

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

ANR Pipeline Company

Docket No. CP20-8-000

(Issued June 18, 2020)

GLICK, Commissioner, *dissenting in part*:

1. I dissent in part from today's order because it violates both the Natural Gas Act¹ (NGA) and the National Environmental Policy Act² (NEPA). The Commission once again refuses to consider the consequences its actions have for climate change. Although neither the NGA nor NEPA permit the Commission to ignore the climate change implications of constructing and operating this project, that is precisely what the Commission is doing here.

2. In today's order authorizing ANR Pipeline Company's (ANR) Grand Chenier Xpress Project (Project), the Commission continues to treat greenhouse gas (GHG) emissions and climate change differently than all other environmental impacts.³ The Commission again refuses to consider whether the Project's contribution to climate change from GHG emissions would be significant,⁴ even though it quantifies the direct GHG emissions from the Project's construction and operation.⁵ That failure forms an integral part of the Commission's decisionmaking: The refusal to assess the significance of the Project's contribution to the harm caused by climate change is what allows the Commission to state that approval of the Project "would not constitute a major federal action significantly affecting the quality of the human environment"⁶ and, as a result, conclude that the Project is in the public interest and required by the public convenience

¹ 15 U.S.C. § 717f (2018).

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

³ *ANR Pipeline Co.*, 171 FERC ¶ 61,233 (2020) (Certificate Order).

⁴ Certificate Order, 171 FERC ¶ 61,233 at P 30.

⁵ *Id.* P 29 (estimating that the Project will result in an additional 242,137 CO₂e tons per year of GHG emissions following Project completion); Grand Chenier Xpress Project Environmental Assessment at Tables 15, 16, & 17 (EA).

⁶ Certificate Order, 171 FERC ¶ 61,233 at P 31; *see also* EA at 76.

and necessity.⁷ Claiming that a project has no significant environmental impacts while at the same time refusing to assess the significance of the project's impact on the most important environmental issue of our time is not reasoned decisionmaking.⁸

3. The Commission's failure to meaningfully consider climate change forces me into dissenting from certificate orders that I might otherwise support. Prior to issuing a section 7 certificate, the Commission must find both that the proposed project is needed, and that, on balance, its potential benefits outweigh its potential adverse impacts.⁹ Although need for the Project is an important consideration, and demonstrated in today's order,¹⁰ need alone is not sufficient to find that the Project is consistent with the public interest. Instead, the Commission must also determine that the Project's benefits outweigh its adverse impacts, including its GHG emissions, which the Commission cannot do without meaningfully evaluating the impacts of those emissions. I cannot join an order that countenances such an incomplete assessment of a project's adverse impacts, regardless of what I might otherwise think of that project.

⁷ Certificate Order, 171 FERC ¶ 61,233 at P 32.

⁸ Commissioner McNamee argues that the Commission can consider a project's direct GHG emissions under NEPA and in its public convenience and necessity determination without actually determining whether the GHG emissions are significant. Certificate Order, 171 FERC ¶ 61,233 (McNamee, Comm'r, concurring at P 3). This defies both logic and reason. If you refuse to consider how the project's greenhouse gas emissions will impact the environment you aren't actually examining those emissions for purposes of NEPA and the NGA. The argument is particularly problematic in this proceeding given the conclusion that the Project will not have any significant impact on the environment. Certificate Order, 171 FERC ¶ 61,233 at P 31. How the Commission can rationally conclude that a project has no significant impacts, refuse to assess the significance of what might be the project's most significant impact, and then claim to have adequately considered that impact is beyond me.

⁹ See *Sabal Trail*, 867 F.3d at 1373 (explaining that section 7 of the NGA requires the Commission to balance "the public benefits [of a proposed pipeline] against the adverse effects of the project,' including adverse environmental effects" (quoting *Myersville Citizens for a Rural Cmty. v. FERC*, 783 F.3d 1301, 1309 (D.C. Cir. 2015))).

¹⁰ Certificate Order, 171 FERC ¶ 61,233 at P 15.

4. For all these reasons, and those articulated previously,¹¹ I respectfully dissent in part.

Richard Glick
Commissioner

¹¹ See, e.g., *Transcontinental Gas Pipe Line Co. LLC*, 171 FERC ¶ 61,032 (2020) (Glick, Comm’r, dissenting in part); *Transcontinental Gas Pipe Line Co. LLC*, 171 FERC ¶ 61,031 (2020) (Glick, Comm’r, dissenting in part); *Columbia Gas Transmission, LLC*, 170 FERC ¶ 61,045 (2020) (Glick, Comm’r, dissenting in part).