



April 25, 2022

Federal Energy Regulatory Commission
Secretary of the Commission
888 First Street NE
Washington, DC 20426

Via the FERC eFiling Portal

Re: FERC’s Draft Policy Statement on Consideration of Greenhouse Gas Emissions in Natural Gas Infrastructure Project Reviews (Docket No. PL21-3-000)

To Whom It May Concern:

Environmental Defense Fund (“EDF”) and the Initiative on Climate Risk and Resilience Law (“ICRRL”) submit these comments to the Federal Energy Regulatory Commission (“FERC” or “Commission”) in response to its draft policy statement, *Consideration of Greenhouse Gas Emissions in Natural Gas Infrastructure Project Reviews* (the “Draft Policy Statement”),¹ issued on February 18, 2022 and converted from an interim policy statement to a draft policy statement on March 24, 2022.²

One of the world’s leading international nonprofit organizations, EDF creates transformational solutions to the most serious environmental problems. To do so, EDF links science, economics, law, and innovative private-sector partnerships. ICRRL is a joint initiative of EDF, Columbia Law School’s Sabin Center for Climate Change Law (“Sabin Center”), the Institute for Policy Integrity at NYU School of Law (“Policy Integrity”), and Vanderbilt Law School, focused on legal efforts on climate risk and resilience, particularly at the intersection of practice and scholarship.³

EDF and ICRRL submit these comments to FERC specifically to address the topic of evaluating the impacts of climate change on projects in National Environmental Policy Act (“NEPA”) reviews, in the context of the following text from the Draft Policy Statement: “This policy statement describes Commission procedures for evaluating climate impacts under NEPA, both those caused by a project’s contribution to climate change *and the impacts of climate change on the project*” (emphasis added).⁴ Despite this framing, the Draft Policy Statement does not contain

¹ FERC, Consideration of Greenhouse Gas Emissions in Natural Gas Infrastructure Project Reviews, Docket No. PL21-3-000 (Feb. 18, 2022), <https://www.ferc.gov/media/pl21-3-000> [hereinafter “Draft Policy Statement”].

² FERC, Order on Draft Policy Statements, 178 FERC ¶ 61,197, Docket Nos. PL18-1-001 & PL21-3-001 (Mar. 24, 2022), <https://www.ferc.gov/media/c-1-032422>.

³ This document does not necessarily represent the views of each ICRRL partner organization. For more information about ICRRL, see <https://icrri.org>.

⁴ Draft Policy Statement at ¶ 3 (emphasis added).

further discussion of, or specific guidance on, how to evaluate the impacts of climate change on proposed natural gas projects.

EDF and ICRRRL recommend that FERC supplement its Draft Policy Statement with additional guidance on the evaluation of climate impacts on projects in NEPA reviews (“climate impact analysis”). Holistic, specific, and actionable climate impact analysis is necessary to meet NEPA’s requirements and to sufficiently inform agency decision-making in the context of the significant and growing risks climate change poses to the energy system.

Our organizations have published resources that can inform FERC’s development of guidance on climate impact analysis, which are appended to these comments:

1. EDF, the Sabin Center, and ICRRRL jointly published the paper *Evaluating Climate Risk in NEPA Reviews: Current Practices and Recommendations for Reform*, which was released in February 2022.⁵ This paper examines the legal framework and current practices for integrating climate impact analysis into NEPA reviews, grounded in an empirical study of the NEPA Environmental Impact Statements (“EISs”) completed in 2016–2020 for onshore energy-related projects. Among the sample were 19 EISs prepared by FERC, including 10 for liquefied natural gas terminals and 5 for natural gas pipelines. While each of these natural gas-related EISs acknowledged that climate change would affect the local environment of the proposed action, only some evaluated how those climate change impacts might affect the proposed action and alter its environmental outcomes, and none compared climate-related risks across alternatives. Based on the shortcomings identified, the paper provides recommendations and resources for agencies to improve the rigor of their climate impact analyses.
2. EDF and the Sabin Center jointly published the paper *Climate Risk in the Electricity Sector: Legal Obligations to Advance Climate Resilience Planning by Utilities*, which was originally released as a white paper in December 2020 and subsequently published in *Environmental Law Review* in October 2021.⁶ While its focus is on the electricity sector, the paper outlines broadly applicable approaches for identifying climate-related vulnerabilities and developing resilience plans that could be incorporated into the natural gas project reviews encompassed by the Draft Policy Statement.
3. EDF and the Sabin Center jointly submitted comments in advance of FERC’s *Technical Conference to Discuss Climate Change, Extreme Weather, & Electric System Reliability*.⁷ EDF, the Sabin Center, Policy Integrity, and ICRRRL additionally submitted joint comments

⁵ ROMANY M. WEBB, MICHAEL PANFIL, STEPHANIE H. JONES & DENA ADLER, EVALUATING CLIMATE RISK IN NEPA REVIEWS: CURRENT PRACTICES AND RECOMMENDATIONS FOR REFORM (2022), https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=1185&context=sabin_climate_change.

⁶ Romany M. Webb, Michael Panfil & Sarah Ladin, *Climate Risk in the Electricity Sector: Legal Obligations to Advance Climate Resilience Planning by Utilities*, 51 ENV’T L. 577 (2021), <https://law.lclark.edu/live/files/32603-51-3-webbpdf> (policy brief available at <https://www.icrrl.org/files/2021/05/Climate-Risk-and-Resilience-Planning-2-Page.pdf>).

⁷ Comments of Env’t Def. Fund & the Sabin Ctr. for Climate Change L., *Climate Change, Extreme Weather, and Electric System Reliability*, Docket No. AD21-13 (Apr. 15, 2021), <https://www.icrrl.org/files/2021/06/EDF-Sabin-Center-Comments.pdf>.

following the technical conference.⁸ Building upon the *Climate Risk in the Electricity Sector* paper, discussed above, these comments support FERC's efforts to better understand the climate-related risks facing the electricity sector and describe how FERC could facilitate climate resilience planning. Again, while the comments focus on the electricity sector, they discuss general processes for identifying and evaluating climate-related risks that could be adapted for use in natural gas project reviews.

In addition, EDF, the Sabin Center, and ICRRRL are in the process of developing a resilience toolkit that will compile further resources relevant to assessing climate risk in the energy sector. The toolkit is slated for release later this year on the ICRRRL website.⁹

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Thank you for the opportunity to submit these materials. Please contact us if you have any questions.

Sincerely,

/s/ Michael Panfil

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Attachments (4):

- (1) Romany M. Webb, Michael Panfil, Stephanie H. Jones & Dena Adler, *Evaluating Climate Risk in NEPA Reviews: Current Practices and Recommendations for Reform* (2022).
- (2) Romany M. Webb, Michael Panfil & Sarah Ladin, *Climate Risk in the Electricity Sector: Legal Obligations to Advance Climate Resilience Planning by Utilities*, 51 ENV'T L. 577 (2021).
- (3) Comments of Environmental Defense Fund & the Sabin Center for Climate Change Law, *Climate Change, Extreme Weather, and Electric System Reliability*, Docket No. AD21-13 (Apr. 15, 2021).
- (4) Comments of the Sabin Center for Climate Change Law, Environmental Defense Fund, the Institute for Policy Integrity at New York University School of Law & the Initiative on Climate Risk and Resilience Law, *Climate Change, Extreme Weather, and Electric System Reliability*, Docket No. AD21-13 (Sept. 27, 2021).

⁸ Comments of the Sabin Ctr. for Climate Change L. et al., *Climate Change, Extreme Weather, and Electric System Reliability*, Docket No. AD21-13 (Sept. 27, 2021).

⁹ Initiative on Climate Risk and Resilience Law, <https://icrrl.org>.