

172 FERC ¶ 61,260
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick and James P. Danly.

Columbia Gulf Transmission, LLC

Docket No. CP19-488-000

ORDER ISSUING CERTIFICATE

(Issued September 17, 2020)

1. On July 16, 2019, Columbia Gulf Transmission, LLC (Columbia Gulf) filed an application pursuant to section 7(c) of the Natural Gas Act (NGA)¹ and Part 157 of the Commission's regulations² for authorization to construct, operate, and modify certain compressor station facilities in East Carroll, Catahoula, Evangeline, and Rapides Parishes, Louisiana (Louisiana XPress Project). The Louisiana XPress Project is designed to provide an additional 493,000 dekatherms per day (Dth/d) of firm transportation service south from existing receipt points to an existing delivery point with Kinder Morgan Louisiana Pipeline, LLC (Kinder Morgan Louisiana), as part of a new firm transportation service of 800,000 Dth/d for Sabine Pass Liquefaction, LLC (Sabine Pass Liquefaction).

2. For the reasons discussed below, we will grant the requested authorizations, subject to the conditions described herein.

I. Background and Proposal

3. Columbia Gulf, a Delaware limited liability company, is a natural gas company as defined by section 2(6) of the NGA³ engaged in the transportation and storage of natural gas in interstate commerce and subject to the Commission's jurisdiction. Columbia Gulf is part of Columbia Pipeline Group Inc., which is a subsidiary of TC Energy Corporation (formerly TransCanada Corporation). Its natural gas transmission system extends

¹ 15 U.S.C. § 717f(c) (2018).

² 18 C.F.R. pt. 157 (2020).

³ 15 U.S.C. § 717a(6).

approximately 3,300 miles, from Louisiana through Mississippi and Tennessee to northeastern Kentucky.

4. Columbia Gulf has entered into a binding, 20-year precedent agreement with Sabine Pass Liquefaction for 800,000 Dth/d of firm north-to-south natural gas transportation service from Columbia Gulf's Mainline Pool to an existing interconnection with Kinder Morgan Louisiana. The proposed service would be provided through a combination of existing available transportation service capability (357,000 Dth/d) and transportation service using capacity created by the expansion project facilities (493,000 Dth/d).⁴ Upon delivery to Kinder Morgan Louisiana in Evangeline Parish, Louisiana, Kinder Morgan Louisiana will transport the gas on behalf of Sabine Pass Liquefaction over its proposed Acadiana Project⁵ to the Sabine Pass liquefied natural gas (LNG) terminal operated by Sabine Pass Liquefaction in Cameron Parish, Louisiana.⁶

⁴ The proposed facilities will also create capacity to provide an additional 50,000 Dth/d of transportation service, which is currently unsubscribed and which Columbia Gulf states will post pursuant to its tariff.

⁵ Kinder Morgan Louisiana filed a related application on June 28, 2019, in Docket No. CP19-484-000 to construct and operate three new gas turbine compressor units at Kinder Morgan Louisiana's existing Compressor Station 760 in Acadia Parish, Louisiana (Acadiana Project). The Acadiana Project will enable 945,000 Dth/day of firm transportation service on Kinder Morgan Louisiana's system to be delivered to the Sabine Pass Liquefaction Export Terminal. The order approving the Acadiana Project is being issued contemporaneously with the instant order. *Kinder Morgan Louisiana Pipeline, LLC*, 172 FERC ¶ 61,259 (2020).

⁶ Columbia Gulf and Cheniere Energy state that "[t]he incremental capacity created by the Project, in conjunction with the utilization of existing capacity, will allow for open access firm transportation service on approximately 850,000 Dth/d of capacity from Columbia Gulf's Mainline Pool to a primary point of delivery with Kinder Morgan Louisiana Pipeline LLC in Evangeline Parish, Louisiana, which in turn will provide transportation service for feedgas to be utilized for Train 6 of SPL's Sabine Pass Liquefaction Project located in Cameron Parish, Louisiana (the "SPL Terminal"). Train 6 commenced construction in mid-2019 and is sixty-seven percent (67%) complete as of the end of July 2020." Columbia Gulf September 10, 2020 Filing at 1-2.

5. In order to provide the transportation service for Sabine Pass Liquefaction, Columbia Gulf proposes to construct the following facilities:

- the new Shelburn Compressor Station in East Carroll Parish, Louisiana, which includes installation of two 23,470 horsepower (hp) Solar Turbine Titan 130 natural gas-driven compressors, filter/separators, gas cooling bays, 48-inch-diameter suction and 42-inch-diameter discharge piping, and related appurtenant facilities;
- the new Red Mountain Compressor Station in Catahoula Parish, Louisiana, which includes installation of two 23,470 hp Solar Turbine Titan 130 natural gas-driven compressors, filter/separators, gas cooling bays, 48-inch-diameter suction and 42-inch-diameter discharge piping, and related appurtenant facilities;
- the new Chicot Compressor Station in Evangeline Parish, Louisiana, which includes installation of two 23,470 hp Solar Turbine Titan 130 natural gas-driven compressors, filter/separators, gas cooling bays, 48-inch-diameter suction and 42-inch-diameter discharge piping, and related appurtenant facilities; and
- cooling bays with associated piping and appurtenant facilities at the existing Alexandria Compressor Station in Rapides Parish, Louisiana.

6. Columbia Gulf conducted a binding open season for the Louisiana XPress Project from November 12-18, 2018.⁷ Following the open season, Columbia Gulf executed the precedent agreement with Sabine Pass Liquefaction for 800,000 Dth/d, representing approximately 95% of the firm service created by project.⁸ Sabine Pass Liquefaction has elected to pay negotiated rates for this firm transportation service.

7. The estimated cost of the project is \$471,588,011. Columbia Gulf proposes to establish a new incremental recourse rate, under Rate Schedule FTS-1-LAXP, for the project capacity. Columbia also proposes to apply its generally applicable system fuel retention rate and requests a pre-determination of rolled-in treatment of the project's fuel costs through its Transportation Retainage Adjustment mechanism.

⁷ Columbia Gulf also solicited offers from existing shippers to turn back firm transportation capacity during the open season but received no offers.

⁸ Application at 4.

II. Notice, Intervention, and Comments

8. The Commission issued public notice of Columbia Gulf's application on July 26, 2019, which was published in the *Federal Register* on August 2, 2019, with comments and interventions due August 16, 2019.⁹ Pine Prairie Energy Center, LLC; Virginia Natural Gas, Inc.; NJR Energy Service Company; NiSource Distribution Companies;¹⁰ Direct Energy Business Marketing, LLC; and Range Resources Appalachia, LLC filed timely, unopposed motions to intervene. Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.¹¹ On August 19 and 28, 2019, Antero Resources Corporation and Lafayette Utilities System, respectively, filed untimely motions to intervene, which were denied by Secretary's notice on January 28, 2020.

9. SKL Farm, Inc. (SKL Farm) and Janice C. Gilbert of Houston, Texas filed comments in response to the public notice. The primary issues raised by the commenters are adverse environmental effects from the project. SKL Farm opposes the project, contending that the artificial light, noise, and increased activity from the proposed compressor stations threaten to disturb the tranquility of its property. The substantive concerns raised in the comments are addressed in the environmental assessment (EA) prepared by Commission staff as discussed below.

III. Discussion

10. Because the proposed facilities will be used to transport natural gas in interstate commerce, subject to the jurisdiction of the Commission, the construction and operation of the facilities are subject to subsections (c) and (e) of section 7 of the NGA.¹²

⁹ 84 Fed. Reg. 37,864 (Aug. 2, 2019).

¹⁰ The NiSource Distribution Companies include Columbia Gas of Kentucky, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of Ohio, Inc., Columbia Gas of Pennsylvania, Inc., and Columbia Gas of Virginia, Inc.

¹¹ 18 C.F.R. § 385.214(c)(1) (2020).

¹² 15 U.S.C. §§ 717f(c) and (e).

A. Application of Certificate Policy Statement

11. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.¹³ The Certificate Policy Statement establishes criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Certificate Policy Statement explains that in deciding whether to authorize the construction of major new natural gas facilities, the Commission balances the public benefits against the potential adverse consequences. The Commission's goal is to appropriately consider the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

12. Under this policy, the threshold requirement for applicants proposing new projects is that the applicant must be prepared to financially support the project without relying on subsidization from its existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the construction of the new natural gas facilities. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, the Commission will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will the Commission proceed to consider the environmental analysis where other interests are addressed.

13. The Commission has determined, in general, that when an applicant proposes an incremental rate for service using proposed expansion capacity that is higher than the generally applicable system rate, the pipeline satisfies the threshold requirement that the project will not be subsidized by existing customers.¹⁴ As discussed further below, Columbia Gulf's proposal to establish incremental recourse reservation rates that are higher than Columbia Gulf's existing rates to recover the costs of the project eliminates

¹³ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227, *corrected*, 89 FERC ¶ 61,040 (1999), *clarified*, 90 FERC ¶ 61,128, *further clarified*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

¹⁴ *See, e.g., Transcontinental Gas Pipe Line Co., LLC*, 158 FERC ¶ 61,125, at P 22 (2017); *Dominion Transmission, Inc.*, 155 FERC ¶ 61,106, at P 15 (2016); *Transcontinental Gas Pipe Line Corp.*, 98 FERC ¶ 61,155, at 61,552 (2002).

the risk of existing customers subsidizing the expansion. Accordingly, we find that Columbia Gulf's proposal satisfies the requirement that it financially support the project without relying on subsidization from its existing customers.

14. We also find that the proposed project will not adversely affect service to Columbia Gulf's existing customers, or to other pipelines and their captive customers. The Louisiana XPress Project will enable Columbia Gulf to provide long-term, firm transportation service to the project shipper, Sabine Pass Liquefaction, through the expansion of Columbia Gulf's pipeline system while maintaining existing service. We also find that there will be no adverse impact on other pipelines in the region or their captive customers because the project will enable the shipper to serve the incremental growth requirements of its markets, not to displace existing service providers. No pipelines or their captive customers have objected to Columbia Gulf's proposal.

15. We are satisfied that Columbia Gulf has taken appropriate steps to minimize adverse impacts on landowners. Columbia Gulf has purchased or has agreements to purchase all the temporary and permanent workspace needed to construct the three new compressor stations. Columbia currently owns all the property necessary to construct and operate the modifications to the Alexandria Compressor Station. Steve Lensing, owner of SKL Farm, filed comments opposing the project due to potential impacts to his property including artificial light and noise. As discussed below, Columbia Gulf will site, construct, and operate the new compressor stations to minimize the impacts on nearby landowners, with special consideration toward limiting noise and light pollution and environmental disturbances. Accordingly, we find that the proposed project has been designed to minimize impacts on landowners and the surrounding communities.

16. The proposed project will enable Columbia Gulf to provide approximately 850,000 Dth/d of incremental firm transportation service, of which 800,000 Dth/d (95%) is subscribed by Sabine Pass Liquefaction.¹⁵ We find that Columbia Gulf has demonstrated a need for the Louisiana XPress Project, and that the project will not have adverse economic effects on existing shippers, other pipelines and their captive customers, and that the project's benefits will outweigh any adverse economic effects on landowners and surrounding communities. Therefore, we conclude that the project is

¹⁵ The additional unsubscribed 50,000 Dth/d of incremental firm transportation service will be made available under the terms of Columbia Gulf's FERC Tariff. The additional existing winter ambient capacity of 91,500 Dth/d available on Columbia Gulf's system will also be made available under the terms of its FERC Tariff.

consistent with the criteria set forth in the Certificate Policy Statement and analyze the environmental impacts of the project below.¹⁶

B. Rates

1. Initial Rate

17. Columbia Gulf proposes a new incremental recourse rate, Rate Schedule FTS-1-LAXP, to apply to firm transportation service using the project capacity. The proposed charges are based on an incremental cost of service for the project facilities of approximately \$72,873,594 and design volumes of 850,000 Dth/d. Columbia Gulf states that it is using its last approved depreciation rate of 1.25% and negative salvage rate of 0.29%, as established in Docket No. RP11-1435-000, as well as its last approved pre-tax rate of return of 12.50%, as established in Docket No. RP97-52-000. Columbia Gulf proposes an incremental recourse reservation charge of \$6.984 per Dth per month using a straight fixed-variable design methodology, calculated by dividing its estimated Year 1 fixed costs of \$71,232,826 by 10,200,000 Dth of billing determinants, the annualized daily design capacity of the project. Columbia Gulf proposes to charge this incremental reservation charge because it is higher than the corresponding Market Zone recourse reservation charge of \$4.170 per Dth per month for mainline Rate Schedule FTS-1 transportation along the same path as the project.

18. Columbia Gulf proposes an incremental usage charge of \$0.0071 per Dth, calculated by dividing its estimated Year 1 variable costs of \$1,640,768 by a projected Year 1 throughput of 232,687,500 Dth. Columbia Gulf's proposed incremental usage charge is lower than the corresponding system usage charge of \$0.0109 for mainline Rate Schedule FTS-1 transportation along the same path as the project. Columbia Gulf proposes to charge the lower Rate Schedule FTS-1-LAXP usage charge, asserting that the sum of its proposed reservation and usage charges, i.e., the 100% load factor rate, is greater than the currently effective 100% load factor system rate.

19. We have reviewed Columbia Gulf's proposed cost of service and initial charges for Rate Schedule FTS-1-LAXP service and find they reasonably reflect current Commission policy. Under the Commission's Certificate Policy Statement, there is a presumption that incremental rates should be charged for proposed expansion capacity if the incremental rate exceeds the maximum system recourse rate. The Commission has also determined that when the combination of the proposed reservation and usage charges, that is, the 100% load factor rate, is greater than the corresponding system rate,

¹⁶ See Certificate Policy Statement, 88 FERC at ¶ 61,745-46 (explaining that only when the project benefits outweigh the adverse effects on the economic interests will the Commission then complete the environmental analysis).

approval of the proposed charges is consistent with the Certificate Policy Statement. We note that, despite Columbia Gulf's proposed Rate Schedule FTS-1-LAXP usage charge being lower than the corresponding system usage charge, its incremental 100% load factor rate will be greater than the corresponding 100% load factor system rate.¹⁷ Therefore, we approve Columbia Gulf's incremental Rate Schedule FTS-1-LAXP recourse charges and direct Columbia Gulf to file actual tariff records setting forth its recourse rates for the project no earlier than 60 days and no later than 30 days, prior to commencement of interstate service consistent with Part 154 of the Commission's regulations.

2. Fuel

20. Columbia Gulf proposes to apply its generally applicable system fuel retention rate for service on the project capacity and requests a pre-determination of rolled-in treatment of the project's fuel costs through its Transportation Retainage Adjustment mechanism. According to Columbia Gulf's fuel study, the estimated incremental fuel rate of 1.431% is lower than the corresponding system fuel rate of 2.097%.¹⁸ We therefore approve Columbia Gulf's proposal to charge its generally applicable system-wide fuel retention percentage and grant the pre-determination request to roll the project's fuel costs into the system-wide fuel recovery mechanism, absent a significant change in circumstances.

3. Reporting Incremental Costs

21. The Commission will require Columbia Gulf to keep separate books and accounting of costs and revenues attributable to the proposed incremental services and capacity created by the project, as required by section 154.309 of the Commission's regulations.¹⁹ The books should be maintained with applicable cross-references, as required by section 154.309. This information must be in sufficient detail so that the data can be identified in Statements G, I, and J in any future NGA section 4 or 5 rate case, and the information must be provided consistent with Order No. 710.²⁰

¹⁷ See *Texas Eastern Transmission, LP*, 161 FERC ¶ 61,226 (2017).

¹⁸ Exhibit Z-1.

¹⁹ 18 C.F.R. § 154.309 (2020).

²⁰ See *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines*, Order No. 710, 122 FERC ¶ 61, 262 (2008).

4. Negotiated Rates

22. Columbia Gulf proposes to provide service to Sabine Pass Liquefaction under a negotiated rate service agreement. Columbia Gulf must file either the negotiated rate agreement or a tariff record setting forth the essential elements of the agreement in accordance with the Alternative Rate Policy Statement²¹ and the Commission's negotiated rate policies.²² Columbia Gulf must file the negotiated rate agreement or a tariff record reflecting the essential elements of the agreement at least 30 days, but no more than 60 days, before the proposed effective date for such rate.²³

C. Environmental Analysis

23. On August 28, 2019, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Louisiana XPress Project, and Request for Comments on Environmental Issues* (NOI).²⁴ The NOI was published in the Federal Register on September 4, 2019, and mailed to interested parties including federal, state, and local officials; agency representatives; environmental and public interest groups; Native American tribes; local libraries and newspapers; and affected property owners. In response to the NOI, the Choctaw Nation of Oklahoma, the Tunica-Biloxi Indian Tribe,

²¹ *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines; Regulation of Negotiated Transportation Services of Natural Gas Pipelines*, 74 FERC ¶ 61,076, order granting clarification, 74 FERC ¶ 61,194, order on reh'g and clarification, 75 FERC ¶ 61,024, reh'g denied, 75 FERC ¶ 61,066, reh'g dismissed, 75 FERC ¶ 61,291 (1996), petition for review denied sub nom. *Burlington Resources Oil & Gas Co. v. FERC*, 172 F.3d 918 (D.C. Cir. 1998) (Alternative Rate Policy Statement).

²² *Natural Gas Pipelines Negotiated Rate Policies and Practices; Modification of Negotiated Rate Policy*, 104 FERC ¶ 61,134 (2003), order on reh'g and clarification, 114 FERC ¶ 61,042 (2006), dismissing reh'g and denying clarification, 114 FERC ¶ 61,304 (2006).

²³ Pipelines are required to file any service agreement containing non-conforming provisions and to disclose and identify any transportation term or agreement in a precedent agreement that survives the execution of the service agreement. See, e.g., *Texas Eastern Transmission, LP*, 149 FERC ¶ 61,198, at P 33 (2014). 18 C.F.R. § 154.112(b) (2020).

²⁴ On August 28, 2019, the Commission also issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Acadiana Project, and Request for Comments on Environmental Issues*. Both projects were discussed in the same Environmental Assessment as further discussed.

and SKL Farm filed comments. The Tunica-Biloxi Indian Tribe expressed concerns about the project's potential adverse effects to air and water quality, Tunica-Biloxi cultural resources and properties of cultural significance, wildlife, and public health. The Choctaw Nation of Oklahoma requested GIS shapefiles and cultural resource surveys for the Louisiana XPress Project.

24. To satisfy the requirements of the National Environmental Policy Act of 1969 (NEPA),²⁵ our staff prepared an Environmental Assessment (EA) for Columbia Gulf's proposal. The analysis in the EA addresses geology, soils, water resources, wetlands, vegetation, wildlife, threatened and endangered species, land use, visual resources, cultural resources,²⁶ socioeconomics, air quality, noise, safety, cumulative impacts, and alternatives. All substantive comments received in response to the NOI were addressed in the EA. Because the Louisiana XPress Project and Kinder Morgan Louisiana's proposed Acadiana Project in Docket No. CP19-484-000 are connected actions, our staff addressed both projects in the same EA as discussed below.

25. The EA concludes that neither project would result in significant impacts on any resources (e.g., geology; soils; wetlands; waterbodies; fisheries, vegetation and wildlife; cultural resources; land use; air quality; and noise). We agree with and adopt that conclusion and the analysis on which it was based.

1. Combined Impacts of Louisiana XPress and Acadiana Projects

26. Under the Council on Environmental Quality's (CEQ) regulations implementing NEPA, agencies must consider all "connected actions" within a single environmental impact statement.²⁷ "An agency impermissibly 'segments' NEPA review when it divides connected, cumulative, or similar federal actions into separate projects and thereby fails to address the true scope and impact of the activities that should be under consideration."²⁸ Because the Louisiana XPress Project and the Acadiana Project are

²⁵ 42 U.S.C. §§ 4321 et seq. (2012); *see also* 18 C.F.R. pt. 380 (2020) (Commission's regulations implementing NEPA).

²⁶ In response to the comment from the Choctaw Nation, the EA notes that Columbia Gulf responded on August 15, 2019, with the requested cultural resource survey reports and associated GIS data. EA at 59.

²⁷ 40 C.F.R. § 1508.25(a) (2020).

²⁸ *Delaware Riverkeeper Network v. FERC*, 753 F.3d 1304, 1313 (D.C. Cir. 2014).

connected actions,²⁹ NEPA requires that the impacts of both projects must be considered in aggregate. In order to evaluate the projects' combined impacts, we discuss below those resources that could be cumulatively affected by both projects.

Water Resources and Wetlands

27. As stated in the EA, both Kinder Morgan Louisiana and Columbia Gulf propose to hydrostatically test their project facilities, as required by the U.S. Department of Transportation regulations, to verify the integrity of the pipeline facilities before placing them into service.³⁰ Both companies propose to use municipal sources or wells for all of the test water, thus avoiding impacts on aquatic life. Combined, the companies propose to use a total volume of water of about 982,000 gallons.³¹ The companies would not use hydrostatic test water for consumptive purposes, and would either discharge water in well-vegetated upland areas in the same watershed as the municipality from where the water came from or discharge water into storage tanks. Further, the companies commit to discharge hydrostatic test water in accordance with the Commission's *Wetland and Waterbody Construction and Mitigation Procedures (Procedures)*. Therefore, we find that the effects of the test water use for the projects will not result in significant impacts.

28. As stated in section B.3.3 of the EA, no impacts on wetlands would occur as a result of the Acadiana Project, and although the Louisiana XPress Project would impact a total of 16.1 acres of wetlands during construction, Columbia Gulf would limit

²⁹ Under CEQ's regulations, actions are connected if they are interdependent parts of a larger action and depend on the larger action for their justification. 40 C.F.R. § 1508.25(a)(1)(iii) (2020). Here, the Louisiana XPress and Acadiana Projects are physically interdependent because the Acadiana Project is dependent on the incremental mainline capacity generated by the Louisiana XPress Project's three new compressor stations, which will enable the firm transportation of natural gas from a primary receipt point on Columbia Gulf's Mainline Pool to a primary delivery point at an interconnection with Kinder Morgan Louisiana in Evangeline Parish, Louisiana. The projects also have similar construction and in-service dates. *See supra* note 5.

³⁰ EA at 35-36.

³¹ The specific information for each withdrawal volume, discharge location, and water source are described on pages 35 and 36 of the EA.

operational wetland impacts to 0.6 acre.³² Additionally, construction of the Louisiana XPress Project's Shelburn and Red Mountain Compressor Stations would temporarily impact six waterbodies, and require the installation of four waterbody culverts for operation. Construction at the existing Compressor Station 760 for the Acadiana Project would require one waterbody crossing, via a culvert crossing. Both Columbia Gulf and Kinder Morgan Louisiana will adhere to the waterbody construction and operation mitigation measures included in the Commission's *Procedures*. As most impacts on waterbodies would be temporary and impacts on wetlands would be minor and minimized to the extent practicable, we find that neither the individual nor combined impacts of these projects would result in significant wetland and waterbody impacts.

Vegetation

29. As stated in section 4.2 of the EA impacts on forested land would occur only from the Louisiana XPress Project, with 33.9 acres required for construction and 11.4 acres required for operation.³³ Although combined impacts on agricultural land would be 92.1 acres from construction, and 24.5 acres for operation, only 1.2 acres of agricultural land would be required for construction and 0.7 acre for operation of the Acadiana Project. We conclude that neither the individual nor the additive impacts of these projects on vegetation would result in significant impacts because (1) Columbia Gulf and Kinder Morgan Louisiana would restore all temporary construction workspaces to previous use, (2) similar vegetation types in the area of the projects are abundant, and (3) the impacts associated with the projects (35.9 acres of agricultural and forested vegetation spread across five parishes in Louisiana) are minimal.

30. Impacts on developed land and open land from construction of both projects would have the largest combined impact, with 87.3 acres overall from the Acadiana Project³⁴ and 30.8 acres from the Louisiana XPress Project.³⁵ However, 21.2 acres of construction workspace for the Acadiana Project would occur within existing facilities

³² On March 9, 2020, in comments on the EA, Columbia Gulf noted that the U.S. Army Corps of Engineers identified an additional 4.2 acres of palustrine emergent wetland that will be temporarily impacted during construction of the proposed Chicot Compressor Station. Columbia Gulf provided an updated Table 11 listing the wetland impacts in its March 9 Response. *See infra* P 40.

³³ EA at 37-38.

³⁴ *Id.* at 49-50.

³⁵ *Id.* at 37-38. The primary impact would be the cutting, clearing, and/or removal of existing vegetation within the construction work area.

and only 2.5 acres would be permanently impacted. None of the Louisiana XPress Project impacts on open/developed land are expected to be permanent. Additionally, more than 40 miles separates the open/developed land impacted by the Acadiana Project from the open/developed land impacted by the Louisiana Xpress Project. Therefore, we conclude that the effects, when considered individually or additively, would be localized and minor.

Wildlife

31. Wildlife would be most impacted by removal of forested and wetland vegetation, which (as described above and in the EA) is only proposed for the Louisiana XPress Project. However, most species would relocate to abundant habitat adjacent to the project area.³⁶ Based on the determinations made in the EA, the projects would not adversely affect federally listed species.³⁷ Neither the individual nor additive impact of the projects trigger any additional consultation requirements under the Endangered Species Act. Minimal impacts on state-listed species are expected from the combined projects, as the EA concludes that these species are not likely within the respective project areas. Therefore, we conclude that there will not be significant impacts on wildlife.

Cultural Resources

32. Commission staff, in accordance with Section 106 of the National Historic Preservation Act, considered the projects' effects on historic properties. To the extent possible, the effects on historic properties will be avoided and minimized. As stated in the EA, due to Columbia Gulf's changes to expand the footprints of both the Red Mountain and Shelburn Compressor Stations, Section 106 compliance for the Louisiana XPress Project was incomplete. However, since issuance of the EA, Columbia Gulf has filed updated survey information indicating that no historic properties would be affected and correspondence with the Louisiana State Historic Preservation Officer (SHPO) stating its concurrence with these findings.³⁸ We agree with this finding, and consultation with the Louisiana SHPO is now complete.

³⁶ *Id.* at 41-42.

³⁷ *Id.* at Section 4.3.3.

³⁸ Columbia Gulf, Comments on the EA, Docket No. CP19-488-000, at 4 (filed March 9, 2020).

Socioeconomics

33. The socioeconomic impact of a natural gas project is typically associated with the temporary workforce impact on population, public services, and housing, as well as an increase in traffic, jobs, property tax revenues, and increase in tax revenue. Overall, most of these impacts would be associated with the construction of the three greenfield compressor stations for the Louisiana XPress Project. We agree with staff's conclusion that the socioeconomic impacts of the projects would not be significant.³⁹

Air Quality

34. In section B.8.1, the EA described the construction and operational air impacts of each project component on the environment and concluded that neither project would have significant impacts on air quality. The proposed Acadiana Project facilities are more than 50 kilometers from the proposed Louisiana XPress Project facilities; therefore, as air quality impacts disperse with distance, we conclude that any additive construction or operational air quality impacts would not occur and the combined air quality impacts would not result in significant air quality impact.

35. Based on the analysis above and the analysis included in the EA, we conclude that when considered additively, the impacts from the Acadiana and Louisiana XPress Projects are not significant.

2. Comments on the EA

36. The EA was issued for a 30-day comment period and placed into the public record on February 6, 2020. The Commission received comments on the EA that were specific to the Louisiana XPress Project from Columbia Gulf, the Tunica-Biloxi Tribe of Indians, Steve Lensing (owner of SKL Farm), and The Institute for Policy Integrity at New York University School of Law (Policy Integrity). Columbia Gulf provided clarifications and updates to support the EA.

a. Columbia Gulf's Comments

37. Columbia Gulf clarifies that the 0.8 acre needed for the construction and operation of the proposed Red Mountain Compressor Station access road is part of the 29.6 acres of

³⁹ EA at 62-71.

disturbed area included in the EA.⁴⁰ Additionally, Columbia Gulf clarifies that project construction would impact 167.1 acres of land instead of the previously stated 167.4 acres as a result of the removal of 0.3 acre from the project design at the proposed Red Mountain Compressor Station.⁴¹ These clarifications do not change the EA's conclusions.

38. Columbia Gulf also notes that section 8.1 of the EA does not fully list the equipment Columbia Gulf proposes to install at the Chicot Compressor Station.⁴² However, despite the inadvertent omission of some project facilities from the description in section 8.1 of the EA, the emissions from this facility were correctly reported in the EA based on information in the application. Columbia Gulf also states that it has revised operational emissions for the Red Mountain and Chicot Compressor Stations based on specifications from the turbine manufacturer and states that the minimal changes in emissions would not affect the modeling results. We agree that Columbia Gulf's clarifications do not alter the EA conclusions.

39. Columbia Gulf clarifies, based on consultation with the U.S. Army Corps of Engineers, it has determined that an additional 4.2 acres of palustrine emergent wetland will be temporarily impacted during construction of the proposed Chicot Compressor Station. Columbia Gulf states it will incorporate this temporary wetland impact into its current site plans, to be filed with the Commission in Columbia Gulf's Implementation Plan and will implement the applicable wetland mitigation measures included in its Environmental Construction Standards, which adopt the measures outlined in the Commission's *Procedures*. We find that no new permanent impacts on wetlands would occur as a result of the additional wetland impact. Based on Columbia Gulf's commitment to follow the construction mitigation measures included in the

⁴⁰ *Id.* at 7. The EA stated in Table 4 that the access road was not included in the 29.6 acres of temporary impact for the Red Mountain Compressor Station; therefore, this is a reduction in impact from what was stated in the EA.

⁴¹ *Id.* at 51, Table 16. Columbia Gulf reduced the amount of temporary workspace needed at the proposed Red Mountain Compressor Station site to avoid impacts on newly identified wetland and waterbody features. Columbia Gulf's January 17, 2020 Response to Staff's Information Request, at 1.

⁴² Columbia Gulf clarifies that it proposes to install two new Solar Turbines Titan 130E natural gas driven compressors (23,470 hp each); one new Waukesha emergency generator (1,113 hp); one new fuel gas heater (2.02 million British thermal units per hour [MMBtu/hr]); 33 new space heaters (2.11 MMBtu/hr combined); one new 2,056-gallon pipeline liquids storage tank; and one new 1,260 gallon wastewater storage tank at the Chicot Compressor Station. Columbia Gulf's March 9, 2020 Comments on the EA at 4.

Environmental Construction Standards at the Chicot Compressor Station, we conclude that the additional temporary impacts on wetlands would be minimized to the extent practicable and would not result in significant impacts.

40. Columbia Gulf states that the wetland area at the Red Mountain Compressor Station (wetland WRMA1F) would be partially revegetated following construction and would not be permanently graveled. Therefore, while section 3.3 of the EA,⁴³ concludes that 0.2 acre would be required for construction at this wetland site, Columbia Gulf now proposes to revegetate 0.1 acre, and thus would reduce the permanent impact to 0.1 acre at this wetland resulting from the proposed span bridge.

41. The EA states that no tree-clearing or side trimming would occur between March 1 and August 1.⁴⁴ Columbia Gulf clarified that its application stated that no tree-clearing or side trimming will occur between June 1 and August 1, which is consistent with the Multi-Species Habitat Conservation Plan developed between Columbia Gulf and the U.S. Fish and Wildlife Service to protect bat species. Columbia Gulf stated that to minimize impacts on migratory birds, it would avoid tree-clearing and side trimming during peak bird breeding season (March 1 – August 30) to the extent practicable. While this would mean that Columbia Gulf could clear trees between March 1 and June 1, this would be a limited, one-time, impact on migratory birds.⁴⁵ Based on Columbia Gulf's commitment to conduct pre-construction surveys and avoiding active nests, the limited area of disturbance, and the abundance of adjacent similar habitat associated with construction of the project facilities, the EA concludes that construction would not significantly affect migratory birds. Also, during project operation, Columbia Gulf has agreed to not conduct routine vegetation maintenance between April 15 and August 1. Columbia Gulf's clarifications do not change the EA's conclusion.

42. Columbia Gulf notes minor errors in Table 31 of its application (Construction Noise Impacts). The corrections given are minor and would not result in significant impacts on nearby areas from construction noise, nor do these corrections alter the EA's conclusions.

⁴³ EA at 34.

⁴⁴ *Id.* at 44.

⁴⁵ As the EA notes, Columbia Gulf would implement the FWS Migratory Bird Nationwide Standard Conservation Measures to minimize impacts to migratory birds. *Id.*

b. Tunica-Biloxi Tribe Comments

43. The Tunica-Biloxi Tribe provides comments on the EA that address both the proposed Acadiana Project and the proposed Louisiana XPress Project. The Tribe requests that the Commission immediately notify it in the event of an unanticipated discovery in accordance with the Unanticipated Discoveries Plan proposed by both companies. The Tribe also states that it reserves the right to supplement its comments insofar as cultural and archeological resource surveys were not prepared in collaboration with the Tribe. As indicated in the EA, no archaeological sites or traditional cultural properties were identified within the project area of potential effects. In the event of an unanticipated discovery, Kinder Morgan Louisiana and Columbia Gulf must notify the interested tribes of the discovery per the procedures outlined in their Unanticipated Discoveries Plans.

44. Further, the Tribe states that Columbia Gulf has not provided the Commission with the SHPO comments on its cultural resources report, nor has the report been submitted to Tribe. As stated above, on March 9, 2020, Columbia Gulf filed an addendum to the cultural resources report for survey of expanded areas of potential effects for the project, along with the SHPO's response to the findings and recommendations in the report. The SHPO concurs with the recommendation that no properties listed in or eligible for listing in the National Register of Historic Places will be affected by the proposed project. Columbia Gulf also filed documentation that the project cultural resources reports were sent to the Tunica-Biloxi Tribe and the Choctaw Nation of Oklahoma as requested by the tribes.

45. SHPO consultation is complete, and therefore, section 106 compliance under the National Historic Preservation Act for the Louisiana XPress Project is complete.

c. Steve Lensing (SKL Farm) Comments

46. In his comments on the EA, Steve Lensing, whose property lies adjacent to the Louisiana XPress Project, raises concerns regarding adverse effects from artificial light and activity as a result of the proposed Shelburn Compressor Station. As section 5.2 of the EA states, Columbia Gulf would design outdoor lighting to ensure that minimal stray light would leave the site; direct the yard lighting inward to the center of the facility and automate it so the station lighting would only illuminate if maintenance work is being performed after hours; and install dark-sky compliant lighting to reduce light pollution.⁴⁶

⁴⁶ *Id.* at 53-55.

In addition, in order to comply with our regulations,⁴⁷ Environmental Condition 12 requires Columbia Gulf to file a visual screening plan for review and written approval by the Director of OEP, or the Director's designee, to minimize visual impacts on nearby residents at the Shelburn and Chicot Compressor Stations. At a minimum, each plan would include privacy slats in the chain link fence and vegetative plantings to provide a visual buffer.

47. Mr. Lensing also raises concerns about the noise from the proposed compressor stations. Section 8.2 of the EA analyzes potential noise impacts from construction and operation of the proposed project. As stated in the EA, the predicted noise level from operation of the Louisiana XPress Project compressor stations is below 55 decibels on the A-weighted scale (dBA) at the nearest noise sensitive areas, which is the level at which the U.S. Environmental Protection Agency (EPA) states would be preclude indoor and outdoor activity interference. In order to ensure that the actual noise levels resulting from operation of the Louisiana XPress Project compressor stations will in fact be below 55 dBA at the nearest noise sensitive areas, this order, in Environmental Condition 14, requires Columbia Gulf to file a noise survey after placing the compressor stations in service and, if necessary, to install additional noise controls to meet that level within one year of the in-service date. Furthermore, this order also includes Environmental Condition 13, which requires Columbia Gulf to file a nighttime construction noise management plan to ensure that the noise level at the nearest noise sensitive area does not exceed 10 db over ambient during construction.

d. Policy Integrity Comments

i. Greenhouse Gas Emissions and Climate Change Impacts

48. In its March 9, 2020 comments, Policy Integrity asserts that the EA “fail[ed] to disclose the potential downstream emissions from these projects.” Although the Commission did provide direct emissions estimates associated with construction and operation of the Louisiana XPress and Acadiana Projects,⁴⁸ Policy Integrity argues that the Commission must disclose downstream greenhouse gases (GHG) emitted by the

⁴⁷ 18 C.F.R. § 380.15(g)(5) (2020) (“For Natural Gas Act projects, the site of aboveground facilities which are visible from nearby residences or public areas, should be planted in trees and shrubs, or other appropriate landscaping and should be installed to enhance the appearance of the facilities, consistent with operating needs.”).

⁴⁸ EA at 78-82, Tables 20-25.

combustion of the natural gas and analyze the indirect impacts associated with downstream end use.

49. Indirect effects are defined as those “which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable.”⁴⁹ Accordingly, to determine whether an impact should be studied as an indirect impact, the Commission must determine whether it is: (1) caused by the proposed action; and (2) reasonably foreseeable.⁵⁰

50. With respect to causation, “NEPA requires ‘a reasonably close causal relationship’ between the environmental effect and the alleged cause”⁵¹ in order “to make an agency responsible for a particular effect under NEPA[.]”⁵² As the Supreme Court explained, “a ‘but for’ causal relationship is insufficient [to establish cause for purposes of NEPA].”⁵³ Thus, “[s]ome effects that are ‘caused by’ a change in the physical environment in the sense of ‘but for’ causation,” will not fall within NEPA if “the causal chain is too attenuated.”⁵⁴ Further, the Court has stated that “where an agency has no ability to prevent a certain effect due to its limited statutory authority over the relevant actions, the agency cannot be considered a legally relevant ‘cause’ of the effect.”⁵⁵ Regarding

⁴⁹ 40 C.F.R. § 1508.8(b).

⁵⁰ *See id.*; *see also id.* § 1508.25(c).

⁵¹ *U.S. Dep’t of Transp. v. Pub. Citizen*, 541 U.S. 752, 767 (2004) (*Pub. Citizen*) (quoting *Metro. Edison Co. v. People Against Nuclear Energy*, 460 U.S. 766, 774 (1983)).

⁵² *Pub. Citizen*, 541 U.S. at 767.

⁵³ *Id.*; *see also Sierra Club v. FERC*, 827 F.3d 36, 46 (D.C. Cir. 2016) (Freeport LNG) (finding that the Commission need not examine everything that could conceivably be a but-for cause of the project at issue); *Sierra Club v. FERC*, 827 F.3d 59, 68 (D.C. Cir. 2016) (Sabine Pass LNG) (recognizing that the Commission’s order authorizing the construction of liquefied natural gas export facilities is not the legally relevant cause of increased production of natural gas).

⁵⁴ *Metro. Edison Co.*, 460 U.S. at 774.

⁵⁵ *Pub. Citizen*, 541 U.S. at 770; *see also* Freeport LNG, 827 F.3d at 49 (affirming that Public Citizen is explicit that the Commission need not consider effects, including induced production, that could only occur after intervening action by the DOE); Sabine Pass LNG, 827 F.3d at 68 (same); *EarthReports, Inc. v. FERC*, 828 F.3d 949, 956 (D.C. Cir. 2016) (same).

reasonable foreseeability, courts have found that an impact is reasonably foreseeable if it is “sufficiently likely to occur that a person of ordinary prudence would take it into account in reaching a decision.”⁵⁶ Although NEPA requires “reasonable forecasting,”⁵⁷ an agency “is not required to engage in speculative analysis”⁵⁸ or “to do the impractical, if not enough information is available to permit meaningful consideration.”⁵⁹

51. With respect to indirect impacts associated with downstream end use, the U.S. Court of Appeals for the D.C. Circuit in *Sierra Club v. FERC* held that where it is known that the natural gas transported by a project will be used for a specific end-use combustion, the Commission should “estimate[] the amount of power-plant carbon emissions that the pipelines will make possible.”⁶⁰ However, outside the context of known specific end use, the D.C. Circuit explained in *Birckhead v. FERC*, that “emissions from downstream gas combustions are [not], as a categorical matter, always a reasonably foreseeable indirect effect of a pipeline project.”⁶¹ The court in *Birckhead* also noted that “NEPA ... requires the Commission to at least attempt to obtain the information necessary to fulfill its statutory responsibilities,” but, citing to *Delaware Riverkeeper Network*, the court acknowledged that NEPA does not “demand forecasting that is not meaningfully possible.”⁶²

52. In this case, Columbia Gulf and Kinder Morgan Louisiana have executed precedent agreements with Sabine Pass Liquefaction for 95% and 89%, respectively, of the firm transportation service created by the projects. Columbia Gulf and Kinder Morgan Louisiana will use natural gas to power the compressor units; emissions

⁵⁶ *EarthReports, Inc.*, 828 F.3d at 955 (citations omitted); *see also Sierra Club v. Marsh*, 976 F.2d 763, 767 (1st Cir. 1992).

⁵⁷ *N. Plains Res. Council, Inc. v. Surface Transp. Bd.*, 668 F.3d 1067, 1079 (9th Cir. 2011) (quoting *Selkirk Conservation Alliance v. Forsgren*, 336 F.3d 944, 962 (9th Cir. 2003)).

⁵⁸ *Id.* at 1078.

⁵⁹ *Id.* (quoting *Env'tl. Prot. Info. Ctr. v. U.S. Forest Serv.*, 451 F.3d 1005, 1014 (9th Cir. 2006) (internal quotation marks and citation omitted)).

⁶⁰ *Sierra Club v. FERC*, 867 F.3d 1357, 1371 (D.C. Cir. 2017).

⁶¹ *Birckhead v. FERC*, 925 F.3d 510, 519 (D.C. Cir. 2019) (citing *Calvert Cliffs' Coordinating Comm.*, 449 F.2d 1109, 1122 (D.C. Cir. 1971)).

⁶² *Id.* (quoting *Del. Riverkeeper Network v. FERC*, 753 F.3d at 1310 (D.C. Cir. 2014)).

associated with that use are included in the EA's emissions estimate regarding operation of the Louisiana XPress and Acadiana Projects.⁶³ However, the majority of the gas delivered to the Sabine Pass LNG Export Terminal will be liquefied for export. The Commission does not have authority over, and need not address the effects of, the anticipated export of the gas.⁶⁴ Further, the end-use of the gas transported by the unsubscribed capacity is unknown and therefore the effects are not reasonably foreseeable.

53. The EA estimates the maximum potential GHG emissions from operation of these projects to be 972,400.61 tons per year of carbon dioxide equivalent (CO₂e).⁶⁵ To provide context to the EA's GHG estimate, 5.903 billion metric tons of CO₂e were emitted at a national level in 2018 (inclusive of CO₂e sources and sinks).⁶⁶ The operational emissions of the project could potentially increase national CO₂e emissions based on the 2018 levels by 0.017%, at the national level.⁶⁷ Currently, there are no national targets to use as a benchmark for comparison.⁶⁸

54. GHG emissions, such as those emitted from the project's operation, will contribute incrementally to climate change, and we have previously disclosed various effects of

⁶³ EA at 80-82, Tables 22-25.

⁶⁴ Freeport LNG, 827 F.3d at 47.

⁶⁵ EA at 80-82, Tables 22-25.

⁶⁶ EPA, *Inventory of U.S. Greenhouse Gas Emissions and Sinks 1990-2018* at ES6-8 (Table ES-2) (2019), <https://www.epa.gov/sites/production/files/2019-04/documents/us-ghg-inventory-2019-main-text.pdf> (accessed April, 2020).

⁶⁷ We note that this calculation does not include the total estimated construction-related emissions of 20,396.3 tons per year of CO₂e, as such emissions are temporary and would occur only during construction of the project. See EA at 78-79 (Tables 20-21).

⁶⁸ The national emissions reduction targets expressed in the EPA's Clean Power Plan were repealed, Greenhouse Gas Emissions from Existing Electric Utility Generating Units; Revisions to Emissions Guidelines Implementing Regulations, 84 Fed. Reg. 32,520, 32,522-32 (July 8, 2019), and the targets in the Paris Climate Accord are pending withdrawal.

climate change on the Gulf Coast and Southeast regions of the United States.⁶⁹ However, as the Commission has previously concluded, it cannot determine a project's incremental physical impacts on the environment caused by GHG emissions.⁷⁰ We have also previously concluded the Commission cannot determine whether an individual project's contribution to climate change would be significant.⁷¹ That situation has not changed.

55. Policy Integrity also contends that the Commission's NEPA analysis is flawed because the EA does not use the Social Cost of Carbon, or a similar tool (e.g., the Social Cost of Methane or the Social Cost of Nitrous Oxide), to evaluate climate change impacts.⁷² It further argues that the Commission's failure to use the Social Cost of Carbon or a similar methodology renders NEPA's "hard look" requirement unmet.

56. The Social Cost of Carbon tool, as well as the Social Cost of Methane and Nitrous Oxide tools, estimates the monetized climate change damage associated with an incremental increase in carbon dioxide (CO₂) emissions in the given year.⁷³ The Commission has provided extensive discussion on why the Social Cost of Carbon is not appropriate in project-level NEPA review, and cannot meaningfully inform the Commission's decisions on natural gas infrastructure projects under the NGA.⁷⁴ We

⁶⁹ Gulf South Pipeline Company, LP, Willis Lateral Project Environmental Assessment at 73, Docket No. CP18-525-000 (March 2019) (detailing the environmental impacts attributed to climate change in the Gulf Coast and Southeast region from U.S. Global Change Research Program's 2017 and 2018 Climate Science Special Report: Fourth National Climate Assessment).

⁷⁰ *Dominion Transmission, Inc.*, 163 FERC ¶ 61,128, at PP 67-70 (2018) (LaFleur, Comm'r, *dissenting in part*; Glick, Comm'r, *dissenting in part*).

⁷¹ *Id.*

⁷² Policy Integrity's March 9, 2020 Comments.

⁷³ Interagency Working Group on the Social Cost of Greenhouse Gases, *Technical Support Document – Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis – Under Executive Order 12866* at 3 (Aug. 2016), https://www.epa.gov/sites/production/files/2016-12/documents/sc_co2_tsd_august_2016.pdf.

⁷⁴ *Mountain Valley*, 161 FERC ¶ 61,043, at P 296, *order on reh'g*, 163 FERC ¶ 61,197, at PP 275-297 (2018), *aff'd sub nom., Appalachian Voices v. FERC*, No. 17-1271, 2019 WL 847199 at *2 (2019) (“[The Commission] gave several reasons why it believed petitioners' preferred metric, the Social Cost of Carbon tool, is not an appropriate measure of project-level climate change impacts and their significance under NEPA or the Natural Gas Act. That is all that is required for NEPA purposes.”).

adopt that reasoning here. As the Commission has previously explained, the Social Cost of Carbon is not appropriate for use in any project-level NEPA review for the following reasons:

- (1) EPA states that “no consensus exists on the appropriate [discount] rate to use for analyses spanning multiple generations”⁷⁵ and consequently, significant variation in output can result;⁷⁶
- (2) the tool does not measure the actual incremental impacts of a project on the environment; and
- (3) there are no established criteria identifying the monetized values that are to be considered significant for NEPA reviews.

ii. Methane and Nitrous Oxide Emissions

57. Policy Integrity urges the Commission to use the global warming potential for methane from the Intergovernmental Panel on Climate Change Fifth Assessment Report, which provides a 100-year global warming potential for methane of 30-36 or a 20-year global warming potential for methane of 85-87. Additionally, Policy Integrity requests that the Commission “disclose actual methane and nitrous oxide emissions, rather than providing CO₂e emissions, and use the social costs of methane and nitrous oxide, in order to provide an accurate picture of the projects’ climate impacts.”⁷⁷

58. We disagree. As stated in the EA, emissions of GHGs are typically quantified in terms of CO₂e by multiplying emissions of each GHG by its respective global warming potential.⁷⁸ Methane and nitrous oxide emissions were included in the total estimated CO₂e emissions for the project. Estimates of applicable emissions that would be generated during construction and operation of the project are presented in the EA.⁷⁹ The EA’s use of the global warming potential for methane designated as 25 specifically

⁷⁵ EPA, *Fact Sheet: Social Cost of Carbon* (Dec. 2016), https://www.epa.gov/sites/production/files/2016-12/documents/social_cost_of_carbon_fact_sheet.pdf.

⁷⁶ Depending on the selected discount rate, the tool can project widely different present-day cost to avoid future climate change impacts.

⁷⁷ Policy Integrity’s March 9, 2020 Comments at 3.

⁷⁸ EA at 74.

⁷⁹ *Id.* at 78-82.

follows EPA guidance for methane.⁸⁰ The use of a 100-year global warming potential for methane of 25 is the current scientific methodology used for consistency and comparability with other emissions estimates in the United States and internationally, including the EPA's Greenhouse Gas Mandatory Reporting Rule.⁸¹ This context would be lost if we used Policy Integrity's suggested 100-year global warming potential for methane of 30-36 or a 20-year global warming potential for methane of 85-87.

59. We also decline Policy Integrity requests to disclose the raw tons of methane and nitrous oxide emitted by the projects rather than subsuming the totals into CO₂e aggregates. The nitrous oxide emissions have already been disclosed in Table 20 – 25 of the EA. Methane emissions are included as part of the GHGs presented in the EA.⁸² Because we find that CO₂e (which includes methane) were appropriately calculated, we do not find it necessary to provide separate methane calculations. Emissions of GHGs are quantified in the EA as units of CO₂e.⁸³ As discussed above, the EA estimates the maximum potential GHG emissions from operation of these projects to be 972,400.61 tons per year of CO₂e.

3. Environmental Analysis Conclusion

60. Based on the analysis in the EA and our analysis above, we conclude that if constructed and operated in accordance with Columbia Gulf's application and supplements, and in compliance with the environmental conditions in the appendix to this order, our approval of this proposal, as considered individually and additively with the

⁸⁰ EPA, *Inventory of U.S. Greenhouse Gas Emissions and Sinks 1990-2018*, <https://www.epa.gov/sites/production/files/2020-04/documents/us-ghg-inventory-2020-main-text.pdf>.

⁸¹ See EPA, Revisions to the Greenhouse Gas Reporting Rule and Final Confidentiality Determinations for New or Substantially Revised Data Elements, 78 Fed. Reg. 71,903 (Nov. 29, 2013). See also *Texas E. Transmission, LP*, 146 FERC ¶ 61,086, at P 122 (2014) (explaining that the Commission uses the global warming potentials in EPA's Greenhouse Gas Reporting Rule in effect when the NEPA document is prepared); *Dominion Transmission, Inc.*, 158 FERC ¶ 61,029, at P 4 (2017) (applying the global warming potential for methane from EPA's 2013 Greenhouse Gas Reporting Rule).

⁸² EA at 74.

⁸³ *Id.*

Acadiana Project, would not constitute a major federal action significantly affecting the quality of the human environment.

D. Conclusion

61. Based on our Certificate Policy Statement determination and our environmental analysis, we find under section 7 of the NGA that the public convenience and necessity requires approval of Columbia Gulf's Louisiana Xpress Project, subject to the conditions in this order.

62. Compliance with the environmental conditions appended to our orders is integral to ensuring that the environmental impacts of approved projects are consistent with those anticipated by our environmental analyses. Thus, Commission staff carefully reviews all information submitted. Only when satisfied that the applicant has complied with all applicable conditions will a notice to proceed with the activity to which the conditions are relevant be issued. We also note that the Commission has the authority to take whatever steps are necessary to ensure the protection of environmental resources during construction and operation of the project, including authority to impose any additional measures deemed necessary to ensure continued compliance with the intent of the conditions of the order, as well as the avoidance or mitigation of unforeseen adverse environmental impacts resulting from project construction and operation.

63. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.⁸⁴

64. At a meeting held on September 17, 2020, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, as supplemented, and exhibits thereto, and all comments submitted herein, and upon consideration of the record,

⁸⁴ See 15 U.S.C. § 717r(d) (state or federal agency's failure to act on a permit considered to be inconsistent with Federal law); see also *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293, 310 (1988) (state regulation that interferes with FERC's regulatory authority over the transportation of natural gas is preempted); *Dominion Transmission, Inc. v. Summers*, 723 F.3d 238, 245 (D.C. Cir. 2013) (noting that state and local regulation is preempted by the NGA to the extent it conflicts with federal regulation, or would delay the construction and operation of facilities approved by the Commission).

The Commission Orders:

(A) A certificate of public convenience and necessity is issued to Columbia Gulf, authorizing the construction and operation of the Louisiana XPress Project, as described and conditioned herein, and as more fully described in the application and subsequent filings by the applicant, including any commitments made therein.

(B) The certificate authority issued in Ordering Paragraph (A) is conditioned on Columbia Gulf:

- (1) completing construction of the proposed facilities and making them available for service within two years of the date of this order pursuant to section 157.20(b) of the Commission's regulations;
- (2) complying with all applicable Commission regulations under the NGA including, but not limited to, Parts 154, 157, and 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations;
- (3) complying with the environmental conditions listed in the appendix to this order; and
- (4) filing written statements affirming that it has executed firm service agreements for volumes and service terms equivalent to those in its precedent agreement, prior to commencing construction.

(C) Columbia Gulf's proposal to use the Rate Schedule FTS-1LAXP reservation and usage charges as the initial maximum recourse rates for firm transportation service on the Project is approved, as discussed above. Columbia Gulf shall file actual tariff records with the initial incremental recourse rates no more than 60 days, and no less than 30 days, prior to the date the project facilities go into service.

(D) Columbia Gulf's proposal to apply its generally applicable system fuel percentage for the Project is approved, and its request for a pre-determination of rolled-in treatment of the Project's fuel costs is granted, absent a significant change in circumstances.

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(E) Columbia Gulf shall notify the Commission's environmental staff by telephone or e-mail of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Columbia Gulf. Columbia Gulf shall file written confirmation of such notification with the Secretary of the Commission (Secretary) within 24 hours.

By the Commission. Commissioner Glick is dissenting in part with a separate statement attached.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix – Environmental Conditions

As recommended in the Environmental Assessment (EA), this authorization includes the following conditions:

1. Columbia Gulf Transmission, LLC (Columbia Gulf) shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the EA, unless modified by the Commission Order (Order). Columbia Gulf must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission (Secretary);
 - b. justify each modification relative to site-specific conditions;
 - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
 - d. receive approval in writing from the Director of Office of Energy Projects (OEP), or the Director's designee, **before using that modification.**
2. The Director of OEP, or the Director's designee, has delegated authority to address any requests for approvals or authorizations necessary to carry out the conditions of the Order, and take whatever steps are necessary to ensure the protection of environmental resources during construction and operation of the projects. This authority shall allow:
 - a. the modification of conditions of the Order;
 - b. stop-work authority; and
 - c. the imposition of any additional measures deemed necessary to ensure continued compliance with the intent of the conditions of the Order as well as the avoidance or mitigation of unforeseen adverse environmental impact resulting from project construction and operation.
3. **Prior to any construction**, Columbia Gulf shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EIs), and contractor personnel will be informed of the EI's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs **before** becoming involved with construction and restoration activities.
4. The authorized facility location shall be as shown in the EA, as supplemented by

filed alignment sheets. **As soon as they are available, and before the start of construction**, Columbia Gulf shall file with the Secretary any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for the facility approved by the Order. All requests for modifications of environmental conditions of the Order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

Columbia Gulf's exercise of eminent domain authority granted under Natural Gas Act (NGA) section 7(h) in any condemnation proceedings related to the Order must be consistent with these authorized facilities and locations. Columbia Gulf's right of eminent domain granted under NGA section 7(h) does not authorize it to increase the size of its natural gas facilities to accommodate future needs or to acquire a right-of-way for a pipeline to transport a commodity other than natural gas.

5. Columbia Gulf shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all route realignments or facility relocations, and staging areas, pipe storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of OEP, or the Director's designee, **before construction in or near that area**.

This requirement does not apply to extra workspace allowed by the Commission's *Upland Erosion Control, Revegetation, and Maintenance Plan* and/or minor field realignments per landowner needs and requirements that do not affect other landowners or sensitive environmental areas such as wetlands.

Examples of alterations requiring approval include all route realignments and facility location changes resulting from:

- a. implementation of cultural resources mitigation measures;
- b. implementation of endangered, threatened, or special concern species mitigation measures;
- c. recommendations by state regulatory authorities; and

- d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.
6. **Within 60 days of the acceptance of the authorization and before construction begins**, Columbia Gulf shall each file an Implementation Plan with the Secretary for review and written approval by the Director of OEP, or the Director's designee. Columbia Gulf must file revisions to the plan as schedules change. The plan shall identify:
- a. how Columbia Gulf will implement the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests), identified in the EA, and required by the Order;
 - b. how Columbia Gulf will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
 - c. the number of EIs assigned, and how the company would ensure that sufficient personnel are available to implement the environmental mitigation;
 - d. company personnel, including EIs and contractors, who would receive copies of the appropriate material;
 - e. the location and dates of the environmental compliance training and instructions Columbia Gulf would give to all personnel involved with construction and restoration (initial and refresher training as the Project progresses and personnel change);
 - f. the company personnel (if known) and specific portion of Columbia Gulf organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) Columbia Gulf would follow if noncompliance occurs; and
 - h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for the:
 - i. completion of all required surveys and reports;
 - ii. environmental compliance training of onsite personnel;
 - iii. start of construction; and

- iv. start and completion of restoration.
7. Columbia Gulf shall each employ at least one EI. The EI(s) shall be:
 - a. responsible for monitoring and ensuring compliance with all mitigation measures required by the Order and other grants, permits, certificates, or other authorizing documents;
 - b. responsible for evaluating the construction contractor's implementation of the environmental mitigation measures required in the contract (see condition 6 above) and any other authorizing document;
 - c. empowered to order correction of acts that violate the environmental conditions of the Order, and any other authorizing document;
 - d. for the Louisiana XPress Project, a full-time position, separate from all other activity inspectors;
 - e. responsible for documenting compliance with the environmental conditions of the Order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and
 - f. responsible for maintaining status reports.
8. Beginning with the filing of its Implementation Plan, Columbia Gulf shall file updated status reports with the Secretary on a **monthly** basis until all construction and restoration activities are complete. On request, these status reports shall also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
 - a. an update on Columbia Gulf's efforts to obtain the necessary federal authorizations;
 - b. the construction status of the project, work planned for the following reporting period, and any schedule changes for work in environmentally sensitive areas;
 - c. a listing of all problems encountered and each instance of noncompliance observed by the EI(s) during the reporting period (both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies);
 - d. a description of the corrective actions implemented in response to all instances of noncompliance;

- e. the effectiveness of all corrective actions implemented;
 - f. a description of any landowner/resident complaints that may relate to compliance with the requirements of the Order, and the measures taken to satisfy their concerns; and
 - g. copies of any correspondence received by Columbia Gulf from other federal, state, or local permitting agencies concerning instances of noncompliance, and Columbia Gulf's response.
9. Columbia Gulf must receive written authorization from the Director of OEP, or the Director's designee, **before commencing construction of any project facilities**. To obtain such authorization, Columbia Gulf must file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
 10. Columbia Gulf must receive written authorization from the Director of OEP, or the Director's designee, **before placing the project into service**. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas affected by the project are proceeding satisfactorily.
 11. **Within 30 days of placing the authorized facilities in service**, Columbia Gulf shall file an affirmative statement with the Secretary, certified by a senior company official:
 - a. that the facilities have been constructed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
 - b. identifying which of the conditions in the Order Columbia Gulf has complied with or will comply with. This statement shall also identify any areas affected by the projects where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
 12. Columbia Gulf shall provide a visual screening plan for review and written approval by the Director of OEP, or the Director's designee, to minimize visual impacts at the Shelburn and Chicot Compressor Stations. At a minimum, each plan shall include privacy slats in the chain link fence and vegetative plantings to provide a visual buffer.
 13. **Prior to nighttime construction**, Columbia Gulf shall file with the Secretary, for

review and written approval by the Director of OEP, or the Director's designee, a nighttime construction noise management plan that includes specific noise mitigation to ensure that the increase in sound level at the nearest noise-sensitive areas (NSA) does not exceed 10 decibels over ambient.

14. Columbia Gulf shall file a noise survey with the Secretary **no later than 60 days** after placing the Alexandria, Shelburn, Red Mountain, and Chicot Compressor Stations into service. If a full power load condition noise survey is not possible, Columbia Gulf shall file an interim survey at the maximum possible power load **within 60 days** of placing the compressor stations into service and file the full power load survey **within 6 months**. If the noise from all the equipment operated at full power load condition exceeds the previously existing noise levels or if the total noise attributable to operation of the new units at each compressor station at full or interim power load conditions exceeds day-night sound level of 55 decibels on the A-weighted scale at any nearby NSA, Columbia Gulf shall:
 - a. file a report with the Secretary, for review and written approval by the Director of OEP, or the Director's designee, on what changes are needed;
 - b. install additional noise controls to meet that level **within 1 year** of the in-service date; and
 - c. confirm compliance with this requirement by filing a second full power load noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Kinder Morgan Louisiana Pipeline, LLC
Columbia Gulf Transmission, LLC

Docket Nos. CP19-484-000
CP19-488-000

(Issued September 17, 2020)

GLICK, Commissioner, *dissenting in part*:

1. I dissent in part from today's orders because they fail to comply with our obligations under the Natural Gas Act¹ (NGA) and the National Environmental Policy Act² (NEPA). The Commission once again refuses to consider the consequences its actions have for climate change. Although neither the NGA nor NEPA permit the Commission to ignore the climate change implications of constructing and operating these projects, that is precisely what the Commission is doing here.

2. In today's orders authorizing Kinder Morgan Louisiana Pipeline, LLC's Acadiana Project and Columbia Gulf Transmission, LLC's Louisiana Xpress Project (Projects), the Commission continues to treat greenhouse gas (GHG) emissions and climate change differently than all other environmental impacts.³ The Commission again refuses to consider whether the Projects' contribution to climate change from GHG emissions would be significant, even though it quantifies the Projects' direct GHG emissions from construction and operation.⁴ That failure forms an integral part of the Commission's decisionmaking: The refusal to assess the significance of the Projects' contribution to the harm caused by climate change is what allows the Commission to state that approval of the Projects "would not constitute a major federal action significantly affecting the quality of the human environment"⁵ and, as a result, conclude that the Projects are

¹ 15 U.S.C. § 717f(c) (2018).

² National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321 *et seq.*

³ *Kinder Morgan Louisiana Pipeline, LLC*, 172 FERC ¶ 61,259 (2020) (Kinder Morgan Certificate Order) and *Columbia Gulf Transmission, LLC*, 172 FERC ¶ 61,260 (2020) (Columbia Gulf Certificate Order).

⁴ Kinder Morgan Certificate Order, 172 FERC ¶ 61,259 at P 57; Columbia Gulf Certificate Order, 172 FERC ¶ 61,260 at P 53; Acadiana Project and Louisiana Xpress Project Environmental Assessment at 80-82, Tbls. 22-25 (EA).

⁵ EA at 116.

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required by the public convenience and necessity.⁶ Claiming that these projects have no significant environmental impacts while at the same time refusing to assess the significance of the projects' impact on the most important environmental issue of our time is not reasoned decisionmaking.

3. The Commission's failure to meaningfully consider climate change forces me into dissenting from certificate orders that I might otherwise support. Prior to issuing a section 7 certificate, the Commission must find both that a proposed project is needed, and that, on balance, its potential benefits outweigh its potential adverse impacts.⁷ The Commission cannot make that determination without meaningfully considering the Projects' contribution to climate change. That leaves me no choice but to dissent. No matter what I might otherwise think of a project, I will not join an order that functionally excludes climate change from the Commission's analysis.

For these reasons, I respectfully dissent in part.

Richard Glick
Commissioner

⁶ Kinder Morgan Certificate Order, 172 FERC ¶ 61,259 at P 66; and Columbia Gulf Certificate Order, 172 FERC ¶ 61,260 at P 61.

⁷ See *Sierra Club v. FERC*, 867 F.3d 1357, 1373 (explaining that section 7 of the NGA requires the Commission to balance “the public benefits [of a proposed pipeline] against the adverse effects of the project,’ including adverse environmental effects” (quoting *Myersville Citizens for a Rural Cmty. v. FERC*, 783 F.3d 1301, 1309 (D.C. Cir. 2015))).

Document Content (s)

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