that, if unwarranted, cannot be adequately retroactively remedied in a section 4 or section 5 rate case that may take place years after the rate impacts begin occurring. As PGC stated in its prior comments,[17] while the Commission sets natural gas section 4 and section 5 rate cases for hearing, it rarely hears them. The Commission has a strong preference for settlement and the lack of refund authority in the NGA under section 5—and guardrails for natural gas rate case proposals—deter intervenors from litigating them.[18] The consequence is that initial rate determinations made in section 7 certificate proceedings no longer merely "hold the line awaiting adjudication of a just and reasonable rate."[19] They often drive them.

Projects constructed under the proposed blanket certificate framework could readily impose severe rate impacts, whether considered individually or in the aggregate. Without *any* cost limitation on compressor units constructed under the blanket, individual projects alone can reach hundreds of millions of dollars. The estimated cost of the recently approved "compression-only" Southeast Compression Utility and Reliability Expansion Project was $261.1 million.[20] The estimated cost of the pending "compression-only" MVP Boost Project is $453 million.[21] In 2020, over six years ago, Iroquois Gas Transmission Service, LP proposed to construct and operate a

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[17] PGC Limited Comments at 8-9.

[18] *Id.* at 8 ("The Commission has declared it favors settlements.") (quoting Panhandle E. Pipe Line Co., 62 FERC ¶ 61,137, 61,984 (1993)). *See also* 15 U.S.C. § 717d (allowing only prospective rate determinations).

[19] *Atlantic Ref. Co. v. Pub. Serv. Co. of New York*, 360 U.S. 378, 392 (1959).

[20] Gulf South Pipeline Company, LLC, Certificate Application, Docket No. CP25-219-000, at 17 (Apr. 16, 2025) (Accession No. 20250416-5177).

[21] Mountain Valley Pipeline, LLC, Certificate Application, Docket No. CP26-14-000, at Exhibit K (Oct. 23, 2025) (Accession No. 20251023-5112).

"compression-only" project that was estimated to cost $272 million.[22] If proposed today, that project would likely cost more. Automatically rolling in the costs of projects costing hundreds of millions of dollars can have enormous impact on existing ratepayers depending on whether there are incremental revenues created by the project, the size of the rate base, the number of existing billing determinants, and other factors.

The rolling in of the $390 million System Alignment Program Project ("SAP Project"),[23] constructed and operated by East Tennessee Natural Gas, LLC ("East Tennessee"), demonstrates the magnitude of potential rate impacts. East Tennessee proposed the SAP Project to "improve the operational reliability of East Tennessee's system by minimizing to a significant extent the amount of displacement in the system design to meet customers' shifting needs."[24] Over shippers' protests that the SAP Project was not needed and uneconomical, the Commission found the project in the public convenience and necessity and granted East Tennessee a predetermination of rolled-in rate treatment.[25]

Just over a year later, East Tennessee filed a general section 4 rate case to raise its maximum recourse rates by 123% to recover cost increases,[26] including the $390 million SAP Project costs and a 14% return on equity ("ROE") (over 300 basis points more than the then latest FERC Trial Staff recommended ROE).[27] The SAP Project alone accounted for 22% of the proposed 123% rate

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[22] Iroquois Gas Transmission System, LP, Certificate Application, Docket No. CP20-48-000, at 4 (Feb. 3, 2020) (Accession No. 20200203-5224).

[23] The SAP Project involved pipeline looping, pipeline replacement, and compressor additions. *See* East Tennessee Certificate Application, Docket No. CP23-131-000, at 2 (Mar. 31, 2023).

[24] East Tennessee Certificate Application, Docket No. CP23-131-000, at 2 (Mar. 31, 2023).

[25] *E. Tenn. Nat. Gas, LLC*, 186 FERC ¶ 61,210, at P 46 (2024).

[26] East Tennessee Natural Gas, LLC, General Section 4 Rate Case, Docket No. RP25-844-000 (Apr. 29, 2025) (Accession No. 20250429-5069); *see also* AF&PA et al., Motion to Intervene and Protest, Docket No. RP25-844-000 (May 12, 2025) (Accession No. 20250512-5204).

[27] FERC Trial Staff, Answering Testimony of Commission Staff Trial Witness Michael O'Connor, *Vector Pipeline, L.P.*, Docket No. RP24-971-000, at 4:6-7 (Mar. 18, 2025) (recommending a 10.6 percent ROE); FERC Trial Staff,

increase.[28] Potentially double-digit rate increases are not the "*de minimis*" amount that the Commission previously found permitted granting an automatic predetermination of rolled-in rate treatment.[29]

Looking ahead, these impacts could be made worse by the anticipated surge of natural gas pipeline demand and, in turn, an increase in the number of projects constructed under the expanded blanket certificate program. If project costs and cost allocation are not scrutinized by the Commission, ratepayers could soon face unjust and unreasonable cost increases if project costs that do not benefit existing ratepayers or are not prudently incurred are rolled into the system rates. Ratepayers could also see no relief or lose any rate benefits from rolling in project revenues if that infrastructure is later stranded because the large load never shows up or leaves the system and more costs are allocated to the existing shippers.

Finally, existing ratepayer impacts can be significantly more acute on pipelines where there are significant discount and negotiated rate contracts and maximum rate contracts bear the majority of the cost increase. General section 4 natural gas rate cases do not expose discount rate or negotiated rate shippers to the same cost risks as maximum recourse rate shippers. Discount rate and negotiated rate shippers may never pay the specific rate increase that includes the initial rolling-in of the blanket certificate project costs even when they benefit from the pipeline project. Negotiated rate agreements are just that—negotiated. They do not change when a new maximum

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Answering Testimony of Commission Staff Trial Witness Douglas M. Green, *Saltville Gas Storage Company, L.L.C.*, Docket No. RP23-930-000, at 3:20-21 (Apr. 9, 2024) (recommending a 10.14 percent ROE).

[28] Errata Prepared Answering Testimony of Elizabeth H. Crowe on Behalf of American Forest & Paper Association, et al., *E. Tenn. Gas Pipeline, LLC*, Docket No. RP25-844-000, at 28:3-4 (Mar. 30, 2026) (Accession No. 20260330-5380) ("Crowe ETNG Testimony").

[29] NOPR, 195 FERC ¶ 61,128 at P 28 ("The Commission has applied this presumption because of the expected de minimis impact of blanket certificate projects on a pipeline system's overall rates, i.e., the expectation that existing customers will not subsidize blanket certificate projects."); *see also Blanket Certificate Cost Limitations*, 191 FERC ¶ 61,207 at P 5.

recourse rate is set. While some discount rates are tied to the recourse rate that is changed from time to time, others are simply a stated rate for a specific duration that does not fluctuate with the maximum recourse rate. If a significant number of contracts have rates that do not change with the maximum recourse rate, the cost increase will be absorbed by the remaining maximum recourse rate contracts, which, in some cases, can be the minority of contracts on the system, and which, by definition, are held by the shippers with no alternatives who cannot obtain the discounts, in essence, the truly captive customers of the pipeline.[30]

II. The Commission Can Look to Existing Practices to Establish Evidentiary Requirements that Are Simple to Review and Enforce.

The simplest option to protect ratepayers from "major potential impacts" is to adopt the Commission's existing policy for granting a predetermination of rolled-in rate treatment in individual, case-specific section 7 proceedings, and supplement its policy with the requirement that the pipeline provide additional evidence upfront for parties and the Commission to ensure rolled-in rate treatment is appropriate.[31] Consistent with the Certificate Policy Statement, "existing customers should pay the costs of projects designed to improve their service by replacing existing capacity, improving reliability, or providing additional flexibility" and "existing shippers generally should not pay for the costs of incremental expansions."[32] Where a pipeline proposes both a

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[30] Indicated Industrial Shippers, Comments Opposing Settlement, *Northern Natural Gas Co.*, Docket No. RP25-989-000, at 4 (Apr. 6, 2026) ("over 60% of the long-term transportation billing determinants (which are discounted and therefore held by Discounted Rate shippers, including Northern-Affiliated shippers), do not currently pay, and may never pay, the Maximum Rate that results from this proceeding").

[31] NOPR, 195 FERC ¶ 61,128 at P 37 ("To ensure there will be no major impacts on existing customers, we propose to require applicants for prior notice mainline expansions to provide evidence that the project benefits existing customers to justify the predetermination of rolled in rates."); *id.* ("We invite comment on what kind of evidence applicants could file to demonstrate that a project benefits existing customers.").

[32] *Transcon. Gas Pipe Line Co.*, 185 FERC ¶ 61,130, at P 61 (2023) (citing Certificate Policy Statement, *Certification of New Interstate Nat. Gas Pipeline Facilities*, 88 FERC ¶ 61,227, at n.12 (1999), *clarified*, 90 FERC ¶ 61,128, 61,393 (2000) ("Certificate Policy Statement")).

replacement and expansion, “the estimated cost of an in-kind replacement” should be allocated “to existing customers and the remainder of estimated costs to the incremental expansion shippers.”[33]

The NOPR’s proposal to require pipelines to “disclose the purpose and beneficiaries of blanket certificate projects” will help determine the type of project proposed and the appropriate rate treatment.[34] Disclosure of the project beneficiaries will also help support parties to determine equitable cost allocation and cost functionalization in the next general rate case. The Commission has long held that granting a predetermination of rolled-in rates “does not presume any decision with regard to the appropriate allocation of project costs, and the parties will be free to fully argue their positions” when a pipeline “files an NGA section 4 general rate case to roll its facility costs into its current system rates.”[35]

A. Evidentiary Requirements for Incremental Load Projects

For mainline expansions serving incremental load, the Commission should only grant a predetermination of rolled-in rate treatment if a pipeline can show that project cost is less than the revenues generated using actual contract volumes and either the maximum recourse rate or, if the negotiated rate is lower than the recourse rate, the actual negotiated rate for the first year of service.[36] The Commission could require that a pipeline submit an exhibit similar to Exhibit N of an individual certificate application, estimating the revenues and expenses related to the proposed

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[33] *Paiute Pipeline Co.*, 104 FERC ¶ 61,078, at P 27 (2003); *see also Transcon. Gas Pipe Line Co.*, 185 FERC ¶ 61,130, at P 62 (approving in-kind cost allocation method); *Dominion Transmission, Inc.*, 129 FERC ¶ 61,048, at PP 26-27 (2009) (same).

[34] NOPR, 195 FERC ¶ 61,128 at P 38.

[35] *E. Shore Nat. Gas Co.*, 156 FERC ¶ 61,053, at P 29 (2016); *see also Tex. E. Transmission, L.P.*, 176 FERC ¶ 61,206, at P 24 (2021) (granting predetermination but preserving cost allocation issues finding that “Texas Eastern will have the burden in its next NGA Section 4 rate case to show that costs are assigned to services equitably and the relevant parties will be free to fully argue their positions when Texas Eastern files to roll project costs into its current system rates.”).

[36] *See Transcon. Gas Pipe Line Co., LLC*, 194 FERC ¶ 61,078, at PP 45-46 (2026).

facility for its first full three years of operation, and the workpapers supporting such estimates.[37] If a pipeline cannot show that the revenues generated exceed project cost, the Commission should give the pipeline one of three options: (1) propose an incremental rate; (2) elect to not receive a predetermination of rolled-in rate treatment; or (3) have the Commission process the application as an individual section 7 certificate proceeding.

B. Evidentiary Requirements for Reliability and Flexibility Projects

For system reliability and flexibility projects, we agree with the Commission that pipelines should provide evidence that allows the Commission to verify the applicable project provides reliability and flexibility benefits for existing shippers and is in the public interest.[38] While the Industrial Trade Associations strongly support pipeline companies properly maintaining their systems and agree that it is not a subsidy to charge existing customers for such maintenance,[39] "gold-plating" must be deterred.[40] Because a pipeline company earns a return on its rate base, a pipeline company has a natural incentive to increase or maintain its rate base through capital expenditures. Otherwise, as its assets depreciate, its rates and revenues will decline. This natural incentive must be checked with sufficient evidentiary requirements if the Commission is to allow the automatic rolling in of compression-only projects, costing hundreds of millions of dollars, without undergoing typical scrutiny.

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[37] 18 C.F.R. § 157.14(a)(17).

[38] NOPR, 195 FERC ¶ 61,128 at P 37 ("To ensure there will be no major impacts on existing customers, we propose to require applicants for prior notice mainline expansions to provide evidence that the project benefits existing customers to justify the predetermination of rolled in rates."); *id.* ("We invite comment on what kind of evidence applicants could file to demonstrate that a project benefits existing customers.").

[39] *Columbia Gulf Transmission, LLC*, 174 FERC ¶ 62,127, at P 10 (2021).

[40] *Transcon. Gas Pipe Line Corp.*, 154 FERC ¶ 61,211, at P 67 (2016) (stating a pipeline company that "acquired assets not necessary to provide contract obligations, such expenditures may be deemed unnecessary investment or imprudent"); *id.* P 67 n.78 (stating unnecessary investment is "[o]therwise known as 'gold plating': making an investment that increases the rate base and the corresponding return without necessarily creating a corresponding benefit to the pipeline's customers") (citation omitted); *Fuel Retention Practices of Nat. Gas Cos.*, 120 FERC ¶ 61,255, at P 18 (2007) (the Commission requesting comment on how a policy could deter "gold plating").

Unsupported statements by the pipeline asserting the project is designed to increase system reliability and flexibility are not sufficient. The Commission should require that pipeline companies provide:

- Evidence that demonstrates the pipeline considered two or more alternatives and justification for selecting the proposed project over the alternatives considered,
- Evidence specifically supporting a pipeline company's claims that a project is necessary to provide reliability and flexibility benefits,
- Estimation of the project's intended reliability and flexibility benefits (e.g., reduction in Operational Flow Orders ("OFOs"), ability for shippers to segment capacity or have increased flexibility to change receipt or delivery points, reduced fuel costs, increased access to new supplies), and
- Certification by a pipeline company executive that the system reliability and flexibility project addresses system conditions that are not caused by the pipeline's commercial practices.

<u>Consideration of Alternatives</u>

Pipeline companies should provide documentation that they considered other alternatives to the proposed project, including non-build alternatives, such as operational purchases of natural gas at specific locations. As part of this documentation, pipeline companies should estimate the costs of the alternatives considered and provide justification for why they selected the proposed project over other alternatives. Requiring justification of alternatives is consistent with Commission practice. The Commission has previously requested additional information on alternatives considered and justification for the pipeline's selection of the proposed project over alternatives in response to arguments challenging the public convenience and necessity of a project and a predetermination of rolled-in rate treatment.[41] This evidentiary requirement would simply

[41] *See, e.g.*, FERC Trial Staff Letter, *E. Tenn. Nat. Gas, LLC*, Docket No. CP23-131, at 3 (Jan. 17, 2024) (Accession No. 20240117-3004) (requesting information on East Tennessee's consideration of alternatives). The Commission's policies for transmission planning also support the selection of cost-effective transmission facilities. *See Transmission Planning & Cost Allocation*, Order No. 1000, 136 FERC ¶ 61,051, at P 11 (2011) (adopting reforms to "increase the likelihood . . . transmission facilities . . . are the more efficient or cost-effective solutions available").

require the information upfront, rather than in response to protests and information requests that would otherwise delay the authorization of a project.

Given the streamlined nature of the blanket certificate program, the required documentation would be more limited than the alternatives analysis the Commission requires pipeline companies to include in Resource Report 10 of their individual section 7 certificate applications.[42] One would reasonably expect pipeline companies to already have internal documentation analyzing alternatives to support the commercial justification for the project.

Evidence Specifically Supporting Pipeline Company's Claims

A pipeline company should provide evidence specifically supporting its claims that a project is necessary to provide reliability and flexibility benefits. The Commission has requested additional information on the specific reliability and flexibility claims.[43] This evidentiary requirement would simply require the information upfront.

Estimation of Reliability and Flexibility Benefits

To support claims that projects benefit system reliability or flexibility, pipeline companies should estimate cost savings from the project compared to current costs. For example, a pipeline company could quantify the reduction in current levels of operational purchases for reliability, reductions in current maintenance costs, reduction of demonstrated levels of current service interruptions or OFOs, reduction in fuel cost, etc.

This requirement will help ensure that proposed projects deliver the benefits they claim. Industrial Trade Association members have recently expressed concern that reliability projects have not actually delivered the reliability benefits they claim. In the East Tennessee 2025 Rate

[42] 18 C.F.R. § 380.12(l).

[43] FERC Trial Staff Letter, *E. Tenn. Nat. Gas, LLC*, Docket No. CP23-131, at 2 (Aug. 30, 2023) (Accession No. 20230830-3002) (requesting information supporting reliability claims).

Case, the Industrial Trade Associations expressed concern over East Tennessee seeking to annually recover $15.7 million for operational purchases of gas when the entire purpose of the $390 million SAP Project was to "increase the reliability on East Tennessee's system *by reducing East Tennessee's reliance on displacement and other operational measures such as purchasing gas*, using line pack, and relying on other interconnected pipelines."[44]

<u>Sworn Verification that Pipeline Company's Contracting Practices Did Not Cause Need for Project</u>

Some natural gas shippers have expressed concern that a pipeline company's past contracting practices have contributed to reliability concerns.[45] While the Industrial Trade Associations do not take a position on pipeline companies' culpability, the Industrial Trade Associations believe that ratepayers should not be required to pay for projects fixing operational issues caused by the pipeline's commercial practices. To address this concern, the Industrial Trade Associations propose that a senior official of the pipeline company sign under oath a verification form confirming the pipeline company's contracting practices did not cause the reliability and flexibility issues that the applicable project will address. A requirement for sworn verification is consistent with Commission practice and will help ensure accountability.[46]

[44] Crowe ETNG Testimony at 12:4-19, 14:14-15:9, & n.12 (quoting *E. Tenn. Nat. Gas, LLC*, 186 FERC ¶ 61,210, at PP 33-34, 37 (2024)) (emphasis added).

[45] East Tennessee Group Protest, *E. Tenn. Gas Pipeline, LLC*, Docket No. RP25-844-000, at 3 (May 12, 2025) (Accession No. 20250512-5141) ("East Tennessee's financial exposure to its reliance on displacement capacity has existed since the resolution of Order No. 636 restructuring some 32 years ago, but East Tennessee appears to have never adjusted its contracting practice of relying on displacement volumes to maintain reliability as other pipelines did.").

[46] *See, e.g.*, 18 C.F.R. § 157.207 (requiring annual blanket certificate activity report to be signed under oath by a senior official of the company).

III. The Commission Should Maintain its Rules on Eligibility Criteria for Protesting Prior Notice Projects.

The Industrial Trade Associations strongly agree with the Commission that it should "maintain [its] current regulations governing protests."[47] The Commission should not establish more prescriptive eligibility criteria for protestors, including the INGAA proposal to limit the persons that may protest a prior notice application to only those with a substantial economic interest, Commission staff, and affected landowners.[48]

The Industrial Trade Associations share the Commission's "concern" that INGAA's proposal "could be difficult to administer in practice" and "may set underinclusive eligibility criteria . . . prevent[ing] certain persons that are directly affected by a proposed project from protesting."[49] Moreover, given the potential for severe rate impacts, the protest mechanism is the primary safeguard ensuring that consumers' interests are considered before a project is authorized. Restricting access to that safeguard would be inconsistent with the NGA's consumer-protection mandate.[50] The concerns animating proposals to restrict protest eligibility – namely that baseless protests may delay otherwise meritorious projects – can be resolved under the Commission's existing regulations without restricting the rights of legitimate stakeholders.[51] Under existing regulations, "[w]ithin 10 days of the filing of a protest, the Director of the Office of Energy Projects

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[47] NOPR, 195 FERC ¶ 61,128 at P 44.

[48] *Id.* P 45.

[49] *Id.* P 44.

[50] *See* NGA §§ 4, 5, 15 U.S.C. §§ 717c, 717d. Further, the courts have indicated that protecting the ultimate consumer from unjust and unreasonable rates and undue discrimination is the Commission's primary mandate under the NGA. *See, e.g., FPC v. Hope Nat. Gas Co.*, 320 U.S. 591, 612 (1944) (recognizing the consumer-protection purpose of the NGA); *Atlantic Refining Co. v. Pub. Serv. Comm'n of N.Y.*, 360 U.S. 378, 389 (1959) (same).

[51] NOPR, 195 FERC ¶ 61,128 at P 45 (recognizing the need to "attenuate the quantity of protests based solely on generic or irrelevant concerns that do not advance legitimate concerns of individuals or entities that could be affected by a project").

will dismiss that protest if it does not raise a substantive issue and fails to provide any specific detailed reason or rationale for the objection."[52]

The Commission should also not require trade associations or membership organizations to demonstrate that they have members in the specific geographic area of a proposed project or that a specific member is directly affected by the project, for several reasons.[53] *First*, the Commission has long acknowledged that the costs incurred by one interstate pipeline can affect the rates paid by customers of other pipelines and by downstream consumers who may not be direct shippers on the system constructing the project.[54] Pipeline costs may be passed through to downstream customers, including end-use consumers who receive service from local distribution companies interconnected with multiple interstate systems. A blanket certificate project on one pipeline can affect market-area rates and competitive conditions for shippers and consumers well beyond the immediate geographic footprint of the project. Requiring a protestor to demonstrate a geographic nexus to the specific project would be fundamentally inconsistent with the economic reality of interconnected interstate pipeline networks.

Second, large industrial consumers may face practical commercial reasons not to be individually named in protests, particularly where pipeline service is monopolistic or highly concentrated. In many markets, interstate natural gas pipelines possess significant market power by virtue of their natural-monopoly characteristics, or they can be affiliated with intrastate

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[52] 18 C.F.R. § 157.205(g) (emphasis added). This is the case in practice. *See, e.g.*, *Nw. Pipeline LLC,* 194 FERC ¶ 62,021 (2026) (dismissing a protest pursuant to 18 C.F.R. § 157.205(g)); *S. Star Cent. Pipeline, Inc.,* 194 FERC ¶ 62,097 (2026) (same).

[53] NOPR, 195 FERC ¶ 61,128 at P 45 ("Other potential alternative defined eligibility criteria for protestors to prior notice projects. This includes whether the Commission could or should adopt some form of its intervention standard as a criterion for protestors and/or whether the Commission should require membership organizations seeking to protest prior notice applications provide evidence that they have a member or members in the relevant geographic area, or are representing a specific member or members that is or will be directly affected by the proposed project.").

[54] *See* Certificate Policy Statement, 88 FERC ¶ 61,227 at 61,746 (recognizing that pipeline costs can affect downstream customers and other system users).

pipelines or processing and gathering companies that possess significant market power.[55] A shipper that depends on a single pipeline for its gas supply may reasonably be reluctant to file a protest in its own name against that pipeline's blanket certificate application, given the ongoing commercial relationship and the potential for adverse consequences, whether real or perceived, in future rate proceedings, capacity allocation, or service quality provided by that pipeline or one of its affiliates. A trade association's ability to participate in prior notice proceedings on behalf of its members protects consumers without subjecting individual companies to the risk of retaliation or strained commercial relationships. This is a well-recognized function of trade associations in administrative proceedings before the Commission and other agencies.

Finally, manufacturing trade associations are qualitatively different from organizations that may lack a legitimate interest in pipeline proceedings. The Industrial Trade Associations' members are large industrial consumers who purchase natural gas in interstate commerce, are served by nearly all major interstate natural gas pipeline systems and are directly and materially affected by the rates those pipelines charge. The Commission should not conflate legitimate industry participants with entities that may lack a genuine interest in the outcome of a blanket certificate proceeding.

IV. The Commission Should Establish a Targeted Timeline for Adjudications.

The Industrial Trade Associations support the Commission's expeditious adjudication of prior notice protest proceedings but recommend that the Commission treat any "designated

[55] *See United Distribution Cos. v. FERC*, 88 F.3d 1105, 1122 (D.C. Cir. 1996) ("Federal regulation of the natural gas industry is thus designed to curb pipelines' potential monopoly power over gas transportation. The enormous economies of scale involved in the construction of natural gas pipelines tend to make the transportation of gas a natural monopoly."). *See also Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036, 75 FERC ¶ 61,080, at 31,669 (1996) (discussing discriminatory and retaliatory actions by transmission owners, citing to discriminatory practices seen in the gas industry and noting "[t]he inherent characteristics of monopolists make it inevitable that they will act in their own self-interest to the detriment of others").

timeline" as a target rather than a binding requirement.[56] As the Commission recognizes, "individual cases present differing issues and information needs, and thus require differing processing times."[57] In addition, we expect that much of the evidence filed by pipelines to demonstrate that a project benefits existing ratepayers will be filed as privileged or Critical Energy Infrastructure Information ("CEII"). Protestor access to privileged information and CEII is not instantaneous. The Commission reviews and approves access to CEII,[58] and in some cases has taken months to process.[59] Any designated timeline should be flexible to give protestors sufficient time to access and evaluate information necessary to decide whether to withdraw their protests.

Designating a target would also help parties manage negotiations efficiently. The NOPR proposes to allow parties to withdraw "any time prior to a Commission order" as opposed to the Commission's current requirement that withdrawals be made within 30 days of filing a protest.[60] Because only the Commission knows the timing of its order issuances, establishing a flexible target of when a Commission order could be issued would help parties schedule and manage their negotiations while still providing "parties additional time to negotiate a resolution."[61] The Commission could announce targeted timelines in notices similar to the Commission's Notices of

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[56] NOPR, 195 FERC ¶ 61,128 at P 45.

[57] *Id.*

[58] 18 C.F.R. § 388.113.

[59] *See E. Tenn. Nat. Gas, LLC*, 189 FERC ¶ 61,232, at PP 3-6 (2024) (explaining that an intervenor requested CEII in June 2023 and that the Commission did not grant the request until end of May 2024).

[60] NOPR, 195 FERC ¶ 61,128 at P 92.

[61] *Id.*

Environmental Schedule, which establish anticipated issuance dates for environmental assessments and environmental impact statements.[62]

V. If the Commission Adopts the Handy-Whitman Index, it Should Use a Three-Year Rolling Average to Minimize Outliers.

The NOPR finds "that the Handy-Whitman Index, with its narrow focus on gas utility construction costs, more accurately reflects annual cost increases and thus is a more suitable metric for annual adjustments than the GDP deflator, especially in view of the comments and data demonstrating that the GDP deflator has not adequately reflected the annual cost increases experienced by natural gas companies."[63] The NOPR also seeks comment on "whether employing the Handy-Whitman Index is the best approach for adjusting the cost limits annually, and on the use of any alternative price indices. In addition, we seek comment on whether using a three-year rolling average would be preferable to adjustments based on a single year of data."[64]

While the Industrial Trade Associations are not necessarily opposed to using the Handy-Whitman Index, we are concerned that the Handy-Whitman Index may present transparency challenges that could impair consumers' ability to verify cost-limit adjustments and the Commission's ability to administer the blanket certificate program in a transparent manner. Unlike government-published indices such as the GDP Implicit Price Deflator or the Bureau of Labor Statistics' Producer Price Index, the Handy-Whitman Index is a proprietary, non-public index published by a private firm. If the underlying data and methodology are not publicly accessible, consumers, intervenors, and other stakeholders may be unable to independently verify the accuracy

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[62] *See, e.g.*, FERC Staff, Notice of Schedule for the Preparation of an Environmental Assessment for the Petal Cavern Expansion Project, *Gulf South Pipeline Company, LLC*, Docket No. CP26-127-000 (June 12, 2026) (Accession No. 20260612-3016).

[63] NOPR, 195 FERC ¶ 61,128 at P 26.

[64] *Id.* P 27.

of the Commission's annual cost-limit adjustments or evaluate whether the index appropriately reflects the cost conditions relevant to blanket certificate projects.

Transparency in the administration of cost limits is not merely an administrative convenience; it is a substantive concern with direct implications for consumers' ability to participate meaningfully in the regulatory process. The blanket certificate cost limits define the boundary between projects that may proceed without case-specific NGA section 7 review and those that require individualized public convenience and necessity determinations.[65] When cost limits increase, the scope of projects exempt from case-specific review expands accordingly, and consumers' opportunity to participate in certification decisions diminishes. Given the significance of this boundary, the index used to adjust it should be one that all stakeholders can access, understand, and verify.

If the Commission determines to adopt the Handy-Whitman Index, the Industrial Trade Associations support the use of a three-year rolling average rather than adjustments based on a single year of data. A three-year rolling average would reduce the effect of anomalous annual movements in the index and produce more stable, predictable cost-limit adjustments over time. Construction cost indices, including the Handy-Whitman Index, can experience significant year-over-year volatility due to factors such as supply-chain disruptions, tariff effects on construction materials, regional construction bottlenecks, or transient spikes in labor costs. A single anomalous year – driven, for example, by temporary supply-chain disruptions or tariff-related cost increases – could produce a disproportionate increase in the blanket certificate cost limits that persists long after the underlying cost pressure has dissipated. A three-year rolling average mitigates this risk

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[65] *See* NGA § 7(c), (e), 15 U.S.C. § 717f(c), (e) (requiring certificate of public convenience and necessity for construction or extension of interstate natural gas transportation facilities).

by smoothing annual fluctuations and ensuring that cost-limit adjustments reflect sustained trends in construction costs rather than transient signals.

CONCLUSION

For these reasons, the Industrial Trade Associations request that the Commission (1) prescribe and enforce the recommended safeguards to ensure that existing ratepayers are not allocated costs they did not cause or benefit from, (2) maintain its existing eligibility requirements for filing a protest to prior notice filings, (3) designate a flexible target for Commission action on prior notice protest proceedings, and (4) if it adopts the Handy-Whitman Index, use a three-year rolling average.

Respectfully submitted,

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July 27, 2026

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of July 2026, I have caused to be served a copy of the foregoing upon all parties on the service lists in these proceedings in accordance with the requirement of Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010 (2025).

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