ORDER ISSUING CERTIFICATE AND APPROVING ABANDONMENT

(Issued July 19, 2018)

1. On May 11, 2017, Northwest Pipeline LLC (Northwest) filed an application, as amended on October 23, 2017, pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA)\(^1\) and Part 157 of the Commission's regulations\(^2\) for authorization to construct, operate, and abandon facilities on its system in Snohomish County, Washington (North Seattle Lateral Upgrade Project). As discussed below, the Commission will grant the requested authorizations, subject to conditions.

I. **Background and Proposal**

2. Northwest, a limited liability company organized under the laws of Delaware,\(^3\) is a natural gas company as defined by section 2(6) of the NGA.\(^4\) Northwest's transmission system extends from interconnections with El Paso Natural Gas Company and Transwestern Pipeline Company near Blanco, New Mexico, through the states of New Mexico, Colorado, Utah, Wyoming, Idaho, Oregon, and Washington.

3. Northwest's North Seattle Lateral in Snohomish County, Washington consists of approximately 8.9 miles of 8-inch-diameter pipeline and 1.9 miles of 20-inch-diameter pipeline.

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\(^1\) 15 U.S.C. § 717f(c) (2012).


\(^3\) Northwest is a wholly owned subsidiary of Williams Partners L.P.

pipeline,\(^5\) plus 11.1 miles of 16-inch-diameter pipeline loop. The lateral is currently designed to provide 253,120 dekatherms (Dth) per day of firm transportation service. Northwest requests authorization to:

- abandon by removal approximately 5.4 miles of existing, operating 8-inch-diameter pipeline between mileposts (MP) 2.2 and 7.8, abandon in place several segments of 8-inch-diameter pipeline totaling approximately 0.3 miles between MPs 2.0 and 7.6, and remove an additional 0.2 miles of previously abandoned 8-inch-diameter pipeline between MPs 1.9 and 2.1;

- construct and operate approximately 5.9 miles of 20-inch-diameter pipeline from MPs 1.9 to 7.8 to replace the abandoned 8-inch-diameter pipeline;

- abandon in-place and replace 0.17 miles of 16-inch-diameter looping pipeline between MPs 2.0 and 2.2 in the same right-of-way as the mainline lateral;

- modify appurtenant facilities to accommodate the lateral’s increased capacity, including the existing North Seattle/Everett meter station located near the interconnection between the North Seattle Lateral and Northwest’s mainline and relocate an existing 8-inch pig launcher and 20-inch pig receiver.\(^6\)

4. The proposed facilities are designed to enable Northwest to provide approximately 159,299 Dth per day of additional firm transportation service\(^7\) on the North Seattle

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\(^5\) Northwest replaced 1.9 miles of 8-inch-diameter pipeline with 20-inch-diameter pipeline, abandoning in-place the 8-inch-diameter pipeline segments, in 2012 under its Part 157 Subpart F blanket certificate in Docket No. CP11-520-000.

\(^6\) A “pig” is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

\(^7\) In its initial application submitted on May 11, 2017, Northwest stated the North Seattle Lateral Upgrade Project would involve removing and replacing pipeline with larger pipes in the existing right-of-way and provide 196,311 Dth/d of additional firm transportation service. In its October 23, 2017 amended application, Northwest proposed to re-route the pipeline to avoid construction that would interfere with the operations of Fritch Mill, an existing lumber mill located on the existing right-of-way, and reduced the proposed additional firm transportation service of the project to 159,299 Dth/d. Northwest’s October 23, 2017 Amended Application.
Lateral downstream of the North Seattle/Everett meter station to Puget Sound Energy Inc. (PSE), an existing customer. PSE requested increased service to avoid service disruptions and accommodate future growth in Snohomish and King Counties, Washington. Northwest estimates the cost of the North Seattle Lateral Upgrade Project will be $47,288,729.

II. Notice, Interventions, and Comments

5. Notice of Northwest’s application was published in the Federal Register on June 1, 2017, with comments and interventions due June 14, 2017. Notice of the amended application in Docket No. CP17-441-001 was published in the Federal Register on November 8, 2017, with comments due by November 24, 2017. The parties listed in Appendix A 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.

6. On September 7, 2017, Public Utility District No. 1 of Snohomish County, Washington (Snohomish County PUD), and on December 26, 2017, CRE Enterprises LLC, Roy E. Fritch Credit Shelter Trust, Mary Fritch, and Fritch Forest Products, Inc. (collectively Fritch Intervenors) filed untimely motions to intervene. Because the deadline for filing a timely intervention in this proceeding passed before the Commission announced its new policy governing late interventions in Tennessee Gas Pipeline Company, L.L.C. (Tennessee), the late motions to intervene are granted.

8 PSE is a Washington state energy utility providing electrical power and natural gas distribution service.

9 PSE and the Boeing Company are the only existing customers with firm transportation capacity on the North Seattle Lateral. The Boeing Company elected not to participate in the proposed project.


7. Several individuals filed comments raising various environmental and safety concerns, including concerns related to tree removal, water resources, and wetland impacts. The environmental and safety concerns raised in this proceeding are addressed in the Environmental Assessment (EA) for this project and, as appropriate, below in the environmental section of this order. Teamsters National Pipeline Training Fund filed comments in support of Northwest’s proposal.15

III. Discussion

8. Since the proposed facilities include the abandonment of existing facilities and the construction and operation of facilities to transport natural gas in interstate commerce subject to the Commission’s jurisdiction, the proposal is subject to the requirements of subsections (b), (c), and (e) of section 7 of the NGA.16

A. Application of the Certificate Policy Statement

9. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.17 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 give appropriate consideration to 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.

10. Under this policy, the threshold requirement for pipelines proposing new projects is that the pipeline 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

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15 Teamsters National Pipeline Training Fund is not an affected landowner, and its comment discusses the benefits of Northwest’s project, including the proposal to use local contractors that have an interest in minimizing negative environmental impacts on their own communities.


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 pipelines. 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.

11. Northwest’s proposal satisfies the threshold requirement that it financially support the project without relying on subsidization from its existing customers. As explained below, PSE will reimburse Northwest in the form of a facility charge designed to recover the actual costs associated with the new facilities. Therefore, Northwest is not relying on subsidization from existing customers and meets the policy’s threshold requirement.

12. The North Seattle Lateral Upgrade Project will not degrade service to Northwest’s existing customers as the facility modifications are designed to provide the new service while maintaining existing services. Further, there will be no adverse impact on any other pipelines in the region or their captive customers. The proposal is intended to meet the needs of PSE, an existing customer on Northwest’s North Seattle Lateral and no other pipelines or their customers filed comments objecting to the proposal. We also find that Northwest’s proposal will have minimal impacts on landowners and communities because Northwest will construct the proposed facilities in its existing right-of-way.

13. Northwest’s proposal is designed to meet the needs of PSE. Based on the benefits the North Seattle Lateral Upgrade Project will provide and the lack of impacts on existing customers, other pipelines and their captive customers, and landowners and surrounding communities, we find, consistent with the Certificate Policy Statement and section 7(c) of the NGA, that the public convenience and necessity requires the approval of Northwest’s proposal, as conditioned in this order. Additionally, we find that the public convenience or necessity permits Northwest to abandon the facilities specified in its pleadings because Northwest will replace the capacity associated with the facilities it proposes to abandon.

B. Rates

14. Section 21.5 (Payment for Interconnect Facilities) of Northwest’s General Terms & Conditions (GT&C) requires the party requesting an interconnect facility, such as the proposed modifications to the North Seattle Lateral, to pay Northwest an incremental facility charge to recover all applicable and appropriate costs over an agreed term. Here, Northwest states that the facility charge will recover all actual costs of designing, constructing, owning, and operating the new facilities over a primary term of
25 years.\textsuperscript{18} Northwest indicates that the proposed facility charge reflects a straight-line depreciation of 4 percent, based on the primary contractual term of 25 years. Northwest states that it will assess the facility charge, rather than the currently effective Rate Schedule TF-1 reservation charge. The reservation charge will be discounted to zero during the primary term of the existing transportation service agreement because all costs associated with the new facilities will be recovered through the facility charge (the discount is only applicable to transportation on the North Seattle Lateral). Northwest asserts that the estimated first year annual facility charge and the proposed initial recourse rate to be used for capacity releases inside the relevant corridor are $9.66 million and $0.135 Dth per day, respectively.\textsuperscript{19} Northwest states that it will file a tariff record to update the facility charge when it is revised annually pursuant to a March 2017 facilities agreement between Northwest and PSE.

15. Based on the above, the Commission finds that the facility charge is consistent with GT&C section 21.5 of Northwest's FERC tariff and will approve it. Furthermore, Northwest has demonstrated the proposed initial recourse rate to be used for capacity releases inside the relevant corridor is representative of the costs related to the expansion. Thus, the Commission approves the proposed initial recourse rate associated with the facility charge for the purposes of capacity release.\textsuperscript{20}

16. Northwest is required to file a tariff record setting forth the charge to be updated when the charge is annually revised pursuant to the facilities agreement. Additionally, to assure that costs are properly allocated between Northwest's existing services and the North Seattle Lateral Upgrade Project services proposed in this proceeding, we will require Northwest to keep separate books and accounting of costs attributable to the

\textsuperscript{18} Under GT&C section 21.5(b), the incremental facility charge will include, without limitation, operation and maintenance and administrative and general expenses, return on debt and equity, income and other taxes, depreciation and net negative salvage. Northwest Pipeline GP, FERC NGA Gas Tariff, Fifth Revised Volume No. 1, Sheet No. 255, GT&C Section 21 – Interconnects, 5.0.0.

\textsuperscript{19} The corridor is established by the primary receipt and delivery points in the transportation service agreement.

\textsuperscript{20} See Northwest Pipeline GP, 143 FERC ¶ 62,106, reh 'g denied, 145 FERC ¶ 61,013 (2013) (authorizing the South Seattle Delivery Lateral Expansion Project, directing Northwest to use a facility charge as the recourse rate for releases when capacity is released inside the corridor, and requiring Northwest to file a tariff record setting forth the facility charge to be updated when the charge is annually revised pursuant to the associated facilities agreement).
North Seattle Lateral Upgrade Project’s expansion capacity. The books should be maintained with applicable cross-references as required by section 154.309 of the Commission regulations. 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.

17. Northwest has allocated all costs of the expansion to PSE’s transportation service agreement. Because the proposal is an integrated expansion, any interruptible transportation on the North Seattle Lateral will be subject to Northwest’s applicable Rate Schedule TI-1 (Interruptible Transportation) rates then in effect.

C. Environmental Analysis

18. On June 21, 2017, the Commission issued a Notice of Intent to Prepare an Environmental Assessment (NOI). On November 21, 2017, the Commission issued a Supplemental Notice of Intent to Prepare an Environmental Assessment (Supplemental NOI), opening another scoping period to allow all potential stakeholders adequate time to submit comments on Northwest’s amended application. The NOI and Supplemental NOI were published in the Federal Register on June 27 and November 29, 2017, respectively, and sent to affected landowners; owners of mineral rights; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. Commission staff also held a public scoping comment session in the project area on July 13, 2017.

19. We received comments at the scoping session and in response to the NOI and Supplemental NOI from the U.S. Environmental Protection Agency (EPA), Snohomish County PUD, and several landowners regarding the environmental impacts of

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23 See Kern River Gas Transmission Co., 117 FERC ¶ 61,077, at PP 326-328 (2006) (stating that assessing the same charge for the same service on an integrated facility is consistent with the Commission’s policy on allocative efficiency in rate design); Gulf South Pipeline Co., LP, 130 FERC ¶ 61,015 (2010).

Northwest's proposal. In general, the comments concerned the project's potential impact on properties and residences, including noise, dust, tree clearing, and septic systems; biological and water resources; pipeline safety; alternative pipeline routes; and impacts on adjacent utility easements and infrastructure. In response to the Supplemental NOI, we received comments on Northwest's amended proposal, which would reroute a portion of the pipeline to a new right-of-way to avoid an existing lumber mill, shifting potential impacts to springs, wetlands, and mature forest adjacent to the existing right-of-way.

20. To satisfy the requirements of the National Environmental Policy Act of 1969 (NEPA), Commission staff evaluated the potential environmental impacts associated with the construction and operation of Northwest's proposed project in an EA. The analysis in the EA addresses geology, soils, water resources, wetlands, vegetation, fisheries, wildlife, threatened and endangered species, land use, recreation, visual resources, cultural resources, air quality, noise, safety, socioeconomics, cumulative impacts, and alternatives. All substantive environmental comments received at the scoping session and in response to the NOI, Supplemental NOI, and the notice of Northwest's application were addressed in the EA. The EA was issued for a 30-day comment period, mailed to all stakeholders on the Commission staff's environmental mailing list, and placed into the public record on February 12, 2018.

21. The EA concludes that the project is likely to adversely affect one species listed under the Endangered Species Act (ESA) – the Chinook salmon and its designated critical habitat. Commission staff submitted the EA and a Biological Assessment to the National Marine Fisheries Service (NMFS) to initiate the required formal ESA section 7 consultation for Chinook salmon. Consultation with NMFS is ongoing; therefore, as recommended in the EA, we are including Environmental Condition 15 in Appendix B of this order, requiring that the appropriate ESA consultation be completed prior to the commencement of construction.

22. Approximately 14 percent of the project would be constructed within residential areas along Northwest's existing right-of-way, and over 185 residences are located within 50 feet of the authorized construction workspaces. Because of the increased potential for residential disruption, and as recommended in the EA, we are including Environmental Conditions 9 and 17 in Appendix B of this order, requiring Northwest to implement an environmental complaint resolution program and to further consult with landowners where work would occur within 10 feet of a residence.

23. In its amended application, Northwest proposed a new location for the new 20-inch-diameter lateral and to relocate the existing 16-inch-diameter loop from the existing right-of-way as it crosses the Fritch Forest Products Mill property onto an adjacent property. Multiple comments in opposition to this proposal were received during scoping, raising concerns about potential impacts on wetlands, forest, and springs, and noting the availability of alternatives that would allow the pipeline facilities to remain in the existing right-of-way on the Fritch Mill site. The EA concluded that constructing the
facilities as originally proposed (i.e., on the existing right-of-way) would result in less overall environmental impact (especially on wetland and forested habitats) than routing outside the existing right-of-way, while still meeting the project objective. The owner of the Fritch Mill property also commented on the Supplemental NOI, stating that he preferred that the pipeline remain on the Fritch Mill parcel. We agree with the conclusions of the EA; as such, we are adopting the routing recommendation in the EA and have included Environmental Condition 19 in Appendix B of this order, requiring Northwest to construct the 20-inch-diameter replacement line within the existing easement as it crosses the Fritch Mill property.

1. **Response to Comments on the EA**

24. The Commission received comment letters on the EA from Northwest, EPA, the Washington Department of Ecology (Ecology), and three members of the public (Meg Bommarito, Nancy Vandenberg, and R. Court Olson).

   a. **Federal and State Authorizations and Consultations**

25. EPA supports the overall purpose of the proposed action and requests that the "final EA" include additional information concerning the status of approvals under applicable federal and state permits and authorizations, including the section 401 Water Quality Certification, U.S. Army Corps of Engineers section 404 Permit, the Washington State Construction Stormwater National Pollutant Discharge Elimination System Permit, and the ongoing consultation with the U.S. Fish and Wildlife Service and the NMFS. The EA issued on February 12, 2018 is the final EA for the project. Environmental Conditions 8 and 10 in Appendix B to this order require Northwest to identify the status of the federal authorizations and to obtain all required authorizations prior to initiating construction. Northwest will submit this information for staff review and approval prior to construction.

   b. **GHG Emissions and Climate Change**

26. Section 6.1.B of the EA identifies the total estimated greenhouse gas (GHG) emissions resulting from the construction and operation of the project. The EA estimates the GHG emissions associated with the end-use combustion of the full incremental amount of gas that could be transported by the project.\textsuperscript{25}

27. Ecology and Ms. Bommarito submitted identical letters commenting on the EA. These commenters request clarification of the estimated total fugitive methane releases

\textsuperscript{25} EA at 60-61.
from facility operation. The estimate of approximately 136.1 metric tons of carbon dioxide equivalents (CO₂e) per year is the amount of methane emissions associated with operation and maintenance of the project facilities. This figure is an estimate of the total fugitive methane releases emitted by the project facilities over a given calendar year as the result of normal operation and maintenance of the facilities.

28. The commenters also request further discussion of the potential impacts of climate change-related severe weather events on pipeline location and management. The EA identifies the existing and projected climate change impacts, including severe storm events. As stated in the EA, Northwest would operate the pipeline in compliance with the U.S. Department of Transportation (DOT), Pipeline and Hazardous Materials Safety Administration’s pipeline safety regulations. DOT has the exclusive authority to promulgate federal safety standards used in the transportation of natural gas, and Northwest has indicated that it will construct the pipeline to meet DOT pipeline standards in Part 192 of Title 49 of the CFR. No additional discussion is necessary.

29. Additionally, Ecology and Ms. Bommarito raised several issues related to upstream and downstream GHG emissions and the State of Washington GHG reduction goals. These commenters assert that with respect to the estimated downstream GHG emissions reported in the EA: (i) the estimate should be updated to reflect the reduced project capacity as a result of the project amendment; (ii) the source data for comparing the downstream GHG emissions to state emission inventories is not appropriate; and (iii) the project’s downstream emissions will result in a significant increase in the State of Washington’s GHG emissions which warrants discussion of possible mitigation strategies. These commenters also assert that the EA should have also included an estimate of the GHG emissions from upstream production activities and that upstream and downstream GHG emissions should be included in the discussion of the project’s cumulative impact on climate change.

30. It is the Commission’s policy to analyze in its environmental documents GHG emissions associated with the upstream production activities or downstream consumption of the transported gas when those effects are indirect or cumulative impacts of the proposed infrastructure project as contemplated by the Council on Environmental Quality (CEQ) regulations.

i. **Downstream GHG Emissions Estimate**

31. Commission staff estimated the potential upper-bound downstream GHG emissions based on the project transporting up to 196,311 Dth/d as stated in Northwest’s

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26 Id. at 60.

initial application. As the commenters point out, on October 23, 2017, Northwest revised its application reducing the incremental capacity of natural gas delivered by Northwest’s system to 159,299 Dth/d, which represents a 19 percent reduction in capacity and in the estimated downstream GHG emissions. Commenters question the source data staff used to compare the estimated GHG emissions to the state and nationwide GHG inventories. To ensure consistency in its environmental documents for projects before the Commission, staff used the same government reports to identify the state and nationwide inventory as used in other cases; specifically, the U.S. Energy Information Administration’s 2015 State Carbon Dioxide Emissions Data and the U.S. Environmental Protection Agency’s Inventory of U.S. Greenhouse Gas Emissions and Sinks 1990-2015. Commenters’ request that the Commission consider mitigation measures for GHG emissions is misplaced as the Commission lacks the jurisdiction to impose mitigation on downstream end-use consumers. However, we do note that federal and state regulatory authorities (EPA and Ecology) have authority to regulate emissions under the Clean Air Act to reduce GHG emissions.

ii. Estimate of Upstream GHG Emissions

32. As Ecology and Ms. Bommarito acknowledge, the GHG emissions associated with upstream production activities are “not part of the proposed project.” Indeed, as the Commission has previously concluded in natural gas infrastructure proceedings, the environmental effects resulting from natural gas production are generally neither caused by a proposed pipeline project nor are they reasonably foreseeable consequences of our

28 See e.g. Southeast Market Pipelines Project, Final Supplemental Environmental Impact Statement at 5.

29 Available at https://www.eia.gov/environment/emissions/state.

30 See page ES-5 of the EPA report. Available at https://www.epa.gov/sites/production/files/2017-02/documents/2017_complete_report.pdf. There was a typographical error in the listed nationwide inventory number in the EA. The correct nationwide inventory is 5,411 MMT CO2e, not 5,415 MMT CO2e listed in the EA. The error is a de minimis amount that does not materially affect the calculated estimate.


32 Ecology Comments at 2; Bommarito Comments at 1.
approval of an infrastructure project, as contemplated by CEQ regulations.\(^{33}\) A causal relationship sufficient to warrant Commission analysis of the non-pipeline production activity – here specifically, the requested estimate of GHG emissions from the production of natural gas – as an indirect impact would only exist if the proposed pipeline would transport new production from a specified production area and that production would not occur in the absence of the proposed pipeline (i.e., there will be no other way to move the gas).\(^{34}\) That causal connection is absent in this case. There is no information in the record on the source of the gas or where the general supply area may be for the gas that will be transported on the project. Further, there is no indication in the record that the project would induce additional production activities. Accordingly, we find that it was not necessary for the EA to include an estimate of GHG emissions associated with natural gas production.

iii. Upstream Production and Downstream End-Use Were Correctly Excluded from the Cumulative Impacts Analysis

33. CEQ defines cumulative impacts as “the impact on the environment that results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions.”\(^{35}\) The requirement that an impact must be “reasonably foreseeable” to be considered in a NEPA analysis applies to both indirect and cumulative impacts. In considering cumulative impacts, CEQ advises that an agency first identify the cumulative effects issues associated with a proposed action.\(^{36}\) The agency should then establish the geographic scope for analysis.\(^{37}\) Next, the agency should establish the time frame for analysis, equal to the timespan of a proposed project’s direct and indirect impacts.\(^{38}\) Finally, the agency should identify other reasonably

\(^{33}\) See, e.g., id. at P 41.

\(^{34}\) See id. at P 41.

\(^{35}\) 40 C.F.R. § 1508.7 (2017).

\(^{36}\) 1997 CEQ Guidance at 11.

\(^{37}\) Id.

\(^{38}\) Id.
foreseeable actions that potentially affect the same resources, ecosystems, and human communities that are affected by the proposed action.\textsuperscript{39}

34. The geographic scope of the Commission’s cumulative impacts analysis varies from case to case, and resource to resource, depending on the facts presented. Further, where the Commission lacks meaningful information about potential future natural gas production within the geographic scope of a project-affected resource, then production-related impacts are not reasonably foreseeable so as to be included in a cumulative impacts analysis.\textsuperscript{40} Here, the EA noted that the North Seattle Lateral Upgrade project would affect a confined 88.4-acre east to west corridor within Snohomish County, Washington.\textsuperscript{41} As noted above, there is no indication that the project will induce any new gas production and, indeed, there is no oil and gas development currently proposed or ongoing in Snohomish County.\textsuperscript{42} Similarly with respect to downstream activities, there is nothing in the record that identifies any reasonably foreseeable specific end use or new incremental load within the geographic area of where the impacts from the North Seattle Project will be felt.\textsuperscript{43} In short, the incremental upstream and downstream activities that are the subject of Ecology’s and Ms. Bommarito’s comments do not meet the definition of cumulative impacts. Accordingly, the EA appropriately excluded GHG emissions

\textsuperscript{39} Id.

\textsuperscript{40} See Dominion Transmission, Inc., 163 FERC ¶ 61,128 at P 34 (citing Columbia Gas Transmission, LLC, 149 FERC 61,255, at P 120 (2014)).

\textsuperscript{41} EA at 73, 76.


\textsuperscript{43} The project’s sole customer, PSE, contracted for project capacity “to avoid service disruptions and accommodate future growth in Snohomish and King Counties, Washington.” See supra at P 4. PSE did not identify any specific future end-use load. Unspecific “future growth” is not reasonably foreseeable. CEQ has explained that “it is not practical to analyze the cumulative effects of an action on the universe; the list of environmental effects must focus on those that are truly meaningful.” CEQ, Considering Cumulative Effects Under the National Environmental Policy Act, at 8 (January 1997), https://energy.gov/sites/prod/files/nepapub/nepa_documents/RedDont/G-CEQ-ConsidCumulEffects.pdf, (1997 CEQ Guidance).
from upstream production and downstream consumption of natural gas transported by the project from the cumulative impacts analysis.

35. NEPA does not require analysis of impacts that are not indirect or cumulative and a broad analysis based on generalized assumptions rather than reasonably specific information does not meaningfully inform the Commission’s projected-specific review. As such, the Commission declines to further address upstream or downstream GHG emissions related to the project.

c. Project Demand

36. Ms. Vandenberg and Mr. Olson oppose the project due to lack of demand. Northwest’s application states that the project purpose is to provide additional transportation capacity to meet increased demand for natural gas in PSE’s service area. Further, PSE has stated that it intends to use the project capacity to meet increasing peak hour loads on its distribution system. Additionally, PSE has already entered into a contract with Northwest committing to pay a facility charge that covers the actual costs of designing, constructing, owning, and operating the project over an initial contract term 25-year term.

d. Fossil Fuel Use and Fracking

37. Ms. Vandenberg also raises general concerns that the pipeline may transport “fracked gas” and that the project would result in an expansion of the use of fossil fuels. There is no record evidence to support either of these claims. The project is an upgrade to an existing 5.9 mile stretch of pipeline lateral that is part of Northwest’s larger 3,900-mile interstate pipeline system with access to multiple gas supply areas. The project does not create any additional mainline capacity on the Northwest system.

IV. Conclusion

38. Based on the analysis in the EA, as supplemented herein, we conclude that if the project is constructed in accordance with Northwest’s application and supplements, and in compliance with the environmental conditions in Appendix B to this order, our approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment. 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. Commission staff

44 Id. at P 42.

45 See PSE May 24, 2018 Comment Letter.
will only issue a notice to proceed with the activity when satisfied that the applicant has complied with all applicable conditions. 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.

39. 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 and replacement of facilities approved by this Commission.46

40. At a hearing held on July 19, 2018, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, and exhibits thereto, and all comments, and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Northwest authorizing it to construct and operate facilities in Snohomish County, Washington, as described and conditioned herein and as more fully described in the application.

(B) The certificate authority granted in Ordering Paragraph (A) is conditioned on Northwest’s:

(1) completion of construction of the proposed facilities and making them available for service within two years of the issuance of this order pursuant to section 157.20(b) of the Commission’s regulations;

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46 See 15 U.S.C. § 717r(d) (2012) (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) and 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).
(2) compliance 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) compliance with the environmental conditions listed in Appendix B to this order.

(C) Northwest’s proposed facility charge and initial recourse rate for capacity releases inside the corridor for the North Seattle Delivery Lateral expansion capacity is approved.

(D) Northwest shall file actual tariff records to implement its proposed facility charge at least 30 days, and not more than 60 days, prior to the date the project is placed in service.

(E) Northwest 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 Northwest. Northwest shall file written confirmation of such notification with the Secretary of the Commission (Secretary) within 24 hours.

(F) Northwest is authorized to abandon the facilities as described in the order.

(G) Northwest shall notify the Commission within 10 days of the abandonment of the facilities described above.

(H) Northwest shall account for the construction and operating and maintenance activities related to the project in accordance with the Commission’s Uniform System of Accounts as described in Part 201 of the Commission’s regulations, including the Gas Plant and Operating and Maintenance Expense Instructions.

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

( SEAL )

Nathaniel J. Davis, Sr., Deputy Secretary.
Appendix A

Timely Motions to Intervene

Parties Filing Timely Motions to Intervene in Docket No. CP17-441-000:

- Christopher T. S. Lee
- Elisha R. Baker
- Michelle Lilly
- Northwest Industrial Gas Users
- Southwest Gas Company
- Washington Department of Fish & Wildlife
Environmental Conditions

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

1. Northwest 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 Order. Northwest 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 the Office of Energy Projects (OEP) 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 abandonment, construction, and operation of the project. 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 adverse environmental impact resulting from project abandonment activities, construction, and operation.

3. Prior to any construction or abandonment activities, Northwest 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 abandonment and construction activities.
4. The authorized facility locations shall be as shown in the EA (incorporating staff's recommendation for the Fritch Mill Alternative, as required by condition 19, below), and as supplemented by filed alignment sheets. **As soon as they are available, and before the start of abandonment activities or construction,** Northwest 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 all facilities 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.

Northwest’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. Northwest’s right of eminent domain granted under NGA section 7(h) does not authorize it to increase the size of its natural gas pipeline to accommodate future needs or to acquire a right-of-way for a pipeline to transport a commodity other than natural gas.

5. Northwest 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 **before construction in or near that area.**

This requirement does not apply to route variations required herein, extra workspace allowed by the Commission’s *Upland Erosion Control, Revegetation, and Maintenance Plan*, and/or minor field realignments per landowner needs and requirements which 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. **At least 60 days before construction begins**, Northwest shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. Northwest must file revisions to the plan as schedules change. The plan shall identify:

   a. how Northwest 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 Northwest 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 Northwest will ensure that sufficient personnel are available to implement the environmental mitigation;
   d. company personnel, including EIs and contractors, who will receive copies of the appropriate material;
   e. the location and dates of the environmental compliance training and instructions Northwest will 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 Northwest's organization having responsibility for compliance;
   g. the procedures (including use of contract penalties) Northwest will follow if noncompliance occurs; and
   h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:

      (i) the completion of all required surveys and reports;
      (ii) the environmental compliance training of onsite personnel;
      (iii) the start of construction; and
      (iv) the start and completion of restoration.

7. Northwest shall employ at least one EI for the project. The EI 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. 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, Northwest shall file updated status reports with the Secretary on a biweekly basis until all abandonment, construction, and restoration activities are complete. On request, these status reports will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:

a. an update on the status of the necessary federal authorizations;
b. the construction status of the project, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;
c. a listing of all problems encountered and each instance of noncompliance observed by the EIs 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 which 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 Northwest from other federal, state, or local permitting agencies concerning instances of noncompliance, and Northwest’s response.

9. Northwest shall develop and implement an environmental complaint resolution procedure. The procedure shall provide landowners with clear and simple directions for identifying and resolving their environmental mitigation problems/concerns during construction of the project, and restoration of the rights-of-way. Prior to construction, Northwest shall mail the complaint procedures to each landowner whose property will be crossed.

a. In its letter to affected landowners, Northwest shall:
(i) provide a local contact that the landowners should call first with their concerns; the letter should indicate how soon a landowner should expect a response; 
(ii) instruct the landowners that if they are not satisfied with the response, they should call Northwest’s Hotline (the letter should indicate how soon to expect a response); and
(iii) instruct the landowners that if they are still not satisfied with the response from Northwest’s Hotline, they should contact the Commission’s Landowner Helpline at 877-337-2237 or at LandownerHelp@ferc.gov.

b. In addition, Northwest shall include in its biweekly status report for the project a copy of a table that contains the following information for each problem/concern:

(i) the identity of the caller and date of the call;
(ii) the location by milepost and identification number from the authorized alignment sheet(s) of the affected property;
(iii) a description of the problem/concern; and
(iv) an explanation of how and when the problem was resolved, will be resolved, or why it has not been resolved.

10. Northwest must receive written authorization from the Director of OEP before commencing abandonment activities or construction of any project facilities. To obtain such authorization, Northwest must file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).

11. Prior to commencing abandonment or construction activities, Northwest shall file with the Secretary, for review and written approval by the Director of OEP, an updated site plan showing the removal and restoration of the former pig launcher/receiver and valve site at milepost 2.2.

12. Northwest must receive written authorization from the Director of OEP 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.

13. Within 30 days of placing the authorized facilities in service, Northwest 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 Order conditions Northwest has complied with or will comply with. This statement shall also identify any areas affected by the project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.

14. **Prior to construction**, Northwest shall file with the Secretary for review and written approval by the Director of OEP, a site-specific plan with detailed measures to protect wetland H at MP 4.97 during construction activity.

15. **Northwest shall not begin** abandonment or construction activities and/or use of any work areas until:
   a. Commission staff receives comments from the National Marine Fisheries Service (NMFS) regarding the proposed action;
   b. Commission staff completes Endangered Species Act section 7 consultation with the NMFS; and
   c. Northwest has received written notification from the Director of the OEP that construction or use of mitigation (including implementation of any conservation measures) may begin.

16. **Prior to construction**, Northwest shall file with the Secretary, for review and written approval by the Director of OEP, finalized locations for contractor storage yards and the status of landowner negotiations for their use.

17. **Prior to construction**, Northwest shall file with the Secretary, for review and written approval by the Director of OEP, evidence of landowner consultation and/or concurrence with the site-specific residential construction plans for all locations where construction work areas will be within 10 feet of a residence.

18. **Northwest shall not begin construction** of the project until it files with the Secretary a copy of the determination of consistency with the Coastal Zone Management Plan issued by the Washington Department of Ecology.

19. Northwest shall construct the 20-inch-diameter replacement line within the existing easement between approximate mileposts 2.1 and 2.2 (i.e., on the Fritch Mill Property), and the 16-inch-diameter Loop Line on the Fritch Mill parcel shall remain in place, as presented in Northwest’s original application and generally depicted on figure 3 of the EA. **Prior to construction**, Northwest shall file with
the Secretary, for review and written approval by the Director of the OEP, an updated site plan adopting the initially proposed route.
LaFLEUR, Commissioner, *concurring*:

Today’s order grants Northwest Pipeline’s request for authorization to construct and operate the North Seattle Lateral Upgrade Project (North Seattle Project). I believe the project is in the public interest after carefully balancing the need for the project and its environmental impacts. For the reasons discussed below, I concur.

In this case, the Commission quantified and disclosed the upper-bound estimate of the downstream greenhouse gas (GHG) emissions associated with the North Seattle Project.\(^1\) The volume of GHG emissions associated with the downstream use would result in about 4.1 percent increase in GHG emissions in Washington\(^2\) and a 0.05 percent increase in GHG emissions in Washington.\(^3\)

\(^1\) The EA includes an estimate of the upper-bound downstream GHG emissions based on the project transporting up to 196,311 dekatherms per day (Dth/d). However, Northwest revised its application reducing the incremental capacity of natural gas delivered by Northwest’s system to 159,299 Dth/d. Using the projects revised capacity, if all 159,299 Dth/d of natural gas were transported to combustion end uses, downstream end use would result in the emissions of about 3.1 million metric tpy of CO\(_2\)e.


increase of national GHG emissions. Going forward, at a minimum, I believe we should continue to do this GHG quantification and analysis as part of our environmental review of pipeline projects. I recognize that this full-burn estimate is simply a mathematical derivative of pipeline volume, but I believe we should disclose it and consider it as part of my public interest determination, particularly where there is not more precise evidence of downstream pipeline utilization. In the future, more information in the record regarding the identified end uses would enable the Commission to more accurately assess indirect impacts of downstream GHG emissions by calculating gross and net GHG emissions as part of our National Environmental Policy Act (NEPA) responsibilities.

As for the upstream impacts associated with the North Seattle Project, the order does not respond to intervenors concerns to include even the generic upstream information we have been disclosing since 2016. I do not support this decision. While it is less clear that upstream effects are caused by the pipeline, I would respond to upstream GHG comments by disclosing the best available information, such as the DOE studies cited in past orders. However, today's order rejects that approach, and applies the Commission's new policy that limits the review and disclosure of upstream and downstream GHG impacts as part of our NEPA responsibilities and public interest

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One way the Commission could assess the significance of a given rate or volume of GHG emissions is to compare the downstream GHG emissions associated with an individual project to the total state, regional, and/or national emission inventories.

determination under the Natural Gas Act (NGA). I note my continuing strong disagreement with this change in policy.

For all of these reasons, I concur.

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Cheryl A. LaFleur
Commissioner

\footnote{See Dominion Transmission Inc., 163 FERC ¶ 61,128 (2018) (LaFleur, Comm’r, dissenting in part) (New Market).}
In today's order, the Commission grants Northwest Pipeline LLC's request for authorization to upgrade its North Seattle Lateral (the North Seattle Lateral Upgrade Project or Project), enabling Northwest to provide approximately 159,200 dekatherms per day of additional firm transportation service to Puget Sound Energy Inc. (Puget Sound), finding that the Project is required by the public convenience and necessity. The Commission also concludes that the Project will not have a significant effect on the environment. In reaching these conclusions, the Commission maintains that it need not consider the harm from the Project's contribution to climate change. I believe that the Commission's refusal to do so falls well short of our obligations under the Natural Gas Act (NGA) and the National Environmental Policy Act (NEPA). While the Commission quantifies the Project's downstream greenhouse gas (GHG) emissions, the Commission nonetheless determines that upstream and downstream GHG emissions are not reasonably foreseeable and that it is not obligated to determine whether the resulting harm from the Project's contribution to climate change is significant. I dissent in part from today's order because I disagree with these conclusions and believe the Commission cannot find that the Project is in the public interest without first considering the significance of the Project's contribution to climate change.

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2 *Id.* P 38.


6 Section 7 of the NGA requires that, before issuing a certificate for new pipeline construction, the Commission must find both a need for the pipeline and that, on balance, the pipeline's benefits outweigh its harms. 15 U.S.C. § 717f (2012). Furthermore, NEPA
The Commission, once again, goes out of its way to avoid seriously addressing the harm caused by the Project’s contribution to climate change, claiming that its policy is to analyze upstream and downstream GHG emissions “when those effects are indirect or cumulative impacts.” At the same time, the Commission disregards the Project’s estimated emissions from end-use combustion. The Final Environmental Assessment (EA) for the Project includes a “full-burn” analysis that quantifies the potential downstream GHG emissions associated with combusting the amount of gas that the Project could transport. Nevertheless, the Commission refuses to recognize the harm from these emissions as an indirect effect of the Project. Furthermore, the Commission requires the Commission to take a “hard look” at the environmental impacts of its decisions. See 42 U.S.C. § 4332(2)(C)(iii); Balt. Gas & Elec. Co. v. Nat. Res. Def. Council, Inc., 462 U.S. 87, 97 (1983). While I cannot support today’s order because it fails to meet these standards, I agree with the Commission’s conclusion that Northwest has adequately demonstrated a need for the Project.

Certificate Order, 164 FERC ¶ 61,038 at PP 30.

Compare id. P 31 (quantifying the Project’s downstream GHG emissions) with id. PP 34–35 (concluding that the record does not identify a “reasonably foreseeable specific end use” and “declin[ing] to further address upstream or downstream GHG emissions related to the [P]roject”). In response to commenters’ request that the Commission consider strategies for mitigating the significant increase in emissions in the State of Washington, the Commission argues that it lacks jurisdiction to impose mitigation on downstream end-use consumers. But this misses the point. The fact that individual states and other federal agencies may consider, and even regulate, end-use consumption and some of the environmental impacts from the pipeline, does not limit the Commission’s responsibility to consider these impacts when evaluating the public interest. Furthermore, under similar circumstances, the U.S. Court of Appeals for the District of Columbia Circuit has held that GHG emissions from downstream end use “are an indirect effect” of the Commission’s certificate decisions, “which [the Commission] could reasonably foresee, and which the agency has legal authority to mitigate.” Sierra Club v. FERC, 867 F.3d 1357, 1374 (D.C. Cir. 2017) (citing 15 U.S.C. § 717f(e)).

Final EA at 60–61 (basing the emission quantity on the full design capacity of the Project). This calculation was made prior to the policy change, announced in Dominion Transmission, Inc., 163 FERC ¶ 61,128, at PP 38–42, 59–63 (2018) (New Market), to exclude downstream GHG emissions calculations in cases where the exact end use location for consumption is not known.

Certificate Order, 164 FERC ¶ 61,038 at P 35 (declining to analyze upstream or
surmises that only where it has definitive information about the specific location and
timing of upstream production can it conclude that GHG emissions from production
activities are reasonably foreseeable. NEPA does not permit agencies to so easily shirk their responsibilities to
consider environmental consequences; instead, it requires that the Commission engage in
reasonable forecasting and estimation where doing so would further the statute’s two-fold
purpose of ensuring that the relevant agency will “have available, and will carefully
consider, detailed information concerning significant environmental impacts” and that
this information will be “available to the larger audience that may also play a role in both
the decisionmaking process and the implementation of that decision.”

downstream GHG emissions related to the Project because “NEPA does not require
analysis of impacts that are not indirect or cumulative and a broad analysis based on
generalized assumptions rather than reasonably specific information does not
meaningfully inform the Commission’s project-specific review”).

11 Id. P 32.

12 See San Juan Citizens All. et al. v. United States Bureau of Land Mgmt., No. 16-
CV-376-MCA-JHR, 2018 WL 2994406, at *10 (D.N.M. June 14, 2018) (holding that it
was arbitrary for the Bureau of Land Management to conclude “that consumption is not
‘an indirect effect of oil and gas production because production is not a proximate cause
of GHG emissions resulting from consumption’” as “this statement is circular and
worded as though it is a legal conclusion”). In adopting this narrow and circular
definition, the Commission disregards the Project’s central purpose—to facilitate natural
gas consumption by providing new supplies. See EA at 2 (describing the purpose of the
Project as to “provide additional natural gas delivery capacity to [Puget Sound Energy]
and thus markets in North Seattle by up to 159,299 dekatherms per day”).

v. Methow Valley Citizens Council, 490 U.S. 332, 349 (1989)). In order to evaluate
circumstances in which downstream impacts of a pipeline facility are reasonably
foreseeable results of constructing and operating the proposed facility, I am relying on
precisely the sort of “reasonably close causal relationship” that the Supreme Court has
required in the NEPA context and analogized to proximate cause. See id. at 767 (“NEPA
requires a ‘reasonably close causal relationship’ between the environmental effect and the
alleged cause. The Court [has] analogized this requirement to the ‘familiar doctrine of
proximate cause from tort law.’”) (quoting Metropolitan Edison Co. v. People Against
1710, 1719 (2014) (“Proximate cause is often explicated in terms of foreseeability or the
scope of the risk created by the predicate conduct.”); Staelens v. Dobert, 318 F.3d 77, 79
(1st Cir. 2003) (“[I]n addition to being the cause in fact of the injury [the but for cause],
As the U.S. Court of Appeals for the District of Columbia Circuit explained in Sierra Club v. FERC (Sabal Trail), in the face of indefinite variables, “agencies may sometimes need to make educated assumptions about an uncertain future.”\textsuperscript{14} The Commission cannot point to the mere presence of uncertainty over upstream and downstream GHG emissions to excuse it from considering the harm from the Project’s contribution to climate change. In the case of new natural gas pipelines, it is reasonable to assume that building incremental transportation capacity will result in some level of combustion of natural gas and spur additional production, even if the exact details are not definite. As the United States Court of Appeals for the Eighth Circuit explained in Mid States—a case that also involved downstream GHG emissions from new infrastructure for transporting fossil fuels—when the “nature of the effect” (end-use emissions) is reasonably foreseeable, but “its extent is not” (specific consumption activity producing emissions), an agency may not simply ignore the effect.\textsuperscript{15}

Based on the record here, it is entirely foreseeable that natural gas transported through the Project will be combusted, emitting GHGs that contribute to climate change. As noted above, the Project’s stated purpose is to provide additional natural gas transportation capacity to Puget Sound and, thus, markets in North Seattle, which Puget Sound explains have “experienced significant growth in natural gas demand, particularly during early morning peak periods.”\textsuperscript{16} Even where exact information regarding the source of the gas to be transported and the ultimate end use is unknown, the Commission will often be able to produce comparably useful information based on reasonable forecasts of the GHG emissions.\textsuperscript{17} This is the case here, where the Commission did

\textsuperscript{14} 867 F.3d 1357, 1374 (D.C. Cir. 2017).

\textsuperscript{15} Mid States Coal. for Progress v. Surface Transp. Bd., 345 F.3d 520, 549 (8th Cir. 2003).

\textsuperscript{16} See supra note 12 (EA at 2); Puget Sound May 24, 2018 Letter at 1.

\textsuperscript{17} In comments recently submitted in the Commission’s pending review of the natural gas certification process, the Environmental Protection Agency recommended a number of tools the Commission can use to quantify the reasonably foreseeable “upstream and downstream GHG emissions associated with a proposed natural gas pipeline.” These include “economic modeling tools” that can aid in determining the “reasonably foreseeable energy market impacts of a proposed project.” United States
estimate and disclose the potential GHG emissions resulting from downstream consumption, utilizing information provided in the record and publicly available analytical tools. Under these circumstances, the Commission must consider the harm caused by the Project’s contribution to climate change resulting from this likely end use.

As I have said previously, quantifying a project’s GHG emissions, including reasonably foreseeable upstream and downstream emissions, is a necessary—but not sufficient—step in meeting the Commission’s obligations to consider a project’s environmental effects associated with climate change. NEPA and the NGA’s public interest standard require the Commission to consider not the GHG emissions themselves but the resulting environmental impact. The Commission not only refuses to consider the significance of the Project’s climate-change impact, but also maintains that it lacks the means to do this.

The Commission is incorrect insofar as it concludes that there is no “standard methodology . . . to determine whether, and to what extent, a project’s incremental

Environmental Protection Agency, Comments, Docket No. PL18-1-000, at 3–4 (filed June 21, 2018) (explaining that the “EPA has emission factors and methods” available to estimate GHG emissions—from activities upstream and downstream of a proposed natural gas pipeline—through the U.S. Greenhouse Gas Inventory and the Greenhouse Gas Reporting Program); see Certification of New Interstate Natural Gas Facilities, Notice of Inquiry, 163 FERC ¶ 61,042 (2018).

18 EA at 60–61; Certificate Order, 164 FERC ¶ 61,038 at P 31.

19 Sabal Trail, 867 F.3d at 1371–72; id. at 1374.

20 See Mountain Valley Pipeline, LLC, 163 FERC ¶ 61,197, at 7 (2018) (Glick, Comm’r, dissenting); Tennessee Gas Pipeline Company, L.L.C., 163 FERC ¶ 61,190, at 2 (2018) (Glick, Comm’r, dissenting in part); Florida Southeast Connection, LLC, 163 FERC ¶ 61,158, at 1–2 (Glick, Comm’r, dissenting in part); Gulf South Pipeline Company, LP., 163 FERC ¶ 61,124, at 1–2 (Glick, Comm’r, dissenting in part); Florida Southeast Connection, LLC, 162 FERC ¶ 61,223, at 6 (2018) (Glick, Comm’r, dissenting).

21 EA at 78–79.
contribution to GHG emissions would result in physical effects on the environment for the purposes of evaluating the Project’s impacts on climate change.”

That is precisely what the Social Cost of Carbon provides. It translates the long-term damage done by a ton of carbon dioxide into a monetary value, thereby providing a meaningful and informative approach for satisfying an agency’s obligation to consider how its actions contribute to the harm caused by climate change. The U.S. Environmental Protection Agency recommended this approach in its comments on the Commission’s pending review of the natural gas certification process, explaining that estimates of the Social Cost of Carbon “may be used for project analysis when [the Commission] determines that a monetary assessment of the impacts associated with the estimated net change in GHG emissions provides useful information in its environmental review or public interest determination.” Furthermore, the U.S. Council on Environmental Quality regulations themselves outline a framework for determining whether a project’s impacts on the environment will be considered significant.

* * *

Climate change poses an existential threat to our security, economy, environment, and, ultimately, the health of individual citizens. Unlike many of the challenges that our society faces, we know with certainty what causes climate change: It is the result of GHG emissions, including carbon dioxide and methane, which can be released in large quantities through the production and consumption of natural gas. Congress determined under the NGA that no entity may transport natural gas interstate, or construct or expand interstate natural gas facilities, without the Commission first determining the activity is in the public interest. This requires the Commission to find, on balance, that a project’s benefits outweigh the harms, including the environmental impacts from climate change that result from authorizing additional transportation. Accordingly, it is critical that, as an agency of the federal government, the Commission comply with its statutory responsibility to document and consider how its authorization of a natural gas pipeline facility will lead to the emission of GHGs, contributing to the existential threat of climate

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22 Id.


24 40 C.F.R. § 1508.27 (2017) (setting forth a list of factors agencies should rely on when determining whether a project’s environmental impacts are “significant” considering both “context” and “intensity”).

change.

For these reasons, I respectfully dissent in part.

Richard Glick
Commissioner