COMMENTS OF INSTITUTE FOR ENERGY ECONOMICS AND FINANCIAL ANALYSIS ON ENVIRONMENTAL ANALYSIS DOCUMENT ISSUED BY FERC REGARDING PROPOSED CONSTITUTION PIPELINE PROJECT
Docket Nos. CP13-499-006 and CP13-502-0003
September 18, 2026

The Institute for Energy Economics and Financial Analysis (IEEFA) provides the following comments on the Environmental Analysis (EA) issued by the Federal Energy Regulatory Commission (FERC) in evaluating whether to grant the proposed Constitution Pipeline project a Certificate of Public Convenience and Necessity under the Natural Gas Act (NGA).

The EA erroneously concludes the National Environmental Policy Act (NEPA) does not require the agency to prepare a supplemental Environmental Impact Statement (EIS) for the project. FERC's analysis, however, is incomplete. IEEFA urges that:

- FERC should more vigorously scrutinize the pipeline project's necessity, especially given that approval would grant the sponsor the right to exercise the power of eminent domain over land in the pipeline's path.
- FERC must analyze significant changes to market conditions for the Constitution project that have occurred during the 12 years since FERC issued the original EIS.
- FERC must analyze alternatives to the project in light of new information and changed circumstances and also consider the long-term impacts of locking in fossil fuel as an energy source.

A supplemental EIS is needed to examine these issues and determine whether the project serves a public necessity, not merely a private purpose.

Background

The proposed Constitution Pipeline Project entails construction of about 125 miles of 30-inch-diameter natural gas pipeline, along with access roads and other appurtenant facilities.[1,2] The affected counties include: Susquehanna County in Pennsylvania, and Broome, Chenango, Delaware, and Schoharie Counties in New York.[3] The project is designed to deliver up to 650,000 dekatherms per day (Dth/day) to interconnects with the Tennessee Gas Pipeline Company, LLC, and the Iroquois systems at the existing Wright Compressor Station.[4] The New York State Department of Environmental Conservation (DEC) estimates the project would affect

[1] FERC. Notice of Environmental Analysis. Accession no. 20260821=3024. August 21, 2026, p. 2.
[2] In association with this project, the existing Wright Compressor Station would be expanded, adding 22,000 horsepower of incremental compression. *Ibid*., p. 2.
[3] FERC. Environmental Analysis. Accession no. 20260821-3005. August 21, 2026 (hereafter, "EA"), p. 1.
[4] Constitution, LLC. Petition for Reissuance of Certificate Authority and Reaffirmance of Waiver Determination. *Matter of Constitution Pipeline Co*., *LLC*. Docket Nos. CP13-499-006 and CP18-5-005. FERC Accession No. 20251219-5626. December 19, 2025 (hereafter, "Petition").

over 300 streams, over 80 acres of freshwater wetlands, and roughly 500 acres of forest area surrounding streams and wetlands.[5]

The federal Natural Gas Act requires FERC to determine whether the proposed Constitution Pipeline should be issued a Certificate of Public Convenience and Necessity to allow construction and operation of the project.[6] As FERC explains, "the Commission bases its decisions on both economic issues, including need, and environmental effects."[7]

FERC should more vigorously scrutinize the pipeline project's necessity, especially given that approval would grant the sponsor the right to exercise the power of eminent domain on land in the pipeline's path

Normally, the power to take land for a purpose, known as eminent domain, is exercised directly by government. When FERC grants a Certificate of Public Convenience and Necessity to a pipeline project, however, the agency directly empowers the project sponsor to take land or easement rights through eminent domain from anyone whose property lies in the pipeline's path.[8] Such a consequence should not be taken lightly.

A landowner threatened by eminent domain must undergo an unbalanced negotiation process, knowing that failure to reach agreement means facing the pipeline company in court. Such a landowner, the D.C. Circuit Court of Appeals has observed, "is injured in fact when she is put to the choice of having to either reach an agreement with a pipeline seeking to access her property, or have her property condemned," and the fact that the developer will compensate the landowner "does nothing to erase" the landowner's injury.[9]

A landowner is disadvantaged when the use of eminent domain results in construction-related property damage. Also, a landowner forced to accept a pipeline on his or her property suffers a limitation of autonomy in determining future uses of the land. Such a landowner must, for the life of the pipeline easement, share the rights to the land with a corporation whose interests may not be consistent with those of the owner.

[5] DEC. Comments of New York State Department of Environmental Conservation regarding environmental review of Constitution Pipeline and Wright Interconnect Projects, docket numbers CP13-449-006 and CP13-502-003. Accession no. 20260813-5052. August 13, 2026 (hereafter, "DEC Comments"), p. 3.
[6] See, Natural Gas Act, § 7(c) 15 USC § 717F(c).
[7] EA, p. 2.
[8] 15 USC § 717f(h). Congress added this provision as an amendment in 1947.
[9] *City of Oberlin v. FERC*, 937 F.2d 599, 604 (D.C. Cir. 2019).

The U.S. Supreme Court states public convenience and necessity "connotes a flexible balancing process, in the course of which all the factors are weighted prior to final determination." This balancing process includes consideration of "all factors bearing on the public interest."[10]

The key word here is "public." The fact that a private developer wants to get gas from a production field to a distribution system should not be enough—the pipeline should fill a public need.

FERC should produce a supplemental EIS to update the information and analysis on which it makes its decision on the pipeline project

NEPA requires FERC to make its decision based on a current, accurate assessment of environmental conditions.[11] The agency must prepare a supplemental EIS when significant new information or changed circumstances arise. FERC's guidance document for NEPA compliance states that its staff will prepare a supplemental EIS if:

> "(a) substantial changes to the proposed action are made that are relevant to environmental concerns; or (b) there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its effects."[12]

In the case of the Constitution Pipeline, a supplemental EIS is necessary.

The Constitution Pipeline Company, LLC, a subsidiary of the Williams Company and sponsor of the project, submitted an application to FERC on June 13, 2013.[13] FERC issued a final EIS for the project on October 24, 2014.[14] In 2020, Constitution notified FERC that the project would not go forward.[15] FERC's authorization for the project expired on December 3, 2020, for failure to complete construction. Also, the federal Second Circuit Court of Appeals vacated the already-expired certificate in November 2021.[16]

On December 19, 2025, Constitution filed a petition asking FERC to reissue the Certificate of Public Convenience and Necessity for the Constitution Pipeline.[17] FERC issued an EA asserting that no supplemental EIS was needed to update the 2014 analysis.

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[10] *Federal Power Comm'n v. Transcontinental Gas Corp.*, 365 U.S. 1, 8 and 24 (1961).
[11] See NEPA, 42 USC §§ 4321-4347. Also see *Marsh v. Oregon Nat. Res. Council*, 490 US 360, 372-77 (1989).
[12] FERC. Staff Guidance Manual on Implementation of the National Environmental Policy Act. June 2025, p. 14 (Section D3).
[13] *Constitution Pipeline Co., LLC*, Application for Certificate of Public Convenience and Necessity. Docket No. CP13-499, Accession No. 20130613-5078. Also see: EA, p. 1.
[14] FERC. Final Environmental Impact Statement re Constitution Pipeline and Wright Interconnect Projects. Docket Nos. CP13-499-000 and CP13-502-000. Accession No. 20141202-4011. October 24, 2014 (hereafter, "2014 FEIS"). Also see: EA, p. 1.
[15] Constitution Pipeline Co. LLC. Constitution Pipeline Project Status Update and Final Monitoring Report. Docket No. CP13-499. Accession No. 20201124-5181. Also see: EA, p. 1.
[16] Order, *New York State Dept. of Envtl. Conservation v. Federal Energy Reg. Commission*, No. 19-4338 (2d. Circ. Nov. 18, 2021).
[17] See Petition.

NEPA does not lay down a hard timeline for how long an EIS is deemed reliable, but a clue can be gleaned from NEPA § 108, which heightens scrutiny if an EIS for an agency's program is more than five years old. The statute declares an agency may rely on an EIS analysis issued for its own program in a subsequent related action if the new document is produced:

> "(1) Within 5 years and without additional review of the analysis…, unless there are substantial new circumstances or information about the significance of adverse effects that bear on the analysis.
> (2) After 5 years, so long as the agency reevaluates the analysis … and any underlying assumption to ensure reliance on the analysis remains valid."[18]

In this case, the 2014 EIS is roughly a dozen years old—more than double the threshold contemplated in NEPA for heightened scrutiny. Several comments on the EA identify significant changes that have occurred since the 2014 FEIS was released, including, for example, changes in New York State regulations defining wetlands and classifications of species as endangered.[19]

IEEFA identifies additional factors that FERC must update and analyze in a supplemental EIS.

FERC must analyze changes to market conditions for the project that have occurred during the twelve years since FERC issued the original EIS

Constitution LLC supplied a market analysis in connection with its 2025 Petition, but FERC summarily dismisses public comments on the EA scope raising market issues, asserting, "The Commission will ultimately determine in its Order whether Petitioners have demonstrated market need to satisfy the public convenience and necessity standard."[20] This is an inadequate response. Project need is a key consideration not only under the NGA but also under NEPA.

FERC must consider market need in evaluating the "no action" alternative under NEPA. NEPA's statutory language requires an agency, before taking a major federal action, to analyze reasonably foreseeable environmental effects of the proposed agency action and:

> "…a reasonable range of alternatives to the proposed agency action, including an analysis of any negative environmental impacts of not implementing the proposed agency action in the case of a no action alternative, that are technically and economically feasible, and meet the purpose and need of the proposal."[21]

[18] 42 USC § 4336b(1) and (2).
[19] DEC Comments, p. 4.
[20] EA, p. 9.
[21] 42 USC § 4332(C)(i) and (iii). Also see: 18 CFR § 380.12(l)(1).

FERC's regulations recognize the duty to analyze the "no action" alternative of not building the proposed project,[22] stating that in its NEPA review, FERC must discuss "the potential for accomplishing the proposed objectives through the use of other systems and/or energy conservation."[23]

FERC acknowledges the Constitution Pipeline Project "is designed to deliver natural gas to the WIP [related Wright Interconnect Project], not to a liquefied natural gas export terminal."[24] The potential market is circumscribed by the pipeline and its delivery points. The proposed pipeline would terminate in New York's Schoharie County. There, it would connect with already-existing pipelines that transport gas into New England. Concerns have been raised that the existing pipelines are limited in their capacity to absorb more gas in high demand periods, calling into question the value of trying to add the proposed Constitution Pipeline's gas to that system.[25]

Constitution Inc. admits in its petition that it "has not yet executed contracts to replace the original precedent agreements for the Project that were terminated when Constitution allowed its certificate authorization to lapse in 2020," but asserts it "fully expects that the need for the Project will manifest itself in the form of binding contracts for the Project capacity," and it intends to execute such contracts before FERC issues an order on the Petition.[26] Such optimism, however, does not answer the question about the public need for the pipeline.

Bloomberg News reported in July 2026 that no utility has announced an agreement to buy gas from the Constitution project, or informed the New York State Department of Public Service that they need the project.[27] Bloomberg News also noted that Consolidated Edison Inc., a utility that serves much of downstate New York, stated it has no plans to buy gas from the Constitution pipeline, and two gas drillers who had agreed to ship fuel on the pipeline pursuant to the original application are no longer engaged with the project.[28]

The current market issues require close scrutiny in a supplemental EIS.

FERC must analyze the alternatives to the pipeline project and the long-term impacts of locking in fossil fuel as an energy source

Even if a public need is identified, FERC must analyze whether the Constitution Pipeline's gas is the appropriate solution to fill that need, taking into account the major shifts that have occurred in energy cost trends.

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[22] See 18 CFR § 380.7(b) and 18 CFR § 380.12(l)(1).
[23] 18 CFR §380.12(l)(1).
[24] EA, p. 3.
[25] See East Daley Analytics. Williams plays pipeline politics in Northeast. June 18, 2025. Boston Globe. Trump says the solution to high New England energy costs is a natural gas pipeline project. It's not nearly that simple. May 18, 2025.
[26] Petition, p. 29.
[27] Financial Post (Bloomberg News). Trump-backed gas pipeline to New York struggles for customers. July 23, 2026.
[28] *Ibid.*

FERC responded to public comments regarding renewable energy as an alternative by summarily proclaiming, "Staff's analysis and conclusions have not changed from what was presented in section 3.1 of the FEIS."[29] Such a conclusory statement deprives the public of the opportunity to examine and comment on FERC's factual investigation as well as its reasoning.

Substantial strides have been achieved in the availability, effectiveness, and cost of renewable energy and battery storage, while the costs of pipeline construction and gas-fired electricity production have spiked. Yet the EA fails to explain what factors the staff examined and why they found the changes so insignificant as to justify making no substantive change to its analysis or its conclusions.

NEPA requires FERC to conduct a socioeconomic effects analysis of the project.[30] Although Constitution LLC asserts that its gas supply will address the cost of high demand on the existing pipeline system, more gas is not the only alternative—and not the most practical and cost-effective alternative—to alleviate gas demand issues.

A supplemental EIS must analyze the impact of the rising costs of natural gas power production, compared with energy alternatives, on the price consumers pay for power.

IEEFA conducted an analysis this year finding that the economics of using natural gas for electricity are changing. While gas-fired generation has flourished in the past due to relatively low and stable capital costs for new turbines, the low cost of gas to run them, and the low cost of building the pipelines to deliver the gas to power plants, all three pillars of market competitiveness for gas appear to be crumbling.[31]

IEEFA found the cost for new gas-fired generation has spiked over the last couple years to roughly triple the cost of projects built in the early 2020s. Also, the growth of U.S. liquefied natural gas (LNG) exports could result in more persistent and long-term increases in the cost of gas itself, and further boost price volatility, meaning fuel costs for gas-fired electricity could rise significantly compared with past years, when fracking production was surging and exports were minimal.[32] IEEFA's report also cited the dramatic rise in pipeline construction costs. A 2025 analysis of data from FERC and the Energy Information Administration (EIA) by BTU Analytics found per-mile pipeline construction costs had jumped by 90% for projects completed or proposed since 2024 compared to those completed before that year.[33]

Finally, IEEFA's report noted, new gas-burning projects would not be ready for years, and the major turbine manufacturers have essentially sold out their combined-cycle capacity through

[29] EA, p. 12.
[30] 18 CFR 380.12(g).
[31] IEEFA. The Misguided Stampede to Build Gas Power Plants. April 2026.
[32] *Ibid*.
[33] BTU Analytics. Rising natural gas pipeline prices and their impact on tariff rates. May 19, 2025.

2030.[34] With labor scarcity and other constraints, the risk of project delays is a practical concern.

In contrast, IEEFA found, wind and solar costs are not tracking the rapid upward climb of gas-powered energy. The hardware is readily available, so projects can be built in 18 to 36 months. Dispatchable battery storage continues to benefit from declining capital costs, extending the value of renewable energy by improving reliability and availability. Without the need to cover fuel costs, renewables now offer firm power and fixed costs on short development timelines.[35]

Construction of the Constitution Pipeline would have the effect of "locking in" more expensive and polluting fossil fuel use at a time when a cheaper and lower-carbon energy system is needed. A 2015 analysis of the carbon "lock-in" problem noted:

> "By investing in assets prone to lock-in, planners and investors restrict future flexibility and increase the costs of achieving agreed climate protection goals."[36]

The problem is magnified, year by year, as new infrastructure comes online.[37]

A supplemental EIS should analyze these factors in the context of the proposed project.

Conclusion

The Constitution Pipeline is a massive project that will have significant environmental and socioeconomic consequences. Its 2014 EIS must be updated with new information and a robust analysis of project need and alternatives.

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[34] IEEFA, *op. cit*.
[35] *Ibid*.
[36] P. Erickson, *et al.* Assessing carbon lock-in. Environmental Research Letters. 10:084023. 2015, p. 1. Also see K. Seto, *et al.* Carbon lock-in: types, causes and policy implications. Annual Review of Environment and Resources. 41:425-52. 2016, p. 428.
[37] See *e.g.*, H.D. Matthews. A growing commitment to future CO2 emissions. Environmental Research Letters. 9(11):111001. November 3, 2014.

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