

March 3, 2022

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

**RE: Perspectives of TC Energy, Enbridge, Williams and Kinder Morgan on domestic and global implications of new policy statements regarding interstate natural gas pipeline infrastructure in Docket Nos. PL21-3-000 and PL18-1-000**

Dear Chairman Glick and Commissioners:

Recent events have underscored the essential role U.S. natural gas and related infrastructure plays in meeting the energy security, and economic and environmental policy priorities of our nation and global allies. The importance of reliable access to natural gas has been vividly on display in Europe, and unfortunately remains an issue in the U.S. as well, due in large part to a lack of sufficient infrastructure. Unfortunately, the updated principles recently outlined by a majority on the Federal Energy Regulatory Commission (“FERC” or “Commission”) introduce more uncertainty – at exactly the wrong time – for the future of domestic and global energy security and stability.

We urge the Commission to immediately certificate the natural gas infrastructure projects pending before it and move to simplify the approval process instead of introducing new ambiguities. Over the last two decades, the Commission's stable, predictable policies have enabled prudent investments in infrastructure that delivered affordable and reliable supplies of natural gas, fueled the American economy and domestic energy independence, provided our allies abroad with alternative energy sources, and resulted in significant reductions in CO2 emissions. The Commission must act now to continue advancing these interests on behalf of the U.S. and its international allies.

Put simply, the Commission must consider the geopolitical realities facing the United States and its allies and do everything within its power to help the United States achieve energy security at home and global stability abroad.

European dependence on Russian natural gas exports is undermining efforts to deter Russian aggression. Countries around the world have denounced Russia's recent invasion of the sovereign European nation of Ukraine, with President Joe Biden stating that it “is a flagrant violation of international law” that

“demands a firm response from the international community.”<sup>1</sup> However, the United States’ European allies depend heavily on imported natural gas from Russia, with Germany, Italy, France, and Belarus importing significantly large volumes.<sup>2</sup> The European Union as a whole depends on Russia for around 40% of its natural gas.<sup>3</sup> Russia’s energy exports also represent a significant source of its financial strength and governmental spending power, with over a third of its national revenues coming from foreign energy sales.<sup>4</sup>

Russia is well aware of the “systemic importance”<sup>5</sup> it has over Europe vis-à-vis natural gas deliveries and has already demonstrated a willingness to use this dependence as political leverage.<sup>6</sup> Whether during today’s military conflict or in others that may follow, European leaders are recognizing their need to secure liquified natural gas (“LNG”) from more reliable and long-lasting sources, with some already committing to build additional energy infrastructure to combat both their energy vulnerability and Russia’s ability to fund its aggressive military operations.<sup>7</sup>

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<sup>1</sup> Amy Nakamura and Ledyard King, *Transcript: President Biden Delivers Remarks on U.S. Sanctions, Putin’s Advancements into Ukraine*, USA TODAY, Feb. 23, 2022, <https://www.usatoday.com/story/news/politics/2022/02/22/transcript-biden-sanctions-russia-ukraine/6896649001/>.

<sup>2</sup> See U.S. Energy Information Administration, *Country Analysis: Russia* (2021), <https://www.eia.gov/international/analysis/country/RUS> (noting that “in 2020, customers in Europe and Eurasia received approximately 89% of Russia’s 8.5 Tcf of natural gas exports; Germany, Italy, France, and Belarus received almost half of the volumes exported to Europe and Eurasia”); Nina Chestney, *Analysis-Russian Risks Stoke Fears for European Winter Gas Supplies*, U.S. NEWS, Feb. 25, 2022, <https://money.usnews.com/investing/news/articles/2022-02-25/analysis-russian-risks-stoke-fears-for-european-winter-gas-supplies> (noting that “Europe will need to secure large quantities of gas if it wants to avoid soaring prices and crippling energy bills next winter in the event of disruption to flows from Russia” and “Russia, which supplies around 40% of Europe’s gas, has said it will continue to deliver natural gas to world markets and analysts say sanctions against Russian gas imports in response to its invasion of Ukraine this week are unlikely.”) (“Russian Risks Analysis”)

<sup>3</sup> See Russian Risks Analysis.

<sup>4</sup> *Factbox: Russia’s Oil and Gas Revenue Windfall*, REUTERS, Jan. 21, 2022, <https://www.reuters.com/markets/europe/russias-oil-gas-revenue-windfall-2022-01-21/>; Patricia Cohen and Stanley Reed, *Why the Toughest Sanctions on Russia Are the Hardest for Europe to Wield*, N.Y. TIMES, Feb. 25, 2022, <https://www.nytimes.com/2022/02/25/business/economy/russia-europe-sanctions-gas-oil.html>.

<sup>5</sup> Press Briefing by Press Secretary Jen Psaki and Deputy National Security Advisor for International Economics and Deputy NEC Director Daleep Singh (Feb. 24, 2022), <https://www.whitehouse.gov/briefing-room/press-briefings/2022/02/24/press-briefing-by-press-secretary-jen-psaki-and-deputy-national-security-advisor-for-international-economics-and-deputy-nec-director-daleep-singh-february-24-2022/>.

<sup>6</sup> See Sam Meredith, *Russia Chooses Not to Raise Natural Gas Supplies to Europe Despite Putin’s Pledge to Help*, CNBC, Oct. 19, 2021, <https://www.cnbc.com/2021/10/19/energy-crisis-russia-opts-against-increasing-gas-supplies-to-europe.html>.

<sup>7</sup> See, e.g., Nikolaus J. Kurmayer, *Germany to Create Strategic Coal and Gas Reserves*, EURACTIV, Feb. 25, 2022, <https://www.euractiv.com/section/energy/news/germany-to-create-strategic-coal-and-gas-reserves/> (noting Germany’s intention to “diversify its supply” as a result of Russia’s attack on Ukraine, including “the additional construction of LNG terminals in Germany so that [Germany] can govern energy supply on [its] own state territory and guarantee sovereignty”); Daniel Michaels, *EU Energy Ministers Plan Response to Ukraine Crisis*, THE WALL STREET JOURNAL, Feb. 28, 2022, <https://www.wsj.com/livecoverage/russia-ukraine-latest-news-2022-02-28/card/diAZkMplAvYFhAYR6eE5>; *Germany to Push Ahead with Two LNG Terminals to Reduce Russian Gas Dependence: Scholz*, S&P GLOBAL, Feb. 27, 2022, <https://www.spglobal.com/commodity-insights/en/market-insights/latest-news/lng/022722-germany-to-push-ahead-with-two-lng-terminals-to-reduce-russian-gas-dependence-scholz>.

The real-world implications of these circumstances cannot be overstated, but they may be averted by enhancing access to domestic natural gas supplies and increasing LNG exports. President Biden recognized this over a month ago and called on LNG exporting nations to increase deliveries to the European Union.<sup>8</sup> The United States responded, supplying more than half of all LNG imports into Europe for the month of January 2022. In fact, “exports of LNG from the United States to EU-27 and the UK increased from 3.4 billion cubic feet per day (Bcf/d) in November 2021 to 6.5 Bcf/d in January 2022—the most LNG shipped to Europe from the United States on a monthly basis to date.”<sup>9</sup>

However, these volumes are not enough to break Europe’s dependency on Russian natural gas.<sup>10</sup> Fortunately, the United States has the means and the opportunity to do more. Applications for multiple interstate natural gas pipeline projects designed to feed LNG export facilities are ready for immediate certification before the Commission, with some having been pending for over one to two years. By certifying these projects and providing a clear regulatory path for other projects currently in development, the Commission can take a bold step toward protecting the United States’ allies and eliminating the leverage and profit that enables Russia’s international aggression. Projects that clearly meet the requirement for public convenience and necessity and have completed a Final Environmental Impact Statement must be allowed to proceed to support the United States’ allies with vast American supplies of low-cost and responsibly produced natural gas.

Increasing United States LNG exports will also counter Russia’s Asian interests and advance the United States’ climate goals. Russia and China recently reached an agreement under which Russia will supply 100 million metric tons of coal to China, which will enable China to continue opening new coal-fired power plants and add mightily to global emissions.<sup>11</sup> According to the U.S. Energy Information Administration, coal emits nearly twice as much CO<sub>2</sub> per BTU as natural gas.<sup>12</sup> China has also agreed to purchase significant quantities of Russian natural gas.<sup>13</sup> Increasing United States LNG exports will provide China with a cleaner alternative energy supply and allow the United States to capture revenues otherwise headed to Russia.

Now more than ever, the principles of energy independence and energy security are of the utmost importance to the United States and the Commission must act to ensure our country can maintain and enhance them, along with further economic and environmental gains and electric grid reliability. With its plentiful reserves, the United States must be able to take advantage of its own domestic supplies. There is no need for the United States to import Russian crude oil due to lack of natural gas transmission capacity in the Northeast. The projects that the Commission has not certificated would have reduced the need to

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<sup>8</sup> See Press Briefing by Press Secretary Jen Psaki (Jan. 25, 2022), <https://www.whitehouse.gov/briefing-room/press-briefings/2022/01/25/press-briefing-by-press-secretary-jen-psaki-january-25-2022/> (“We’re in discussion with major natural gas producers around the globe to understand their capacity and willingness to temporarily surge natural gas output and to allocate these volumes to European buyers.”).

<sup>9</sup> Jack Burke, *U.S. LNG Exports to Europe Hits Record in January*, DIESEL & GAS TURBINE WORLDWIDE, Feb. 22, 2022, <https://www.diesलगasturbine.com/news/U.S.-LNG-exports-to-Europe-increased-82-since-November/8018416.article>

<sup>10</sup> See Russian Risks Analysis (“Although a mild late winter and a flurry of LNG supply, particularly from the United States, has helped European storage levels to recover from record lows, they remain at a five-year low of a round 30% full, Gas Infrastructure Europe data shows.”).

<sup>11</sup> See Daniel Markind, *As Russia and China Grow Closer in Energy, America Unilaterally Disarms*, FORBES, Feb. 23, 2022, <https://www.forbes.com/sites/danielmarkind/2022/02/23/as-russia-and-china-grow-closer-in-energy-america-unilaterally-disarms/?sh=326056e53b52>.

<sup>12</sup> See U.S. Energy Information Administration, Carbon Dioxide Emissions Coefficients (Feb. 9, 2022), [https://www.eia.gov/environment/emissions/co2\\_vol\\_mass.php](https://www.eia.gov/environment/emissions/co2_vol_mass.php).

<sup>13</sup> See Chen Aizhu, *Russia, China Agree 30-year Gas Deal via New Pipeline, to Settle in Euros*, REUTERS, Feb. 4, 2022,

burn such oil for fuel for residential heating and power generation in that region. The failure to deliver on the objectives of the Natural Gas Act (“NGA”) has led to a larger Russian war chest, along with higher consumer costs and higher greenhouse gas emissions. Interstate pipelines are the safest and most reliable, affordable, and environmentally friendly method to transport these supplies to domestic markets, and it is clear that the Commission’s expedited certification of the backlog of pending pipeline projects would advance the United States’ domestic and international interests immensely.

Despite the clear benefits to the United States of promptly certifying pending pipeline projects in this perilous time of international conflict, the Commission appears poised to do the opposite. On February 18, 2022, the Commission issued two new policy statements that together impose several new thresholds for certifying a project.<sup>14</sup> Perhaps most concerningly considering the present geopolitical circumstances, the Commission intends to apply these new policies to all project applications **already pending before it**, thereby significantly changing the rules that applied when the projects were originally proposed, requiring applicants to submit supplemental information not yet fully identified, and causing untold further delay.<sup>15</sup> This despite the fact that there are numerous approaches for the Commission to issue legally defensible certificates without applying the brand new framework set forth in the Commission’s new policy statements.<sup>16</sup> Moreover, one of the major elements of the new policy statements – consideration of downstream emissions – is not even applicable to volumes associated with LNG exports.<sup>17</sup> The delay that will surely follow the Commission’s intended approach will come with a heavy price by exacerbating the current geopolitical situation. The Commission must avoid these impacts by taking immediate action on all pending projects without application of the new policy statements.<sup>18</sup>

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<sup>14</sup> *Certification of New Interstate Natural Gas Facilities*, 178 FERC ¶ 61,107 (2022) (“*Updated Policy Statement*”); *Consideration of Greenhouse Gas Emissions in Natural Gas Infrastructure Project Reviews*, 178 FERC ¶ 61,108 (2022) (“*GHG Policy Statement*”).

<sup>15</sup> See *Updated Policy Statement* at P 100 (“[T]he Commission will apply the Updated Policy Statement to any currently pending applications for new certificates. Applicants will be given the opportunity to supplement the record and explain how their proposals are consistent with this Updated Policy Statement, and stakeholders will have an opportunity to respond to any such filings”); *GHG Policy Statement* at P 129 (“We will apply this interim policy statement to both pending and new NGA section 3 and 7 applications . . . Applicants with pending applications will be given the opportunity to supplement the record and explain how their proposals are consistent with this policy statement, and stakeholders will have an opportunity to respond to any such filings”). The projects face delays not only associated with the new requirements introduced through the recent policy statements, but also from the associated need to rescope the projects themselves, guess at the mitigation efforts that the Commission may accept, and renegotiate project costs with customers.

<sup>16</sup> For example, the Commission recently found a project to be within the public interest and issued a certificate of public convenience and necessity despite finding that the project would cause a reasonably foreseeable increase in GHG emissions, and even with such an increase, the Commission determined that the project’s contribution to climate change would not be significant. *Northern Natural Gas Company*, 174 FERC ¶ 61,189 at PP 29-36 (2021). The Commission has also recognized that a project’s displacement of other fuels and other offsetting circumstances could result in lower GHG emissions, and offered information for nonprecedential purposes, in issuing certificates. *Tuscarora Gas Transmission Company*, 175 FERC ¶ 61,147 at P 28 (2021); *WBI Energy Transmission, Inc.*, 175 FERC ¶ 61,182 at P. 53 and n. 90 (2021).

<sup>17</sup> *Sierra Club v. FERC (Freeport)*, 827 F.3d 36, 47 (D.C. Cir. 2016) (holding that the Commission does not have to address the indirect effects of the anticipated export of natural gas because the Department of Energy, not the Commission, has sole authority to license and consider the environmental impacts of the export of any natural gas going through LNG facilities); *Freeport*, 827 F.3d at 62-63 (same); *EarthReports, Inc. v. FERC*, 828 F.3d 949, 956 (D.C. Cir. 2016) (same); *Sierra Club v. FERC*, 867 F.3d 1357, 1372 (D.C. Cir. 2017) (explaining *Freeport*).

<sup>18</sup> While the undersigned also dispute the legality of the new policy statements, they intend for this letter to focus on practical options for the Commission to address the immediate geopolitical crisis.

One of its primary roles of the Commission is to help shepherd the responsible development of natural gas transmission capacity in the United States at just and reasonable rates. Over the past several years, its permitting process has increasingly deviated from the mandate of the NGA. Rather than streamline the development of infrastructure that is clearly in the public interest, convenience and necessity, the permitting process has become less consistent, has led to project delays and derailments, and has stymied the development of needed infrastructure. The Commission's new policy statements further deviate from its mandated authority and will result in even more uncertainty and increasing costs relating to speculative impacts from non-jurisdictional facilities, putting at risk the United States' ability to reinforce the natural gas infrastructure needed to keep our country secure and prosperous.

For these and other reasons, we encourage the Commission to act expeditiously on pending applications. The Commission need not apply a new policy statements to produce legally defensible certificates for these projects; rather, doing so would only cause needless further delay. Throughout its history, the United States has been a leader in the world during times of crises, and the Commission is well-suited to rise to the occasion, not just for this country but for the world.

Please direct any questions regarding this submission to the undersigned.

Respectfully submitted,

*/s/ Francois Poirier*

President and CEO

TC Energy Corporation

*/s/ Al Monaco*

President and CEO

Enbridge, Inc.

*/s/ Alan S. Armstrong*

President and CEO

The Williams Companies, Inc.

*/s/ Steven J. Kean*

Chief Executive Officer

Kinder Morgan, Inc.

cc: Senator Joe Manchin  
Senator John Barrasso