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United States Senate

COMMITTEE ON
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December 15, 2021

The Honorable Richard Glick
Chairman

The Honorable James Danly
Commissioner

The Honorable Allison Clements
Commissioner

The Honorable Mark C. Christie
Commissioner

The Honorable Willie L. Phillips
Commissioner

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

Dear Chairman Glick and Commissioners:

Thank you for your responses to my September 15 letter. Thank you also for your responses to the questions for the record to the Energy and Natural Resources Committee's September 28 oversight hearing on the Federal Energy Regulatory Commission ("Commission" or "FERC").

Because the private sector produces and delivers most of the nation's energy, the Commission's exercise of its regulatory authorities is central to whether American families will have access to an abundant, affordable, reliable and resilient supply of energy. The Committee's oversight obligation with respect to FERC is as significant as its obligation to conduct oversight of the Department of Energy and the Department of the Interior. The Committee must do its part to ensure that the Commission is faithfully executing the laws that Congress has enacted.

Based upon the information that you have supplied in 2021, it is increasingly clear that the Commission's current posture toward its natural gas docket may jeopardize, rather than enhance, America's energy security. Without a course correction, delays in the Commission's processing of applications by natural gas pipelines, potentially shifting standards to be applied to such applications, and the impression – if not the reality – that the Commission is sympathetic to efforts to "keep natural gas in the ground" will inflict more harm on the nation than has occurred

this year. I have drawn the following conclusions that I ask you to confirm or rebut. (Because Commissioner Phillips has recently taken his seat, he is welcome to decline to respond.)

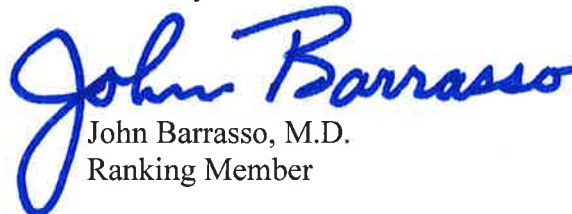
1. Despite assurances to the contrary, as a practical matter, the Commission staff has applied a *de facto* standard for how it will consider downstream greenhouse gas emissions from natural gas pipelines. Specifically, it has required an Environmental Impact Statement for applications for which it previously would have required an Environmental Assessment.
2. To varying degrees, each of you has indicated that FERC should conduct an analysis of the impact of its new *de facto* standard for compliance with the National Environmental Policy Act on the affordability or reliability of natural gas or electric service. Yet, to date, the Commission has not conducted such an analysis or made public plans to conduct one.
3. Putting aside particular calculations, the time FERC has taken to consider certificate applications to construct new and upgrade existing interstate natural gas pipelines has been greater since January 21, 2021 than the time FERC took to consider such applications prior to January 21, 2021.
4. The Chairman has stated that “the Commission has the authority to deny a pipeline certificate on the ground that the project would be too harmful for the environment.”¹ At best, this assertion is not settled law. At worst, if acted upon, it would violate the Natural Gas Act. If this view prevails, it will fundamentally change the role of the Commission.
5. Delays and uncertainty associated with FERC’s consideration of certificate applications to construct new and upgrade existing interstate natural gas pipelines have contributed to the cancellation of these projects. These delays and uncertainty have shaken customers’ and investors’ confidence which is necessary for the development of natural gas projects.

Until the Commission shows the foregoing conclusions to be inaccurate or outdated, FERC will almost certainly have a negative impact on the American people, our national security, and the economy of the United States. The increasing interdependence of America’s natural gas and electric systems only heightens this risk. For these reasons, I ask each of you, individually, as well as the Commission staff, to recommit to fulfill FERC’s duty to “encourage the orderly development of plentiful supplies of electricity and natural gas at reasonable prices.”²

As you have previously done in our prior correspondence, please address this letter in the most expeditious and appropriate manner that you determine the Commission’s rules will permit. As always, it is my intention to respect the Commission’s rule governing *ex parte* communications.

Thank you for your consideration, and I look forward to your prompt response.

Sincerely,



John Barrasso, M.D.
Ranking Member

¹Full Committee Hearing To Review Administration Of Laws Within FERC's Jurisdiction Before S. Comm. on Energy and Natural Resources, 117th Cong. (September 28, 2021) (Answers to Questions for the Record Submitted by Senator Mike Lee to the Honorable Richard Glick).

² *NAACP v. FPC*, 425 U.S. 662, 671 (1976).