

189 FERC ¶ 61,132
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Willie L. Phillips, Chairman;
Mark C. Christie, David Rosner,
Lindsay S. See and Judy W. Chang

Rover Pipeline LLC

Docket No. CP24-88-000

ORDER ISSUING CERTIFICATE

(Issued November 21, 2024)

1. On March 8, 2024, Rover Pipeline LLC (Rover) filed an application pursuant to section 7(c) of the Natural Gas Act (NGA)¹ and Part 157 of the Commission's regulations,² requesting authorization to construct and operate the Rover-Bulger Delivery Meter Station Project in Washington County, Pennsylvania. For the reasons discussed below, we grant the requested authorization, subject to certain conditions.

I. Background and Proposal

2. Rover, a Delaware limited liability company, is a natural gas company, as defined by section 2(6) of the NGA,³ engaged in the transportation of natural gas in interstate commerce.⁴ Rover operates a 713-mile-long pipeline system designed to transport natural gas from the Marcellus and Utica Shale production areas to markets across the United States and Canada.⁵

3. Rover proposes to construct and operate the Rover-Bulger Delivery Meter Station (Bulger Meter Station) to enable the delivery of up to 400,000 dekatherms per day

¹ 15 U.S.C. § 717f(c).

² 18 C.F.R. pt. 157 (2024).

³ 15 U.S.C. § 717a(6).

⁴ Rover is jointly owned by Traverse Rover LLC and Traverse Rover II LLC, affiliates of The Energy & Minerals Group, and by ET Rover Pipeline, LLC, an affiliate of Energy Transfer LP.

⁵ Rover March 8, 2024 Application at 3 (Application).

(Dth/d) of ethane-rich natural gas to ETC Northeast Pipeline, LLC (ETC Northeast)⁶ for processing at ETC Northeast's Revolution Cryogenic Facility, which is located approximately a quarter-mile from the proposed meter station.⁷ The Bulger Meter Station and appurtenant equipment⁸ will be located entirely within the fence line of Rover's existing Bulger Compressor Station, at Milepost 0.0 of Rover's Burgettstown Lateral in Washington County, Pennsylvania. When ETC Northeast has capacity available at the Revolution Cryogenic Facility, it will receive ethane-rich natural gas via the proposed Bulger Meter Station delivery point and will extract natural gas liquids (NGL). After processing, ETC Northeast will inject the residual methane gas into Rover's interstate pipeline at the existing Revolution Receipt Meter Station, also located at the Bulger Compressor Station, for transportation and delivery.

4. Rover entered into an Interconnect and Operating Agreement (Interconnection Agreement) with ETC Northeast whereby ETC Northeast will be responsible for reimbursing Rover for the cost of constructing the meter station. Rover estimates that the project facilities will cost approximately \$4,131,314 and states that it is not proposing any new or revised rates or fuel charges related to the project.

II. Notice, Interventions, and Comments

5. Notice of Rover's application was published in the *Federal Register* on March 26, 2024, with comments, interventions, and protests due on April 10, 2024.⁹ Antero Resources Corporation and MU Marketing LLC (collectively, Antero); Ascent Resources – Utica, LLC (Ascent);¹⁰ BP Energy Company (BP); the Center for LNG; EQT Energy, LLC; and the Natural Gas Supply Association filed timely, unopposed

⁶ ETC Northeast is also an affiliate of Energy Transfer LP.

⁷ ETC Northeast will construct an approximately 2,000-foot-long, 20-inch-diameter non-Commission jurisdictional pipeline connecting the Bulger Meter Station with its cryogenic facility. *Id.* n.10.

⁸ Rover will install an underground hot tap, piping connecting the Bulger Meter Station with ETC Northeast's 2,000-foot-long pipeline referenced above, two ultrasonic meter skids, one dual flow control skid, a gas quality/measurement building, and satellite communications equipment. *Id.* at 5.

⁹ 89 Fed. Reg. 20958 (Mar. 26, 2024).

¹⁰ Ascent states that they are a shipper on, and/or supplier to, the Rover System. Ascent March 15, 2024 Motion to Intervene.

motions to intervene.¹¹ Ascent and BP¹² filed comments raising concerns about title to the gas that will be processed, potential subsidization by existing shippers, and potential operational and economic harm to existing shippers.¹³ Rover filed reply comments. Smith Township in Washington County, Pennsylvania, commented that it had received noise complaints from its residents and those in neighboring communities related to Rover's pipeline activities. The comments are addressed in the Environmental Assessment (EA) prepared for the project and, as appropriate, below.

6. On March 20, 2024, Ascent filed a motion requesting that Rover file a Form of Protective Agreement so that Ascent could review the Interconnection Agreement, which was filed as privileged material.¹⁴ Rover filed the Form of Protective Agreement on April 3, 2024. On April 9, 2024, Ascent filed a motion requesting a 14-day extension of the comment period, which BP supported.¹⁵ Ascent and BP asserted that although Rover filed the Form of Protective Agreement on April 3, 2024, they did not receive the Interconnection Agreement in a timely fashion.¹⁶ They stated that they needed additional time to review the Interconnection Agreement.¹⁷ Rover opposed the motion, asserting that Ascent caused the delay in providing the Interconnection Agreement by not properly executing the Protective Agreement until April 8, on which date Ascent received the

¹¹ All timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.214(c)(1).

¹² BP Apr. 10, 2024 Comments in Support of Motion for Extension of Time (BP Apr. 10, 2024 Comments); BP Apr. 15, 2024 Comments.

¹³ Antero filed late comments, which Rover opposed. Antero May 13, 2024 Comments; Rover May 28, 2024 Answer to Antero Comments. Antero withdrew its comments on August 15, 2024. Antero August 15, 2024 Notice of Withdrawal of Comments.

¹⁴ Ascent Mar. 20, 2024 Motion for Form of Protective Agreement.

¹⁵ Ascent Apr. 9, 2024 Motion for Extension of Time (Ascent EOT); BP Apr. 10, 2024 Comments.

¹⁶ Ascent EOT at 1; BP Apr. 10, 2024 Comments at 2.

¹⁷ Ascent EOT at 3-4; BP Apr. 10, 2024 Comments at 2.

Interconnection Agreement.¹⁸ Rover states that it executed a protective agreement with BP on April 10, 2024.¹⁹

7. Neither Ascent nor BP have to date filed additional comments related to the document.²⁰ Therefore, Ascent's motion requesting an extension of the comment period is dismissed.

III. Discussion

8. Because the proposed facilities will be used to transport natural gas in interstate commerce, subject to the jurisdiction of the Commission, the construction and operation of the facilities are subject to the requirements of subsections (c) and (e) of section 7 of the NGA.²¹

A. Certificate Policy Statement

9. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.²² 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. It explains that, in deciding whether and under what terms to authorize the construction of new pipeline facilities, the Commission balances the public benefits against the potential adverse consequences. The Commission's goal is

¹⁸ See Rover Apr. 10, 2024 Answer to Ascent EOT at 2-6.

¹⁹ *Id.* at 7.

²⁰ BP did not reference the Interconnection Agreement in its additional comments filed April 15, 2024.

²¹ 15 U.S.C. §§ 717f(c), (e).

²² *Certification of New Interstate Nat. Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *clarified*, 90 FERC ¶ 61,128, *further clarified*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement). On March 24, 2022, the Commission issued an order converting the policy statements issued in February 2022 to draft policy statements. See *Certification of New Interstate Nat. Gas Facilities*, 178 FERC ¶ 61,197 (2022) (Order on Draft Policy Statements). The Commission stated that it will not apply the draft policy statements to pending applications or applications filed before the Commission issues any final guidance, *id.* P 2, and the Commission is not required to do so. See *Healthy Gulf v. FERC*, 107 F.4th 1033, 1040-41 (D.C. Cir. 2024) (upholding the Commission's decision not to apply the draft policy statements); *Ala. Mun. Distribs. Grp. v. FERC*, 100 F.4th 207, 214-15 (D.C. Cir. 2024) (same).

to appropriately consider 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 an applicant proposing new projects is that the applicant 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 have on the applicant's existing customers, existing pipelines in the market and their captive customers, and landowners and communities affected by the route of the new pipeline facilities. 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 complete the environmental analysis, where other interests are considered.

1. No Subsidy Requirement and Project Need

11. As discussed above, the threshold requirement for pipelines proposing new projects is that the applicant must be prepared to financially support the project without relying on subsidization from its existing customers. Ascent and BP question whether Rover's existing customers could subsidize the project.²³ We are satisfied that Rover's existing customers will not bear any of the costs associated with Rover's proposal. ETC Northeast has agreed to reimburse Rover for the cost of constructing the project.²⁴ Moreover, Rover does not propose any new or revised rates or fuel charges related to the project. Accordingly, we find that there will be no subsidization of the project by existing customers. Additionally, we find that Rover has demonstrated a need for the project as no existing pipeline in the area can transport gas volumes from Rover to the ETC Northeast facility.²⁵

2. Impacts on Existing Customers, Existing Pipelines and Their Customers, and Landowners and Surrounding Communities

12. Ascent and BP assert that: (1) Rover's proposed transportation may violate the shipper-must-hold-title rule because it is unclear who would hold title to the gas as it

²³ Ascent EOT at 3; *see* BP Apr. 15, 2024 Comments at 3-4.

²⁴ *Supra* P 4.

²⁵ Application at 7.

moves through the Revolution Cryogenic Facility; and (2) shippers downstream of the processing plant may suffer operational and economic harm because ETC Northeast's removal of NGLs would reduce the volume and heat content of the gas that is re-delivered to Rover.²⁶ BP contends that Rover's shippers do not appear to benefit from the extraction of NGLs. It argues that it is unclear how Rover could adequately compensate its shippers were ETC Northeast allowed to remove high-value NGLs from Rover's gas stream and replace it with "lower-value methane."²⁷ In reply, Rover states that (1) shippers will continue to hold title to the gas as it flows through the Revolution Cryogenic Facility; (2) ETC Northeast would make up any gas volumes lost to shrinkage; (3) Rover's tariff guarantees that gas transported on its pipeline will fall within a specified heat content range; and (4) the value of any extracted ethane—which would be removed via non-jurisdictional processing—is reflected in the discounted rates Rover charges shippers.²⁸ Last, Rover notes that none of the commenting shippers allege that they will move gas through the Bulger Meter Station or ETC Northeast's processing plant.²⁹

13. The concerns expressed by Ascent and BP are premature and beyond the scope of this proceeding. This order evaluates only whether construction and operation of a discrete facility—the Bulger Meter Station—is in the public convenience and necessity. Neither Ascent nor BP deliver natural gas into Rover upstream of the proposed meter station and therefore will not be affected by the removal of NGLs from gas that is routed through the non-jurisdictional Revolution Cryogenic Facility and redelivered onto Rover's system.³⁰ Issues regarding what, if any, compensation Rover may owe its shippers for the extraction of hydrocarbons are best addressed in an NGA section 4 or 5 proceeding.³¹ Furthermore, allegations that Rover is in violation of its tariff or the

²⁶ Ascent EOT at 3; BP Apr. 10, 2024 Comments at 2.

²⁷ BP Apr. 15, 2024 Comments at 1-4.

²⁸ Rover Apr. 10, 2024 Answer at 7-9; Rover May 28, 2024 Answer at 3-4.

²⁹ Rover states that Range Resources is the only firm shipper currently upstream of the proposed Bulger Meter Station delivery point. Rover May 10, 2024 Data Response at 1. Range Resources has not filed comments in this proceeding.

³⁰ *Id.*

³¹ See *Williams Nat. Gas Co.*, 56 FERC ¶ 61,089, at 61,310-11 (1991), 60 FERC ¶ 61,142, at 61,525 (1992) (*order on reh'g*) (rate proceeding explaining that issues related to "various processing and transportation arrangements" and tariff interpretation would best be sorted during "the rate design phase"); *N. Nat. Gas Co.*, 59 FERC ¶ 61,143, at 61,528-29 (1992) (rate proceeding requiring Northern Natural to modify its tariff so that shippers could receive a credit for revenues generated by Northern Natural's sale of

Commission's policies, including the shipper-must-hold-title requirement or the requirement that shippers receive the thermally equivalent volumes of gas that they deliver into the pipeline, are best addressed in a complaint proceeding.³² We note that, as discussed above, neither Ascent nor BP moves gas through the facilities at issue here and, further, that no shipper that uses this transportation path has objected to the proposed project. Therefore, we find that construction and operation of the Rover-Bulger Meter Station will not adversely affect service to Rover's existing customers.

14. Additionally, the proposed project will not create any additional capacity and thus will not replace service on other pipelines. Therefore, we find that the project will not impact other pipelines or their captive customers.

15. We are also satisfied that Rover has taken appropriate steps to minimize adverse economic impacts on landowners and surrounding communities, as the Bulger Meter Station will be located entirely within the existing Bulger Compressor Station fence line and Rover will not require new workspace for construction.

16. We find that Rover has demonstrated a need for the project, and, further, that the project will not have adverse economic impacts on existing shippers or other pipelines and their existing customers and that the project's benefits will outweigh any adverse economic effects on landowners and surrounding communities. Therefore, we conclude that the project is consistent with the criteria set forth in the Certificate Policy Statement and analyze the environmental impacts of the project below.³³

B. Environmental Analysis

17. On April 2, 2024, the Commission issued a *Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed Rover-Bulger Delivery Meter*

extracted products or enter into independent contracts with third-party processing plants); *see also Trunkline Gas Co.*, 87 FERC ¶ 61,146, at 61,604-10 (1999) (rate proceeding remanding case for further ALJ proceedings because Trunkline's tariff provision related to gas processing was vague and to determine whether shippers should receive rate credits).

³² 18 C.F.R. § 385.206 (2024) ("Any person may file a complaint seeking Commission action against any other person alleged to be in contravention or violation of any statute, rule, order, or other law administered by the Commission, or for any other alleged wrong over which the Commission may have jurisdiction.").

³³ *See* Certificate Policy Statement, 88 FERC at 61,745-46 (explaining that only when the project benefits outweigh the adverse effects on the economic interests will the Commission then complete the environmental analysis).

Station Project. The notice was published in the *Federal Register*³⁴ and mailed to interested parties including federal, state, and local officials; agency representatives; environmental and public interest groups; Native American Tribes; local libraries and newspapers; and potentially affected property owners. In response, the Board of Supervisors of Smith Township, Pennsylvania filed a comment stating that it had received complaints from residents and individuals from adjoining municipalities regarding noise from Rover's local operations.³⁵

18. On May 17, 2024, the Commission issued a *Notice of Schedule for the Preparation of an Environmental Assessment for the Rover-Bulger Delivery Meter Station Project*. The notice was published in the *Federal Register* on May 23, 2024,³⁶ and mailed to stakeholders on the project's environmental mailing list.

19. To satisfy the requirements of the National Environmental Policy Act of 1969 (NEPA),³⁷ Commission staff prepared an EA for the proposed project, which was issued on July 15, 2024. The notice of availability of the EA was published in the *Federal Register* and established a 30-day comment period.³⁸ The notice was mailed to interested

³⁴ 89 Fed. Reg. 24470 (Apr. 8, 2024).

³⁵ Board of Supervisors of Smith Township, Pennsylvania May 9, 2024 Comments.

³⁶ 89 Fed. Reg. 45654 (May 23, 2024).

³⁷ 42 U.S.C. §§ 4321 *et seq.*; *see also* 18 C.F.R. pt. 380 (2024) (Commission's regulations implementing NEPA). On May 1, 2024, the Council on Environmental Quality (CEQ) issued updated regulations that went into effect for new NEPA processes begun after July 1, 2024. 40 C.F.R. § 1506.12 (2024). This action is subject to CEQ's previous regulations; thus, citations throughout this order will refer to the 2023 regulations. *See* 18 C.F.R. § 380.1 (stating that the Commission will comply with CEQ regulations); *but see Marin Audubon Society v. FAA*, No. 23-1067, 2024 WL 4745044, Slip op. at 20 (D.C. Cir. Nov. 12, 2024) (holding that CEQ had no lawful authority to promulgate binding regulations and questioning but not deciding whether another agency could permissibly adopt CEQ's regulations or incorporate them by reference).

³⁸ 89 Fed. Reg. 59080 (Jul. 22, 2024). The U.S. Environmental Protection Agency (EPA) filed comments on the EA, requesting that the Commission revise the EA to include six citations from the body of the EA that were omitted from the References section (Section F) and to fix a malfunctioning hyperlink. The references omitted from Section F of the EA can be found in the references for the environmental report in Rover's application or are readily accessible online. Application at Environmental Report at 66; *see also* Greenhouse Gas Reporting Rule: 2015 Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems,

parties including federal, state, and local officials; agency representatives; environmental and public interest groups; Native American Tribes; local libraries and newspapers; and affected property owners. The analysis in the EA addresses geology, soils, water resources, vegetation, wildlife, threatened and endangered species, land use, visual resources, cultural resources, air quality, noise, safety, environmental justice,³⁹ cumulative impacts, and alternatives. The analysis in the EA addressed all substantive environmental comments and concluded that the project would not constitute a major federal action significantly affecting the quality of the human environment.⁴⁰

1. Environmental Justice

20. In conducting NEPA reviews of proposed natural gas projects, the Commission follows Executive Orders (EO) 12,898 and 14,096, which direct federal agencies to identify and address disproportionate and adverse human health or environmental effects

80 Fed. Reg. 64262 (Oct. 22, 2015) (codified at 40 C.F.R. pt. 98); Pennsylvania Department of Conservation and Natural Resources, *Physiographic Provinces of Pennsylvania* (2000), https://elibrary.dcnr.pa.gov/GetDocument?docId=1752507&DocName=Map13_PhysProvs_Pa.pdf; EPA, *De Minimis Tables* (June 2024), <https://www.epa.gov/general-conformity/de-minimis-tables>; EPA, *NAAQS Table* (Feb. 2024), <https://www.epa.gov/criteria-air-pollutants/naaqs-table>; U.S. Energy Information Administration, *State Energy-Related Carbon Dioxide Emissions by Year (1970-2021)*, <https://www.eia.gov/environment/emissions/state/excel/table1.xlsx>. These clarifications do not change the analysis or conclusions of the EA.

³⁹ Under NEPA, the Commission considers impacts to all potentially affected communities. Consistent with Executive Order 12,898 and Executive Order 14,008, the Commission separately identifies and addresses disproportionate and adverse human health or environmental effects on environmental justice communities. Exec. Order No. 12,898, 59 Fed. Reg. 7629 (Feb. 11, 1994); Exec. Order No. 14,008, 86 Fed. Reg. 7619 (Jan. 27, 2021). *See infra* PP 56-71.

⁴⁰ EA at 39. Commission staff could not determine whether the impacts from greenhouse gas emissions attributable to the project would be significant or insignificant. *Id.* at 35; *see* 42 U.S.C. § 4336(b)(2) (“An agency shall prepare an environmental assessment with respect to a proposed agency action that does not have a reasonably foreseeable significant effect on the quality of the human environment, or if the significance of such effect is unknown....”). We note that NEPA does not require the Commission to classify every environmental impact as significant or insignificant, *see Food & Water Watch v. FERC*, 104 F.4th 336, 346 (D.C. Cir. 2024); *see also Transcon. Gas Pipe Line Co., LLC*, 187 FERC ¶ 61,200, at P 33 (2024) (applying *Food & Water Watch* in the context of an environmental assessment).

of their actions on environmental justice communities.⁴¹ EO 14,008 also directs agencies to develop “programs, policies, and activities to address the disproportionate and adverse human health, environmental, climate-related and other cumulative impacts on disadvantaged communities, as well as the accompanying economic challenges of such impacts.”⁴² Environmental justice is the “fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.”⁴³

21. Consistent with the Council on Environmental Quality (CEQ)⁴⁴ and

⁴¹ Exec. Order No. 12,898, 59 Fed. Reg. 7629 (Feb. 11, 1994); Exec. Order No. 14,096, 88 Fed. Reg. 25251 (Apr. 21, 2023).

⁴² Exec. Order No. 14,008, 86 Fed. Reg. 7619, at 7629 (Jan. 27, 2021). The term “environmental justice community” includes communities that have been historically marginalized and overburdened by pollution. *Id.* at 7629. The term also includes, but may not be limited to minority populations, low-income populations, or indigenous people. *See* EPA, *EJ 2020 Glossary* (Feb. 20, 2024), <https://www.epa.gov/system/files/documents/2024-02/ej-2020-glossary.pdf>.

⁴³ *See* EPA, *EJ 2020 Glossary* (Feb. 2024), <https://www.epa.gov/system/files/documents/2024-02/ej-2020-glossary.pdf>. Fair treatment means that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental, and commercial operations or policies. *Id.* Meaningful involvement of potentially affected environmental justice community residents means: (1) people have an appropriate opportunity to participate in decisions about a proposed activity that may affect their environment and/or health; (2) the public’s contributions can influence the regulatory agency’s decision; (3) community concerns will be considered in the decision-making process; and (4) decision makers will seek out and facilitate the involvement of those potentially affected. *Id.*

⁴⁴ CEQ, *Environmental Justice: Guidance Under the National Environmental Policy Act* (Dec. 1997) (CEQ’s *Environmental Justice Guidance*), <https://ceq.doe.gov/docs/ceq-regulations-and-guidance/regs/justice.pdf>. CEQ offers recommendations on how federal agencies can provide opportunities for effective community participation in the NEPA process, including identifying potential effects and mitigation measures in consultation with affected communities and improving the accessibility of public meetings, crucial documents, and notices. There were multiple opportunities for public involvement during the Commission’s environmental review processes. The Commission issued the Notice of Application and the Notice of Scoping (NOS), which were published in the *Federal Register* on March 26, 2024, and April 8, 2024,

EPA⁴⁵ guidance and recommendations, the Commission's methodology for assessing environmental justice impacts considers: (1) whether environmental justice communities (e.g., minority or low-income populations)⁴⁶ exist in the project area; (2) whether impacts on environmental justice communities are disproportionate and adverse; and (3) possible mitigation measures. As recommended in *Promising Practices*, the Commission uses the 50% and the meaningful greater analysis methods to identify minority populations.⁴⁷ Specifically, a minority population is present where either: (1) the aggregate minority population of the block groups in the affected area exceeds 50%; or (2) the aggregate minority population in the block group affected is 10% higher than the aggregate minority population percentage in the county.⁴⁸

22. CEQ's *Environmental Justice Guidance* also directs low-income populations to be identified based on the annual statistical poverty thresholds from the U.S. Census Bureau. Using *Promising Practices*' low-income threshold criteria method, low-income populations are identified as block groups where the percent of a low-income population in the identified block group is equal to or greater than that of the county.

23. To identify potential environmental justice communities during preparation of the EA, Commission staff used 2022 U.S. Census American Community Survey data⁴⁹ for

respectively, and the NOS was mailed to the environmental mailing list. 89 Fed. Reg. 20958 (Mar. 26, 2024); 89 Fed. Reg. 24,470 (Apr. 8, 2024). A Notice of Availability of the EA was published in the *Federal Register*, 89 Fed. Reg. 59080 (Jul. 22, 2024), and was mailed to the environmental mailing list, specifically seeking comments on the EA. Additionally, representatives from Rover held an onsite meeting with the Chairman of the Smith Township Board of Supervisors on February 26, 2024, to review the layout of the proposed metering site and associated equipment as it relates to existing conditions.

⁴⁵ See generally EPA, *Promising Practices for EJ Methodologies in NEPA Reviews* (Mar. 2016) (*Promising Practices*), https://www.epa.gov/sites/default/files/2016-08/documents/nepa_promising_practices_document_2016.pdf.

⁴⁶ See generally, Exec. Order No. 12,898, 59 Fed. Reg. 7629 (Feb. 16, 1994). Minority populations are those groups that include: American Indian or Alaskan Native; Asian or Pacific Islander; Black, not of Hispanic origin; or Hispanic.

⁴⁷ See *Promising Practices* at 21-25.

⁴⁸ Here, Commission staff selected Washington County, Pennsylvania, as the reference community to ensure that affected environmental justice communities are properly identified. EA at 18.

⁴⁹ U.S. Census Bureau, American Community Survey 2022 ACS 5-Year Estimates

the race, ethnicity, and poverty data at the state, county, and block group level.⁵⁰ Additionally, in accordance with *Promising Practices*, staff used EJScreen, EPA's environmental justice mapping and screening tool, as an initial step to gather information regarding minority and low-income populations; potential environmental quality issues; environmental and demographic indicators; and other important factors.⁵¹

24. Once staff collected the block group level data, as discussed in further detail below, staff conducted an impacts analysis for the identified environmental justice communities and evaluated health or environmental hazards, the natural physical environment, and associated social, economic, and cultural factors to determine whether impacts were disproportionate and adverse on environmental justice communities and also whether those impacts were significant.⁵² Commission staff assessed whether impacts on an environmental justice community were disproportionate and adverse based on whether those impacts were predominately borne by that community, consistent with EPA's recommendations in *Promising Practices*.⁵³

Detailed Tables, File# B17017, Poverty Status in the Past 12 Months by Household Type by Age of Householder, <https://data.census.gov/cedsci/table?q=B17017>; File #B03002 Hispanic or Latino Origin By Race, <https://data.census.gov/cedsci/table?q=b03002>.

⁵⁰ For this project, Commission staff determined that one mile from the Project boundaries was the appropriate unit of geographic analysis for assessing project impacts on the environmental justice communities. This distance is sufficiently broad considering the likely concentration of impacts proximal to the proposed workspaces, construction methodologies, and facility alignments. See EA at 18.

⁵¹ EPA, *Purposes and Uses of EJScreen* (Jan. 9, 2024) <https://www.epa.gov/ejscreen/purposes-and-uses-ejscreen> (“Screening tools should be used for a ‘screening-level’ look. Screening is a useful first step in understanding or highlighting locations that may be candidates for further review.”).

⁵² An agency may determine that impacts are disproportionate and adverse, but not significant within the meaning of NEPA and in other circumstances an agency may determine that an impact is *both* disproportionate and adverse and significant within the meaning of NEPA. See *Promising Practices* at 33.

⁵³ There are various approaches to determining whether an action will cause a disproportionate and adverse impact. One recommended approach is to consider whether an impact would be “predominantly borne by minority populations or low-income populations.” See *id.* at 44-46.

25. The Commission's environmental staff identified four block groups within the geographic scope of analysis (one mile),⁵⁴ of which three block groups exceeded the defined threshold for minority or low-income communities and are therefore environmental justice communities.⁵⁵ No project activities occur within environmental justice communities. The distance from the project area to the nearest residence within a block group identified as an environmental justice community is approximately 0.6 mile.⁵⁶

26. The EA's discussion of impacts on the identified environmental justice communities in proximity to the proposed facilities focuses on traffic, visual, air quality, and noise impacts from the construction of the meter station.⁵⁷ The EA does not focus on environmental justice concerns for other resource areas due to the minimal overall impact the project would have on those resource areas.

27. As described in the EA, the project would have a range of construction-related impacts on the environment and on individuals living in the vicinity of the proposed facilities.⁵⁸ Because the proposed meter station is sited in a community that is not an environmental justice community and the magnitude and intensity of impacts would be greater for individuals and residences closest to the project's facilities and would diminish with distance,⁵⁹ a majority of project-related impacts would not affect environmental justice communities.⁶⁰ Accordingly, the EA concludes, and we agree, that impacts associated with the construction of the delivery meter station on environmental justice communities would not be disproportionate and adverse as they would not be predominately borne by environmental justice communities. Due to the small scale of the project, short construction period, small workforce, and the project's distance from residential areas, project impacts on environmental justice communities

⁵⁴ Staff used one mile as the appropriate unit of geographic analysis, which captured the likely concentration of air emissions, noise, and traffic impacts proximal to the proposed meter station. EA at 18.

⁵⁵ *See id.* at tbl. B.7-1 at 19.

⁵⁶ *Id.* at 18; *see also id.* at fig. B.7-1 at 20 (map of communities within one mile of the project area).

⁵⁷ *See id.* at 21-23.

⁵⁸ *Id.* at 23.

⁵⁹ *Id.* at 21.

⁶⁰ *Id.*

associated with increased traffic, visual, noise, and air quality would be temporary and less than significant.⁶¹

2. Environmental Analysis Conclusion

28. We have reviewed the information and analysis contained in the EA, as well as the other information in the record, regarding potential environmental effects of the project. We accept the environmental recommendations in the EA and are including them as conditions in an appendix to this order. Based on the analysis in the EA, as supplemented or clarified herein,⁶² we conclude that, if constructed and operated in accordance with Rover's application and supplements, and in compliance with the environmental conditions in the appendix to this order, our approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

IV. Conclusion

29. The proposed project will allow Rover to deliver ethane-rich natural gas to ETC Northeast, which will extract high-value NGLs for use in other applications before returning the gas to Rover's pipeline for transportation downstream. We find that Rover has demonstrated a need for the proposed project, that the project will not have adverse economic impacts on existing shippers or other pipelines and their existing customers, and that the project's benefits will outweigh any adverse economic effects on landowners and surrounding communities. Based on the discussion above, we find that, under section 7 of the NGA, the public convenience and necessity requires approval of the project, subject to the conditions in this order.

30. 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. Only when satisfied that the applicant has complied with all applicable conditions will a notice to proceed with the activity to which the conditions are relevant be issued. 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

⁶¹ *Id.*

⁶² Although the analysis in the EA provides substantial evidence for our conclusions in this order, it is the order itself that serves as our record of decision. The order supersedes any inconsistent discussion, analysis, or finding in the EA.

conditions of the order, as well as the avoidance or mitigation of unforeseen adverse environmental impacts resulting from project construction and operation.

31. 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 or operation of facilities approved by this Commission.⁶³

32. 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 Rover to construct and operate the Rover-Bulger Delivery Meter Station Project, as described and conditioned herein, and as more fully described in the application and subsequent filings by the applicant, including any commitments made therein.

(B) The certificate authority issued in Ordering Paragraph (A) is conditioned on Rover:

- (1) completing construction of the proposed facilities and making them available for service within two years of the date of this order pursuant to section 157.20(b) of the Commission's regulations;
- (2) complying 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; and
- (3) complying with the environmental conditions listed in the appendix to this order.

⁶³ See 15 U.S.C. § 717r(d) (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); *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).

(C) Rover shall notify the Commission's environmental staff by telephone or e-mail of any environmental noncompliance identified by itself or by other federal, state, or local agencies on the same day that any such agency notifies Rover. Rover shall file written confirmation of such notification with the Secretary of the Commission (Secretary) within 24 hours.

By the Commission.

(S E A L)

Debbie-Anne A. Reese,
Secretary.

Appendix

Environmental Conditions

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

1. Rover 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. Rover 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 Energy Projects (OEP), or the Director's designee, **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 construction, operation and activities associated with abandonment 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 unforeseen adverse environmental impact resulting from Project construction, operation and abandonment activities.

3. **Prior to any construction**, Rover 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 construction and restoration activities.

4. The authorized facility locations shall be as shown in the EA. **As soon as they are available, and before the start of construction**, Rover 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.

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

5. Rover 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, or the Director's designee, **before construction in or near that area**.

This requirement does not apply to extra workspace allowed by the FERC *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. **Within 60 days of the Order and before construction/abandonment by removal begins**, Rover shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP, or the Director's designee. Rover must file revisions to the plan as schedules change. The plan shall identify:
- a. how Rover 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 Rover 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 per spread, and how the company 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 Rover 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 Rover's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) Rover will follow if noncompliance occurs; and
 - h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
 - (1) the completion of all required surveys and reports;
 - (2) the environmental compliance training of onsite personnel;
 - (3) the start of construction; and
 - (4) the start and completion of restoration.

7. Rover 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. 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
 - e. responsible for maintaining status reports.

8. Beginning with the filing of its Implementation Plan, Rover shall file updated status reports with the Secretary on a **monthly** basis until all construction, abandonment by removal, and restoration activities are complete. On request, these status reports shall also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
 - a. an update on Rover's efforts to obtain 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 EI 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 Rover from other federal, state, or local permitting agencies concerning instances of noncompliance, and Rover's response.
9. Rover must receive written authorization from the Director of OEP, or the Director's designee, **before commencing Project construction activities**. To obtain such authorization, Rover must file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
10. Rover must receive written authorization from the Director of OEP, or the Director's designee, **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.
11. **Within 30 days of placing the authorized facilities in service**, Rover 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 conditions in the Order Rover 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.
12. Rover shall file a noise survey with the Secretary **no later than 60 days** after placing the Bulger Delivery Meter Station into service. During the survey, both the Meter Station and Compressor Station shall be at full flow conditions. If a full flow rate noise survey at the station's maximum design capacity is not possible, Rover shall provide an interim survey at the maximum possible flow rate and provide the full flow rate survey **within 6 months**. If the noise attributable to the operation of the Bulger Delivery Meter Station and the Bulger Compressor Station exceeds a day-night noise level of 55 decibels on the A-weighted scale at any nearby noise-sensitive areas, Rover shall file a report on what changes are needed and shall install additional noise controls to meet the level **within 1 year** of the in-service date. Rover shall confirm compliance with this requirement by filing a

second noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.