

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

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

**MOTION FOR LEAVE TO ANSWER AND ANSWER OF PROCESS GAS
CONSUMERS GROUP, AMERICAN FOREST & PAPER ASSOCIATION, AND
INDUSTRIAL ENERGY CONSUMERS OF AMERICA**

I. INTRODUCTION

The Process Gas Consumers Group (“PGC”), American Forest & Paper Association (“AF&PA”), and Industrial Energy Consumers of America (“IECA”) (collectively, “Industrial Commenters”) respectfully move for leave to answer¹ and submit this answer in response to the Notice of Proposed Rulemaking issued by the Federal Energy Regulatory Commission (“FERC” or “Commission”) on May 21, 2026, and particularly to the October 2, 2026, reply comments of the Interstate Natural Gas Association of America (“INGAA”). In its reply comments, INGAA continues to support a presumption of granting “automatic predeterminations of rolled-in rates for blanket certificate projects that propose charging existing system rates.”² INGAA proposes that “[t]o the extent that a pipeline company requests incremental rates, that project would not qualify for the presumption of rolled-in rate treatment.”³ INGAA argues that most blanket certificate

¹ The Commission accepts otherwise-unauthorized pleadings where they lead to a more complete record, help the Commission understand the issues, respond to new issues, or provide useful information. *Laclede Pipeline Co.*, 119 FERC ¶ 61,236, at P 6 (2007); *see also Dominion Cove Point LNG, LP*, 118 FERC ¶ 61,007, at P 10 (2007) (finding good cause to waive the prohibition where the answers did provide information that assisted in the Commission’s decision-making process); *KeySpan LNG, LP*, 114 FERC ¶ 61,054, at P 7 (2006) (finding the same); *PSEG Power Conn., LLC*, 113 FERC ¶ 61,210, at P 17 (2005) (finding the same). INGAA’s reply proposes new regulatory text narrowing protest eligibility that did not appear in the NOPR. Good cause therefore exists to accept this answer, so the Commission has a complete record on that new proposal.

² INGAA Reply Comments at 20.

³ INGAA Reply Comments at n. 56.

projects do not increase pipeline capacity and benefit the pipeline system. While acknowledging that blanket certificate project costs must still be recovered through a Section 4 rate case, INGAA opposes requiring the accounting information and rate support normally provided in a Section 4 proceeding to determine just and reasonable rates.

II. THE COMMISSION SHOULD NOT PRE-DETERMINE ROLLED-IN RATE TREATMENT GIVEN THE SUBSTANTIAL INCREASE IN COSTS OF PROJECTS PROPOSED TO BE PERMITTED UNDER BLANKET AUTHORIZATION

The Commission should not predetermine rolled-in rate treatment based on the limited record developed in a Section 7 certificate proceeding and should instead either require sufficient project-specific information to support that determination or reserve the issue for the pipeline's next Section 4 rate proceeding. Section 7 of the Natural Gas Act ("NGA") authorizes certificates and allows for "initial rates."⁴ Section 4 requires pipelines to demonstrate, and the Commission to find, that proposed rates are just and reasonable.⁵ In a Section 4 proceeding, the Commission authorizes rates based upon a detailed review of all costs and revenues of the pipeline. INGAA acknowledges that recovery of blanket certificate project costs occurs through the pipeline's broader cost-of-service calculation in a subsequent rate case.⁶ Yet, INGAA asks the Commission to predetermine rolled-in rate treatment at the certificate stage without requiring the project-specific accounting and rate information necessary to evaluate that treatment.

In a Section 4 rate proceeding, pipelines must provide detailed support for the costs they seek to recover through jurisdictional rates. In a Section 7 request for predetermination of roll-in, pipelines simply provide information showing their calculation of the project costs versus recourse

⁴ *Mo. Pub. Serv. Comm'n v. FERC*, 601 F.3d 581, 583 (D.C. Cir. 2010).

⁵ 15 U.S.C. § 717c(e).

⁶ INGAA Reply Comments at 26.

rates. To challenge the costs, shippers would be required either to protest and seek a hearing to review the costs, which would defeat the purpose of the streamlined blanket certificate process, or to establish a record of the costs underlying the predetermination and then challenge the roll-in later in the Section 4 proceeding on the basis of changed circumstances. INGAA nevertheless opposes requiring separate books and records for most blanket certificate projects, arguing that such requirements are unnecessary and overly burdensome.⁷ But without project-specific accounting information, the Commission and customers may be unable to determine which costs are attributable to a particular blanket certificate project, how those costs are allocated, whether rolled-in treatment is appropriate, and whether the pipeline is building excess capacity under blanket authorization and forcing existing shippers to pay for it.

The same problem arises with respect to benefits. INGAA argues that, for many projects, “a simple explanation of the project’s purpose” should be sufficient and that requiring project-specific demonstrations supporting rolled-in treatment would be “overly burdensome” and create “substantial administrative inefficiencies.”⁸ Yet a general description of a project’s purpose does not establish who benefits from the project, how costs should be allocated, or whether existing customers should bear those costs. Because the blanket certificate process does not contain sufficient information to evaluate those questions, the Commission should reserve rate treatment for the pipeline’s next Section 4 proceeding rather than pre-determine the answer in advance.

The stakes are significant. With the cost limits being proposed in this proceeding—from \$14.5 million to \$30 million for automatic authorizations, from \$41.1 million to \$86 million for prior notice projects, and unlimited amounts for compression projects built under the blanket—the

⁷ INGAA Reply Comments at 25-26.

⁸ INGAA Reply Comments at 24-25.

Commission should not predetermine just and reasonable rates without examining the pipeline's costs and revenues. These are not *de minimis* amounts. Compression-only projects can cost hundreds of millions of dollars; a recently proposed compression project was estimated to cost \$453 million. For context, the rolled-in costs of an approximately \$390 million reliability project increased one pipeline's recourse rates for non-incremental shippers by 22 percent.⁹ Predetermining rolled-in rate treatment for projects of this magnitude without adequate cost and rate support shifts the burden of proof from the pipeline to consumers.

The rate impacts on existing ratepayers can be significantly more acute on pipelines with substantial discount and negotiated rate contracts.¹⁰ Shippers paying discount or negotiated rates may never bear the specific rate increase from rolling in blanket certificate project costs—even when they benefit from the project. If a significant number of contracts have rates that do not fluctuate with the maximum recourse rate, the cost increase will be absorbed by remaining recourse rate contracts, which, in some cases, may be held by a minority of shippers on the system. These are, by definition, the truly captive customers—shippers with no alternatives who cannot obtain discounts.

Further, because a pipeline company earns a return on its rate base, it has a natural incentive to increase or maintain its rate base through capital expenditures.¹¹ As its assets depreciate, its rates and revenues decline, which creates pressure to invest in new facilities. This “gold-plating” incentive must be checked with sufficient evidentiary requirements if the Commission is to allow

⁹ *E. Tenn. Nat. Gas, LLC*, 186 FERC ¶ 61,210, at P 46 (2024) (granting predetermination of rolled-in rate treatment for a project designed solely for system reliability); *see also* Prepared Answering Testimony of Elizabeth H. Crowe on behalf of AF&PA, IECA, and PGC, Ex. No. AIP-0001, at 11, 28 (Jan. 15, 2026).

¹⁰ Industrial Trade Association Comments at 7.

¹¹ Industrial Trade Association Comments at 10; *see also Transcon. Gas Pipe Line Corp.*, 154 FERC ¶ 61,211, at P 67 & n.78 (2016) (defining “gold plating” as “making an investment that increases the rate base and the corresponding return without necessarily creating a corresponding benefit to the pipeline's customers”).

the automatic rolling in of compression-only projects costing hundreds of millions of dollars without typical scrutiny.

To compound the problem, the standard for overturning the presumption of rolled-in rates is that there has been a material change since the certificate.¹² However, because pipelines often provide minimal evidence supporting rolled-in rates during the certificate proceeding, it is difficult to assert a change in circumstances in the subsequent rate case. The lack of a complete evidentiary record effectively insulates the rolled-in determination from meaningful challenge.

The Commission should require pipelines to demonstrate—not merely assume—that blanket certificate projects do not increase pipeline capacity and provide actual benefits to existing customers. Without such a demonstration, a pipeline could construct a project claiming it benefits existing shippers, roll in the costs, and then sell that capacity as part of a future expansion¹³ without lowering existing customers' rates. Moreover, if a project is priced incrementally but rolling in the costs would decrease the system rate due to increased billing determinants, INGAA's proposal would deny existing customers the benefit of roll-in.

In its reply comments, INGAA characterizes arguments against the presumption of rolled-in rate treatment as “nothing more than an attempt to shift the burden of proof from shippers to the pipeline.”¹⁴ But that framing inverts the statutory scheme. Pipelines are the cost-causers and should bear the burden of demonstrating that their projects benefit existing customers. Under Section 4 of

¹² Tex. E. Transmission, LP, 153 FERC ¶ 61,311, at 63,043.

¹³ GTN attempted to obtain a predetermination of roll-in for \$251 million of compression costs constructed under Section 2.55(b) as replacement facilities related to the GTN Xpress Project, but the Commission refused to grant the predetermination of rolled-in rates, and the *court upheld the Commission's decision*. Gas Transmission Nw., L.L.C. v. FERC, 157 F.4th 674, 692-93, 703 (5th Cir. 2025). Although the case involved a replacement that was larger than the existing facilities and an expansion, the court's reasoning—that a Section 7 predetermination would place a “thumb on the scale” of the cost allocation to all existing shippers in a subsequent Section 4 proceeding—applies equally where *not* all existing shippers benefit from a blanket certificate project. *See id.* at 704.

¹⁴ INGAA Reply Comments at 23.

the NGA, pipelines—not consumers—bear the burden of demonstrating that rates are just and reasonable. Requiring consumers to challenge a predetermined presumption of roll-in, with the high bar of showing “material change,” places that burden on the wrong party.¹⁵

If the Commission continues to allow predeterminations, then before granting a predetermination of rolled-in rate treatment, the Commission should require pipelines to identify the project’s costs and beneficiaries, explain cost allocation, and demonstrate anticipated rate effects on existing customers. Instead of merely claiming that reliability benefits will occur, the pipeline should be required to provide engineering data supporting those claims, showing where increases in reliability will occur, and to provide specific measures (e.g., 50% fewer Operational Flow Orders or other measurable data). Pipelines should also be required to show that no lower-cost alternatives were available to shippers (e.g., reduced operational purchases of gas), to prevent gold-plating. Providing this specific data and measurable tests for achieving benefits at the certificate stage would permit meaningful review without shifting to consumers the burden of disproving a presumption based on an incomplete record. The Commission should also require the continuation of separate accounting for such projects. If a pipeline does not make that showing, the Commission should authorize the project but reserve rate treatment for the next Section 4 proceeding. This approach honors the NGA’s consumer-protection mandate by requiring pipelines to demonstrate—with adequate accounting and rate support—that existing customers will actually benefit.

Also, INGAA’s proposal not to pre-determine roll-in if the project is incrementally priced should be further scrutinized. If the roll-in of a project that is incrementally priced would result in a rate reduction, then why wouldn’t the existing shippers benefit from the roll-in? Given that the

¹⁵ *Federal Power Comm’n v. Hope Natural Gas Co.*, 320 U.S. 591, 610 (1944).

Commission will need to examine all of the rate and cost impacts in the later Section 4 proceeding, the Commission should defer any determination regarding cost allocation and rate design until the Section 4 proceeding when it has all the necessary record evidence to determine the just and reasonable rate. For these reasons, the Commission should also continue to require separate accounting of costs and rate schedules to track the costs of these projects.

III. PROPOSALS TO LIMIT PROTESTS IN CERTIFICATE CASES ARE CONTRARY TO THE COMMISSION'S CONSUMER PROTECTION MANDATE UNDER THE NGA AND ARE LIKELY TO LEAD TO MORE COURT CHALLENGES

INGAA's proposals to limit protest rights are contrary to the NGA's consumer-protection mandate. The Supreme Court has recognized that the NGA is intended to protect consumers from unjust and unreasonable rates.¹⁶ Restricting who may participate in certificate proceedings would undermine this mandate by silencing the very parties the Commission is obligated to consider.

In its reply comments, INGAA modified its proposal to permit protests from: (1) Commission staff; (2) federal and state agencies exercising authority under federal law with respect to any portion of the construction or operation of the project at issue; (3) any shipper of the certificate holder, any person with a pending request for service under the certificate holder's open-access FERC Gas Tariff, or any membership organization with at least one member who is a shipper of the certificate holder, who demonstrates an economic or operational impact from the project at issue in the prior notice request; (4) Tribal Historic Preservation Officers; and (5) any person, or membership organization with at least one member who is an affected landowner or who has suffered or will suffer a concrete and particularized injury that is actual and imminent, not conjectural or hypothetical, and where that injury is fairly traceable to the project at issue in

¹⁶ *FPC v. Hope Natural Gas Co.*, 320 U.S. 591, 612 (1944) ("The primary aim of [the NGA] was to protect consumers against exploitation at the hands of natural gas companies.").

the prior notice application, and it is likely that granting the protest would redress the claimed injury.¹⁷ INGAA explicitly seeks to import Article III standing requirements into Commission proceedings, conflating participation before the Commission at the administrative level with standing to appeal a Commission decision to federal court.

Although INGAA's revised proposal expressly includes membership organizations, it will permit them to protest only if they identify a member that satisfies one of INGAA's project-specific tests. An organization with a shipper member would have to demonstrate an economic or operational impact from the particular project, while other organizations would have to identify an affected landowner or a member with a concrete and particularized injury. Those requirements are too narrow. The economic and operational consequences of a project may not be fully known when a prior notice request is filed, particularly where the filing does not disclose sufficient information concerning project beneficiaries, cost allocation, or anticipated rate effects. And individual prior notice proceedings may establish precedent affecting an association's members on other pipeline systems even where no member can demonstrate an immediate economic injury from the project at issue. This is particularly concerning for trade associations whose manufacturer members may be contemplating opening a new plant or who receive service on a downstream pipeline. Trade associations should be permitted to protest matters germane to their organizational purpose related to promoting reasonable natural gas prices and policies for manufacturers and the interests they represent without first establishing project-specific economic harm or Article III injury. Many end users are afraid to identify themselves specifically due to concerns about retribution and targeting by pipeline monopoly owners.

¹⁷ INGAA Reply Comments at 27-28.

INGAA also proposes that protests not adjudicated within 60 days be “deemed dismissed” and the project “automatically authorized.”¹⁸ This proposal would transform the protest mechanism from a substantive safeguard into a procedural formality. A 60-day deadline for complex rate, environmental, and community impact issues is inconsistent with the considered judgment reflected in the Commission’s existing framework, under which a protest triggers treatment as a Section 7 application and full Commission review. The Commission itself recognized that a designated timeline could “inhibit project applicants and protesters from negotiating a settlement that would resolve the protest.”¹⁹

The Supreme Court has recognized that under Section 7 of the NGA, the Commission must consider “all factors bearing on the public interest” when evaluating certificate applications.²⁰ This broad mandate supports the Commission’s longstanding practice of permitting participation by consumer groups, trade associations, and other interested parties—a practice that INGAA’s proposed restrictions would undermine.

The Commission itself declined to adopt INGAA’s initial proposal. In the NOPR, the Commission stated it “do[es] not propose adopting INGAA’s 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 because we are concerned that the proposal could be difficult to administer in practice.”²¹ The Commission further expressed concern “that it may set underinclusive eligibility criteria in that INGAA’s proposal may prevent certain persons that are

¹⁸ INGAA Reply Comments at 30.

¹⁹ Revisions to the Blanket Certificate Program, 195 FERC ¶ 61,128, ¶ 45 (May 21, 2026) (“NOPR”).

²⁰ *Atlantic Refining Co. v. Pub. Serv. Comm’n of N.Y.*, 360 U.S. 378, 391 (1959).

²¹ NOPR at ¶ 45.

directly affected by a proposed project from protesting.”²² INGAA’s revised proposal does not resolve those concerns. Although it expands the categories of eligible protesters, it still requires shippers and membership organizations to demonstrate an economic or operational impact from the particular project or to identify a member that satisfies an Article III-type injury standard. These requirements remain difficult to administer and underinclusive: a project’s economic or operational effects may not be apparent from the information available at the prior notice stage, and a proceeding may raise precedent-setting issues affecting an organization’s members even if no individual member can yet demonstrate project-specific harm.

Restricting protest eligibility also creates procedural risk. INGAA’s proposed limits on participation by natural gas consumers in these proceedings could reduce consumer input into the record that the Commission considers in determining the public interest. Moreover, procedural due process challenges are likely to arise and lead to less certainty that pipeline projects undertaken under blanket certificates will survive judicial scrutiny. If the Commission adopts criteria that exclude parties who are later found to have been directly affected by a project, it risks developing an inadequate administrative record and facing reversal on judicial review. The Commission’s existing framework avoids that risk by permitting protests from any person whose interest may be directly affected by the outcome of the proceeding. The Industrial Commenters support retaining that standard. It is administrable, consistent with the NGA’s broad public-interest mandate, and ensures that the Commission has a complete record before authorizing projects that may affect the public interest and existing customers’ rates. Manufacturers whose production relies upon pipeline capacity do not support proposals that could result in courts overturning certificates for pipeline projects after the pipeline has already been constructed, as has occurred in the past.

²² NOPR at ¶ 44.

Other industry participants share these concerns. The Natural Gas Supply Association (“NGSA”) “strongly supports FERC maintaining its current regulations governing protests,” observing that the current process “works well” and “provides for a balanced approach that acts as an important safeguard for stakeholders.”²³ NGSA cautioned that defined eligibility criteria “risks creating too narrow a standard that could preclude stakeholders from protesting on an issue that has the potential to set industry precedent.”²⁴ NGSA also emphasized that trade organizations “often become involved because of important precedent-setting issues” and that their “ability to represent their members with aligned interests in these proceedings is important for presenting a unified voice across a range of diverse companies to the Commission.”²⁵ The Commission should maintain its current protest framework and reject INGAA’s proposals to restrict participation.

IV. CONCLUSION

For the foregoing reasons, the Commission should: (1) decline to predetermine rolled-in rate treatment for blanket certificate projects, particularly given the substantially increased cost limits proposed in this proceeding; and (2) reject INGAA’s proposals to limit protest rights in certificate proceedings, consistent with the Commission’s own determination that such restrictions could be difficult to administer and may set underinclusive eligibility criteria.

²³ Comments of the Natural Gas Supply Association, Docket No. RM25-12-001, at 7 (July 27, 2026).

²⁴ *Id.* at 8.

²⁵ *Id.*

Respectfully submitted,

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Dated: October 13, 2026

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of October 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).

October 13, 2026

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