

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

Technical Conference on Greenhouse)	
Gas Mitigation: Natural Gas Act)	Docket No. PL21-3-000
Sections 3 and 7 Authorizations)	

**INITIAL COMMENTS OF THE
AMERICAN PUBLIC GAS ASSOCIATION**

Pursuant to notice of the Federal Energy Regulatory Commission (FERC or Commission) to hold a technical conference to discuss methods natural gas companies may use to mitigate the effects of direct and indirect greenhouse gas (GHG) emissions resulting from Natural Gas Act (NGA) sections 3 and 7 authorizations¹ and the subsequent request for comments,² the American Public Gas Association (APGA) files these initial comments:

I. COMMUNICATIONS

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¹ Technical Conference on Greenhouse Gas Mitigation: Natural Gas Act Sections 3 and 7 Authorizations; Notice of Technical Conference, 86 FR 52664 (Sept. 22, 2021).

² Technical Conference on Greenhouse Gas Mitigation: Natural Gas Act Sections 3 and 7 Authorizations; Notice Inviting Technical Conference Comments, 86 FR 66293 (Nov. 22, 2021). See *also* Technical Conference on Greenhouse Gas Mitigation: Natural Gas Act Sections 3 and 7 Authorizations; Notice Extending Time for Comments, FERC (Dec. 7, 2021) (extending the comment deadline until January 7, 2022).

II. STATEMENT OF INTEREST

APGA is the national, non-profit association of publicly-owned natural gas distribution systems, representing the approximately 1,000 community-owned systems in the United States. Publicly-owned gas systems are not-for-profit retail distribution entities that are owned by, and accountable to, the citizens they serve. They include municipal gas distribution systems, public utility districts, county districts, and other public agencies that have natural gas distribution facilities. Public gas systems provide safe, reliable, and affordable energy to their customers and support their communities by delivering fuel to be used for cooking, clothes drying, and space and water heating, as well as for various commercial and industrial applications.

A not-for-profit public gas system gives a community local control over how gas is provided to homes and businesses. Instead of being made in a distant city, decisions are made at the community-level by people who appreciate local issues and who are primarily focused on service, safety, reliability, and costs. Public gas systems are regulated by their consumer-owners through locally elected governing boards or appointed officials, which are accountable to the citizen ratepayers they serve and removable by them. Accordingly, community aid and quality service are the mandates for these utilities.

A community's natural gas utility is also an economic engine, and it is one of the most important tools in terms of that community's success in economic development. In fact, prospective commercial, institutional, and industrial facilities are more likely to locate in communities where natural gas is available, which is valuable, as job creation and retention in a community are paramount to the wellbeing of the local population. To

promote economic growth and ensure affordable energy to homes and businesses alike, it is important for these communities to have access to safe and reliable natural gas infrastructure.

To serve the communities that govern them, APGA members purchase interstate natural gas transportation services from pipelines at rates and under terms and conditions that are regulated by the Commission. Therefore, because of their inter-woven nature, APGA members and the communities they serve have an interest in ensuring that new pipeline proposals are properly analyzed and that the costs of such projects are properly allocated. Furthermore, as energy providers, APGA member gas systems are environmental stewards, prioritizing sustainability, emissions reductions, and anything that may positively affect their impact on the environment, making them important stakeholders in the Commission's technical conference (and subsequent discussions) pertaining to direct and indirect GHG mitigation efforts arising from certain FERC authorizations.

III. COMMENTS

APGA members are continuously seeking ways to provide affordable energy for their customers, while maintaining safe and sustainable operations. To do our part and best support the communities we serve, APGA members are taking action, such as replacing cast iron pipes with polyethylene pipes to minimize leaks, exploring ways to integrate pipeline-quality renewable natural gas (RNG) into their systems, and joining voluntary emissions reporting programs such as the U.S. Environmental Protection Agency's (US EPA) Methane Challenge.

As our industry works to lower its carbon footprint, pipeline safety must remain the top priority. Furthermore, reliable and affordable energy should be available to all Americans, something we ask the Commission to keep in mind as it explores ways to mitigate GHG emissions. Natural gas has already played a significant role in minimizing emissions from electricity generation. With energy use expected to increase in the coming years, the Commission is encouraged to ensure that it is taking appropriate steps in approving infrastructure that allows for America's abundant energy resources to reach the homes and businesses that need them.

In its notice inviting technical conference comments,³ the Commission posed several questions for which it invited stakeholder feedback. The inquiry requested comments on appropriate types and extent of mitigation for a project, compliance, and cost recovery, among other things. APGA offers the following comments on some of these topics below.

A. *FERC should determine its authority to regulate GHG emissions*

While FERC did not explicitly pose the question of its authority to regulate direct and indirect GHG emissions that result from NGA sections 3 and 7 authorizations, the topic was debated at length during the technical conference, especially during the first panel. Before the Commission begins considering whether it should impose GHG mitigation requirements on project sponsors, the Commission must closely examine whether it is the appropriate government agency to undertake such action and whether it

³ Technical Conference on Greenhouse Gas Mitigation: Natural Gas Act Sections 3 and 7 Authorizations; Notice Inviting Technical Conference Comments, 86 FR 66293 (Nov. 22, 2021).

has sufficient jurisdiction to do so. Without clear answers to both questions, FERC should not consider mitigation requirements on any certificates that are pending before the Commission and should instead continue to review and process them in a timely manner.

As the Commission works to answer these questions, it must also keep in mind whether it might be duplicating the efforts of other regulatory bodies. Fittingly, the Commission requested feedback on whether any federal or state agencies currently monitor compliance of GHG mitigation measures, and if so, whether FERC should explore potential interagency agreements or memorandums of understanding with these agencies to monitor mitigation compliance.

One such example is the US EPA, which is required to regulate emissions from major stationary sources, among other things, by the Clean Air Act.⁴ With this authority, US EPA regulates many aspects of the natural gas industry, including compressor stations that fall under FERC's jurisdiction. In fact, EPA is currently accepting comments on a proposed rulemaking that would further enhance the required emissions mitigation from the oil and natural gas supply chain.⁵ In addition to US EPA's efforts at the federal level, many state environmental agencies are also focused on lowering emissions from point sources within their respective states.

⁴ This year the U.S. Supreme Court will review the D.C. Circuit's January 2021 opinion on the Clean Power Plan to re-evaluate the scope of the Environmental Protection Agency's authority to regulate GHG emissions from existing fossil-fuel-fired power plants under Section 111(d) of the Clean Air Act. *West Virginia et al. v. EPA et al.*, case number 20-1530.

⁵ See Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review, Proposed Rule, U.S. Environmental Protection Agency, 86 FR 63110 (Nov. 15, 2021) (comments due January 31, 2022).

Regulations from more than one agency that impose the same or similar requirements on any given sector typically result in higher compliance costs with no measurable added benefit. Accordingly, it is important for FERC not to replicate existing efforts from other agencies, no matter state or federal. Any additional costs resulting from redundant regulations will likely be passed onto the end consumer, resulting in less affordable energy for all. While Memorandums of Understanding and interagency agreements can be effective tools for agencies to coordinate efforts, APGA encourages FERC to deliberate whether such agreements are even necessary when another agency is already regulating GHG emissions from the industry and monitoring for compliance, as seems to be the case here.

B. *FERC must consider cost impacts of required mitigation measures on end users*

If the Commission determines that it is the appropriate entity and has the authority to require mitigation measures for NGA-authorized projects, cost impacts to consumers of such measures must be front of mind. APGA members work hard to keep rates affordable for their customers and appreciate that FERC's decisions can impact the energy bills of homes and businesses across the country.

APGA members operate as not-for profits, so any additional reasonable cost each system incurs is passed directly onto their customers. With the economy still recovering from the shock of the pandemic, additional costs will add a new strain. FERC must also be particularly conscious of how new requirements may impact low-income communities,

which many APGA member systems serve. These communities already face significant energy burdens and increasing energy costs will just further exacerbate this issue.⁶

The Commission poses a variety of questions, including what are the appropriate levels and types of mitigation, how to ensure compliance, and what cost-recovery for a project sponsor might look like. Each of these aspects carries with it significant costs that will be shouldered by American consumers. When considering what mitigation efforts might be required and subsequently permitted cost-recovery by the project sponsor, FERC should carefully weigh the ultimate costs to consumers, as well as the benefits those paying will reap.

APGA is also concerned with how market-based mitigation measures, such as the purchase of offsets, may be used. While these measures can offer effective tools to offset the emissions of an organization striving to net out its emissions, we are concerned that, for FERC-authorized projects, low-income or environmental justice communities may have to bear the increased energy costs associated with the cost recovery by project sponsors while not reaping any local environmental benefits from nearby reductions of GHG emissions. As the Commission continues to explore this potential avenue, a balance of cost and environmental benefits to the ultimate customers who bear the expense should be front of mind.

⁶ According to DOE, the national average energy burden for low-income households is 8.6%, three times higher than for non-low-income households which is estimated at 3%. In some areas, depending on location and income, energy burden can be as high as 30%. Of all U.S. households, 44%, or about 50 million, are defined as low-income.

C. *If FERC imposes GHG mitigation measures, it must establish sufficient verification methods for assessment and compliance*

As was discussed during the technical conference, one of the most significant challenges for a compliance program is accurate measurement of GHG emissions. Oftentimes, emission estimates exceed or under-report actual emissions due to dated or insufficient information supporting calculations, while capturing real-time measurements of emissions is an extremely expensive, and potentially impossible, endeavor.

If the Commission permits a project sponsor to recover the cost of mitigation measures, verifying success of those efforts is crucial. For those costs to be passed onto end customers, it must be made clear through the Commission's associated assessment and compliance program that a project's mitigation measures are resulting in the sponsor's stated benefits. Without this validation, cost-recovery by the project sponsor should not be permitted, as consumers should not have to bear the associated costs without garnering the benefits of reduced emissions. FERC must also be conscious of what additional effort, if any, the measurement and verification of emissions would require of the project sponsor. The costs of these efforts, such as employing a post-completion Environmental Inspector or acquiring state-of-the-art leak detection equipment, would likely again be passed down to the consumer and should be a significant consideration before requiring any mitigation measures.

Again, the concept of a verification program raises the question of duplicity. If US EPA (or a state counterpart) is already monitoring emissions from completed FERC-authorized projects, that agency is then best suited to ensure compliance with any requirements. To create a new oversight scheme would be redundant, expensive, and

potentially confusing. Before instituting such a program on its own, FERC should work closely with other agencies to avoid any unnecessary redundancies.

IV. CONCLUSION

APGA thanks the Commission for considering these comments as it continues exploring how its regulated entities may be able to limit greenhouse gas emissions to help meet our country's climate goals.

Respectfully submitted,

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