



STATEMENT

Dissent of Commissioner Cheryl A. LaFleur on Texas Eastern's Texas Industrial Market Expansion Project

Date: July 19, 2018

Docket Nos.: CP18-10-000

"Today's order grants Texas Eastern's request for authorization to construct and operate the Texas Industrial Market Expansion Project (Texas Project) and the Louisiana Market Expansion Project (Louisiana Project), together the TX-LA Markets Project. I believe the fact pattern presented in this case, a pipeline designed to serve a specific known downstream powerplant, falls squarely within the precedent of *Sierra Club v. FERC*.¹ Given that the majority's analysis here suffers from the same flaws as its decision on remand in *Sabal Trail*,² I respectfully dissent.

"As I articulated in my dissent in *Sabal Trail*, I believe that, given the Court's finding that downstream greenhouse gas (GHG) emissions in that case were indirect impacts, the Commission must now quantify and consider those impacts as part of its National Environmental Policy Act (NEPA) review.³ In this case, the Commission quantified and disclosed the upper-bound estimate of the downstream GHG emissions associated with the Louisiana Project, which is fueling the Lake Charles Power Station, a natural gas-fired combined cycle power plant in Westlake, Louisiana.⁴ The volume of GHG emissions associated with this downstream use would result in about 0.7 percent increase in GHG emissions in Louisiana and a 0.03 percent increase of national GHG emissions, based upon 2015 state and national inventories. The majority states that it cannot "make a finding whether a particular quantity of greenhouse gas emissions poses a significant impact on the environment and how that impact would contribute to climate change."⁵ I disagree.

"While the Commission appropriately calculated the GHG emissions from the Lake Charles Power Station, as required by *Sabal Trail*, I am troubled by the manner in which today's order addresses the significance of the downstream GHG emissions. NEPA requires us to include discussion of indirect effects and their significance in our environmental review. I reject the contention that the Commission is unable to discern the significance of GHG emissions. We are required by NEPA to reach a determination regarding the significance of all environmental impacts, including downstream GHG emissions. It is our responsibility to use the best information we have to make that determination. One way we could assess the significance of a given rate or volume of GHG emissions is to compare the downstream

¹ 867 F.3d 1357 (D.C. Cir. 2017) (*Sierra Club*).

² *Florida Southeast Connection, LLC*, 162 FERC ¶ 61,233 (2018) (LaFleur, Comm'r, *dissenting in part*) (*Sabal Trail*)

³ *Id.*

⁴ The order includes an estimate that if all 75,000 dekatherms per day (Dth/d) of natural gas were transported to combustion end uses, downstream end-use would result in the emissions of about 1.5 metric tpy of CO_{2e}. *Texas Eastern Transmission, LP*, 164 FERC ¶ 61,037 at PP 32-33 (2018) (Texas Eastern Certificate Order). The Commission should have sought more precise information to develop the record in this proceeding, to allow the Commission to more accurately assess the indirect impacts of downstream GHG emissions by calculating gross and net GHG emissions.

⁵ Texas Eastern Certificate Order at P 33.



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GHG emissions associated with an individual project to the total state, regional, and/or national emission inventories.⁶ The fact that consideration of climate change is difficult does not alleviate our responsibilities under the Natural Gas Act (NGA) and NEPA to determine the significance of GHG emissions.

"The majority also asserts that it cannot "determine how a project's contribution to GHG emissions would translate into physical effects on the environment."⁷ But that is precisely the use for which the Social Cost of Carbon was developed—it is a scientifically-derived metric to translate tonnage of carbon dioxide or other GHGs to the cost of long-term climate harm.⁸ By translating the emissions into monetized climate damages, the Commission could provide context to the quantified rate or volume of GHG emissions of a pipeline project and could ascribe significance as part of our NEPA review.⁹ We can account for changes in GHG emissions resulting from the combustion of the transported gas by applying the Social Cost of Carbon, which more accurately reflects the climate change impacts of a particular project.¹⁰ I believe the Social Cost of Carbon metric would more readily apply to a proposed pipeline project if we developed a fuller record to support a quantified cost-benefit approach to our pipeline reviews. I believe we should discuss how the Commission could effectively use the Social Cost of Carbon, and more broadly, how the Commission should consider climate change impacts in our environmental reviews as part of the notice of inquiry on the Certificate Policy Statement.¹¹

"I also note that the Commission did not quantify and disclose the downstream GHG emissions associated with the Texas Project because there is no identified end-use in the record. If I were to vote for this order, I would need to compute the other downstream emissions estimates and consider them as part of my public interest determination.

"For all of these reasons, I dissent."

⁶ Though the majority does disclose the state and national comparison data, it does not ascribe significance to the percent increase in GHG emissions, and instead concludes that it cannot making a finding on whether a particular amount of GHG emissions is significant. Texas Eastern Certificate Order at P 33.

⁷ *Id.*

⁸ https://www.epa.gov/sites/production/files/2016-12/documents/social_cost_of_carbon_fact_sheet.pdf; See also, United States Environmental Protection Agency (EPA), Comments, *Certification of New Interstate Natural Gas Facilities*, Notice of Inquiry, 163 FERC ¶ 61,042 (2018) (NOI on the Certificate Policy Statement), Docket No. PL18-1-000 (filed June 21, 2018) (The EPA explains that estimates of the Social Cost of Carbon allow an agency to "incorporate the societal value of changes in carbon dioxide and other GHG emissions into benefit-cost analyses of actions that have small, or marginal, impacts on cumulative global emissions.").

⁹ Social Cost of Carbon is meant to measure the physical, incremental impacts from a project including changes in net agricultural productivity, human health, property loss and damages from increased flood risk, and energy demand changes.

¹⁰ See, e.g., *Florida Southeast Connection, LLC*, 162 FERC ¶ 61,233 (2018) (LaFleur, Comm'r, *dissenting in part*) (*Sabal Trail* Remand Order); *Dominion Transmission Inc.*, 163 FERC ¶ 61,128 (2018) (LaFleur, Comm'r, *dissenting in part*); *Florida Southeast Connection, LLC*, 163 FERC ¶ 61,158 (2018) (LaFleur, Comm'r, *concurring*); and *Tennessee Gas Pipeline Company*, 163 FERC ¶ 61,190 (2018) (LaFleur, Comm'r, *concurring*).

¹¹ 163 FERC ¶ 61,042 (2018).