

Sykes, Robbie

From: Nancy Fox-Fernandez <Nancy.Fox-Fernandez@ferc.gov>
Sent: Thursday, September 29, 2022 3:52 PM
To: Lyons, Tina M; Gus McLachlan
Cc:

Subject: [EXTERNAL] FERC Interagency Meeting - Ridgeline Expansion Project (PF22-7)
Attachments: agency intro slides_Ridgeline Expansion Project_PF22-7.pdf; Guidance for Co-op Agencies 2022.docx; ETNG Ridgeline FERC Interagency Meeting_09292022.pptx

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Hello Everyone – Thank you for participating today in the interagency call for the Ridgeline Expansion Project (PF22-7). I've attached the interagency cooperating agency Q&A's, my slideshow, and Gus's slideshow for everyone's convenience.

Thank you,
Nancy

Nancy Fox-Fernandez (she, her, hers)
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Office of Energy Projects, Division of Gas Environment and Engineering (DG2E)
Federal Energy Regulatory Commission
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Ridgeline Expansion Project (PF22-7)



FERC Introduction Meeting

September 29, 2022

Nancy Fox-Fernandez – Environmental Project Manager

Division of Gas – Environment & Engineering
Office of Energy Projects
Federal Energy Regulatory Commission

Who is FERC?



- FERC is an independent federal regulatory agency that:
 - Regulates the interstate transmission of natural gas
 - Reviews proposals to build interstate natural gas pipelines
 - Conducts National Environmental Policy Act reviews of these proposals

FERC Organization Chart



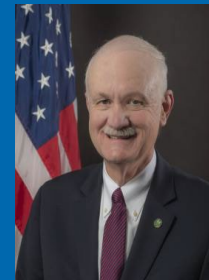
Commissioner
James Danly



Commissioner
Allison Clements



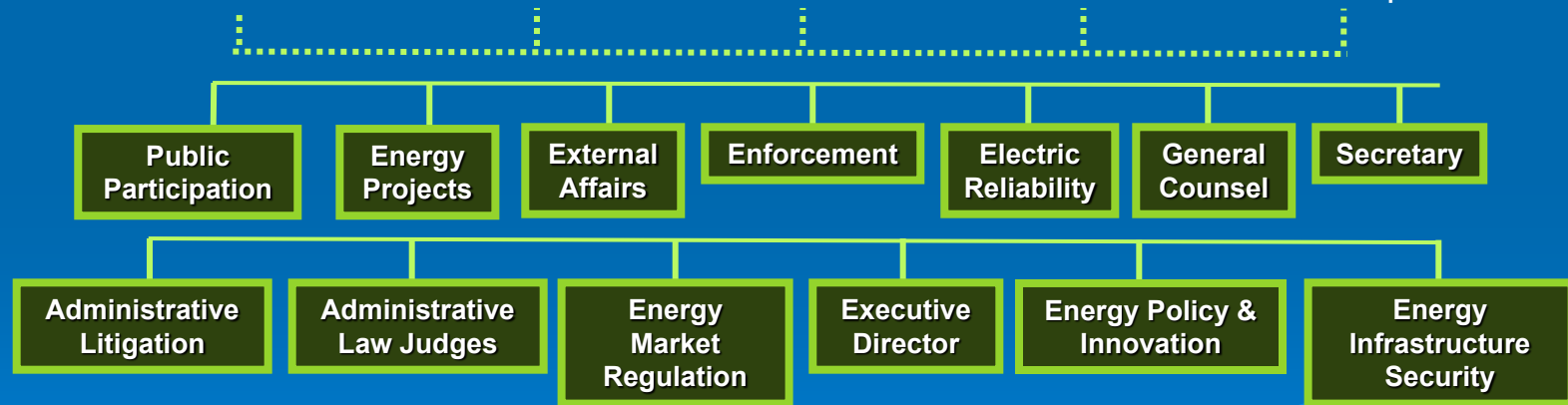
Chairman
Richard Glick



Commissioner
Mark C. Christie



Commissioner
Willie Phillips



Project Team



- FERC Office of Energy Projects Division of Gas Environment and Engineering (DG2E)
 - Nancy Fox-Fernandez – environmental PM, intro, project description, alternatives, executive summary
 - Amber Plummer – Deputy env. PM, waterbodies, wetlands, alternatives
 - Shyam Das-Toke/Andrea Jensen – geology, soils, groundwater
 - Rachel Moseley - vegetation, aquatic resources, sensitive/listed species, wildlife
 - Bradford Wazaney – cultural resources
 - Douglas Cotton/Nick Royston – land use, socioeconomics, environmental justice
 - Nina McDaniel – air, noise, safety, PCB contamination
- Burns & McDonnell, FERC 3PC - primary contacts
 - Tina Lyons, PM
 - Evan Markowitz, Deputy PM
 - Peyton Ashmore, FERC Program Manager

FERC's Siting Authority



- Section 7 of the Natural Gas Act
 - Determination of public convenience and necessity

- Energy Policy Act of 2005
 - Assigns FERC exclusive siting authority—does not preempt other required federal authorizations
 - Optional use of Pre-Filing Process for pipeline projects
 - Names FERC lead agency for NEPA review and coordinator of all federal authorizations

FERC does not regulate



- Pipeline safety standards
- Natural gas producers
- Local natural gas distribution or gathering pipelines
- Siting of oil, oil products, and natural gas liquids pipelines
- LNG intrastate commerce

State and Local Permits



- FERC encourages cooperation between interstate pipelines and local authorities.
- Goal is to work with agencies to identify and minimize conflicting requirements
- If the Commission approves a project, state or local permits must be consistent with the conditions of any FERC certificate
- State and local agencies may not prohibit or unreasonably delay the construction or operation of facilities approved by the Commission

Federal Agency Coordination Interagency Agreement August 2002



Departments

- Army
- Agriculture
- Commerce
- Interior
- Transportation
- Energy

**Advisory Council on Historic
Preservation**

FERC

CEQ

EPA



FERC Role

- FERC is the lead for NEPA review; coordinator of federal authorizations
 - Other agencies urged to participate in process
- FERC establishes a schedule for all Federal authorizations
 - Ensures expeditious processing of all natural gas project permits and authorizations
 - Federal authorization decisions to be issued within 90 days of FERC's Final NEPA document
- FERC to maintain complete consolidated record
 - Provides for swifter judicial review

Division of Gas (Environment and Engineering)



- Evaluate applications and conduct environmental reviews/siting for jurisdictional gas facilities:
 - Import/Export, Storage, Interstate Transmission, Abandonment, LNG

- Conduct inspections of jurisdictional facilities
 - LNG facilities and pipeline construction



Phases of Project Review

- Marketing and Preliminary Project Design
 - *The applicant working on its own*
- Pre-Filing
 - *FERC staff working with the applicant and stakeholders before the filing of an application*
- Application Review
 - *FERC preparing NEPA Document that is reviewed by cooperating agencies prior to public issuance for comment*
- Post-Authorization
 - *FERC staff working to ensure compliance with conditions to the FERC approval*

The Pre-Filing Process



- More interactive NEPA/permitting process, no shortcuts
- Be more proactive and explore ways to Outreach
- Earlier, more direct interaction between FERC, other agencies, stakeholders, and the applicant
- Transparency in the Pre-Filing Review Process
- Goal is to resolve problems and have “no surprises”
- Encourages cooperation with federal, state, and local authorities

FERC staff is an advocate for the process, not the project

FERC Pre-Filing Activities



- Identify affected parties:
 - landowners
 - agencies
 - other stakeholders
- Facilitate identification of issues
- Identify study needs
- Facilitate resolution of issues
- Issue scoping notice
- Examine alternatives
- Arrange and attend site visits and meetings
- Initiate preparation of preliminary NEPA document
- Review draft resource reports

Resource Reports



1. General Project Description
2. Water Use & Quality
3. Fish, Wildlife & Vegetation
4. Cultural Resources
5. Socioeconomics
6. Geological Resources
7. Soils
8. Land Use, Recreation & Visual Impacts
9. Air Quality & Noise
10. Alternatives
11. Reliability & Safety
12. PCB Contamination (for pipelines only)
13. LNG Engineering & Design Details

Agency Involvement



➤ Cooperating

- Can review working draft NEPA document during application stage
- Not subject to ex parte rules

➤ Participating

- Same as cooperating agency during pre-filing stage
- Limits to communication and review during application stage

➤ Intervenor

- Must file a formal motion to intervene
- Submissions must be served on the applicant and all other parties to the proceeding
- May seek rehearing of the FERC decision and possibly judicial review at the Court of Appeals.

Applicant's Responsibilities



- Route development, infrastructure assessment, engineering design, and environmental surveys
- Recognize and address stakeholders' concerns and develop public participation plan
- Invite the public to open houses
- Prepare FERC and other permit applications
- Engage in proactive planning and communication

Applicant's Responsibilities at Filing Time



- Identify and address agency and stakeholder concerns
- Provide consistent information to agencies and stakeholders
- Submit complete FERC application
- Provide FERC its proposed schedule of Federal applications and anticipated receipt dates
- File for all Federal authorizations before or concurrent with FERC application filing

FERC/Coop. Agency Actions During Pre-Filing



- Review route, identify study needs, and examine alternatives
- Connect with affected stakeholders
- Participate in applicant open houses, hold interagency meetings, inform local elected officials, and meet with landowners
- Facilitate identification and resolution of issues
- Analyze draft resource reports and initiate preparation of NEPA document

Federal Permitting Agencies' Responsibilities

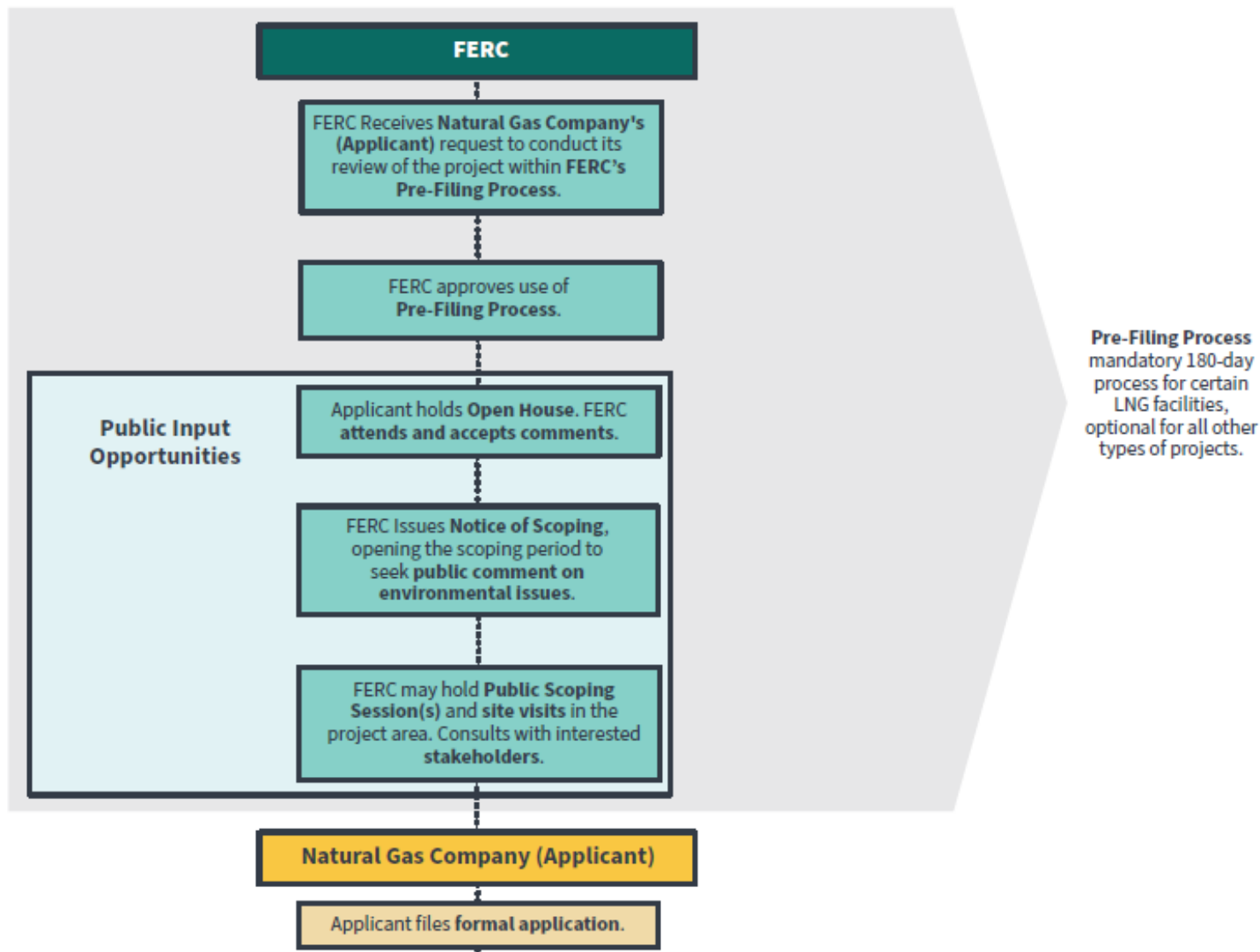


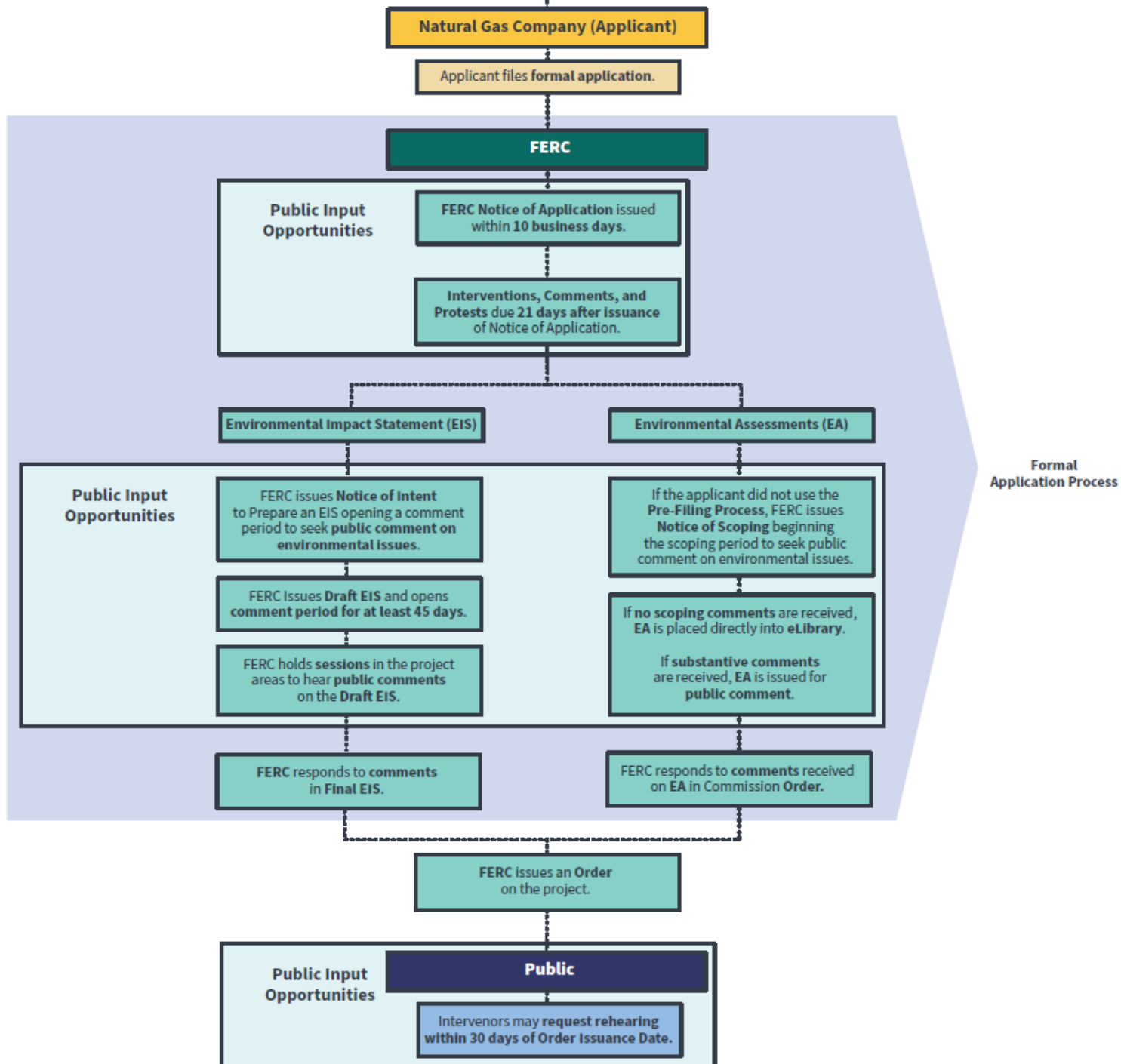
- Identify concerns during pre-filing process
 - *Focus on details and resource concerns early*
- Within **30 days** of receiving a request for authorization from the applicant:
 - *Notify FERC if application is complete*
 - *Specify any additional information needs and timing*
 - *Identify any required studies*
 - *Clarify ability to meet the applicant's proposed schedule*
 - *Identify relevant statutory timeframes*



FERC

Process for Natural Gas Projects





Certificate Process



Non-Environmental Review and Analysis

- Engineering – GQI, storage, hydraulic flow
- Tariff – rates, terms & conditions of service
- Policy – precedents, rules, regulations
- Accounting

**File
Application**

Parallel Processing Paths

Preparation of EA or EIS

- Project description/ purpose and need
- Water Resources
- Ecology – fish, wildlife, vegetation
- Cultural Resources – historic preservation
- Land use/socioeconomics – recreation, aesthetics
- Soils and geology
- Air and noise
- Alternatives

**Issue
Order**

Electronic Information

- [e-Library](#) – the consolidated federal record, it is your friend!
- [e-Register](#)
- [e-Comment](#)
- [e-subscription](#)
- [e-File; How to file a comment](#)
- [e-Learning](#)

Docket number for Ridgeline Expansion Project is PF22-7

eLibrary Helpful Hints

- You can search by **docket number** or **accession number** in the first box in the general search page
<https://elibrary.ferc.gov/eLibrary/search>
- Docket No. will start with **PF** for prefilings projects and **CP** for traditional certificate filings
- Search for **issuances** (FERC documents) or **submissions** (everyone else)
- Use “**key word**” search for project names if you don’t know the docket
- Adjust the “**date range**” as needed

* Indicates a required field.

☒ General Search ☐ Docket Search ☐ New Docket Only

Search on a Reference Number (Docket, Accession, Ferc Cite, etc.)

Docket (e.g. ER11 , ER11-4046 , ER11-4040-0201)

Accession (e.g.,19940824-0052, or 19940824*)

Parent Accession (e.g.,19940824-0052, or 19940824*)

Federal Register Cite (e.g., 65 FR 57088 or 65 FR*)

Federal Court Case (e.g., 11TH CIR 7784, or DC CIR*)

FERC Cite (e.g.,99FERC62,030, or 99FERC*)

Opinion (e.g., 409, 409-a, or 409*)

Order Number (e.g., 888, 888-a, or 888*)

Enter Docket Number
CP19-14

From
2/13/2020

Security Lev

Questions?



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East Tennessee Natural Gas, LLC

Ridgeline Expansion Project
FERC Interagency Meeting
September 29, 2022



Agenda



- Introductions
- Project Overview
- Proposed Project Schedule
- Agency Coordination and Public Outreach
- Environmental Survey Overview
- Environmental Topics – Biological Resources, Cultural Resources, Air Emissions, Environmental Justice
- Minimization and Mitigation Measures
- Q&A

Helping Tennessee transition to a cleaner energy future!

Project Overview



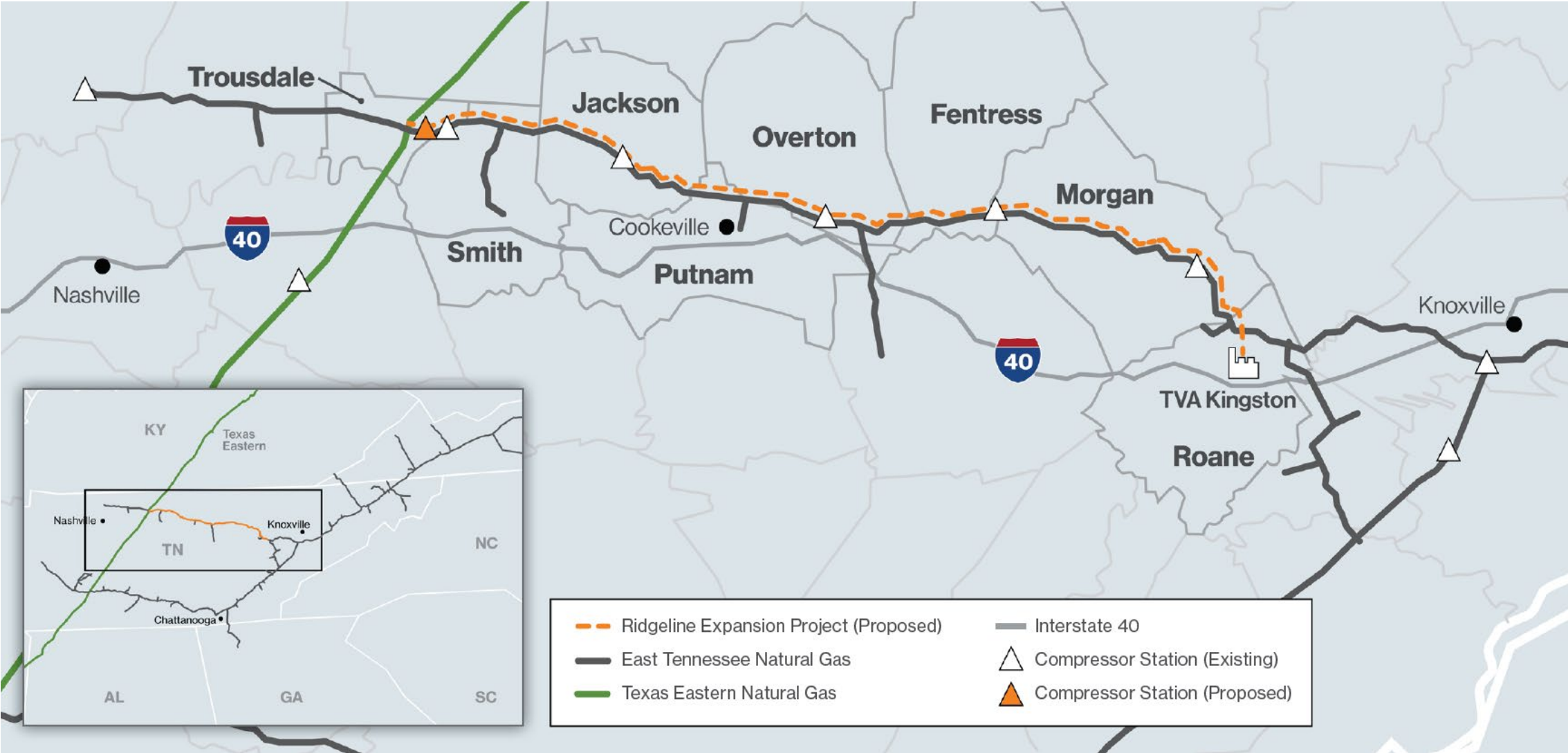
- Purpose

To deliver cleaner burning natural gas to replace coal-fired generation at TVA's Kingston Fossil Plant, if TVA selects the gas-fired alternative for their Plant

- Project Description

- Installation of approximately 116 miles of 30-inch pipeline looping, and approximately 7-mile 24-inch lateral
- Construction of one 12,000 HP electric-powered compressor station
- Construction of a new 8MW solar farm to partially power the compressor station
- Limited Pipeline Removal
 - Approximately 25 miles of previously abandoned Line 3100 pipeline will be removed
 - In areas of pipeline removal, the existing trench will be used for new pipeline

Project Overview



Proposed Project FERC Schedule



Deliverables	Target Dates
ETNG initiates stakeholder engagement	June 2021
ETNG holds informational meetings	November 2021
ETNG submits Request to Initiate Pre-Filing	May 2022
ETNG submits Draft Resource Reports 1 and 10	June 2022
ETNG participates in FERC Open House meetings	June 2022
FERC holds scoping meetings	October 2022
ETNG submits Draft Resource Reports 1-12	December 2022
ETNG files FERC Application and other Federal permit applications	Summer 2023
FERC issues Draft EIS	Spring 2024
FERC issues Final EIS	Late Summer 2024
FERC issues Certificate	December 2024
FERC issues Notice to Proceed	Q2 2025
Start of construction	Q4 2025
Project in-service	November 2026

Proposed Permitting Schedule



Deliverables	Target Dates
Submit Hydrologic Determination Reports to TDEC	Fall 2022 (ongoing)
Submit Draft Resource Reports 1-12	December 2022
Submit Phase I Cultural Report to SHPO and Tribes	December 2022
Submit Federal and State permit applications	Summer 2023
Submit draft Biological Assessment with FERC application	Summer 2023
Submit applications for near-construction permits	Q4 2024
Start of Construction	Q4 2025
In-service	November 2026

Agency Coordination and Public Outreach



- Agency meetings held with:
 - Federal Energy Regulatory Commission
 - U.S. Fish and Wildlife Service
 - U.S. Army Corps of Engineers
 - National Park Service
 - Tennessee Valley Authority
 - Tennessee Department of Environment and Conservation
 - Tennessee Wildlife Resources Agency
 - Tennessee Farm Bureau
- Additional Outreach
 - Held landowner information meetings and attended FERC Open House meetings
 - Continued engagement with local officials and other stakeholders
 - Virtual Open House website available at <https://enbridgeopenhouse.com/ridgeline>

Environmental Survey Overview



- Survey permission granted for more than 97% of the project
- Biological surveys
 - Wetland/waterbody surveys and habitat assessments initiated in October 2021 with 100% of the accessible pipeline route complete to date
 - Winter bat hibernacula evaluations completed in March 2022; summer bat surveys initiated in May 2022 and are ongoing; bat hibernacula swarming surveys are ongoing
 - eDNA stream sampling for mussel species completed in June 2022; in-water surveys will initiate in October 2022 and will continue in spring 2023
 - Additional species surveys to continue through 2022 and 2023
- Cultural resources
 - Coordination with Tennessee SHPO initiated in July 2021.
 - Phase I field surveys initiated in October 2021 with 100% of the accessible pipeline route complete to date; Phase II surveys will begin in January 2023
 - Initial project introduction letters sent to 18 tribes.

Environmental Topics – Biological Resources



- Waters of the U.S.
 - Proposed route crosses approximately 350 streams and 200 wetlands
 - Non-designated tributaries to the Obed Wild & Scenic River
 - Major waterbodies: Cordell Hull, Cumberland River, Emory River, Old Hickory Reservoir (Second Creek)
- Protected Species
 - Critical habitat for spotfin chub in Little Emory River near Wartburg
 - Bat survey plan approved by USFWS; bats captured to date - gray bat (listed), tri-colored bat (proposed), little brown bat (under review by USFWS)
 - No protected plant species identified to date
 - Mussel survey plan approved by USFWS; surveys of select streams to be conducted in October 2022 and spring 2023
 - Initiated coordination with TWRA regarding state-listed species

Environmental Topics – Cultural Resources



- Phase I/II
 - 197 sites identified during Phase I surveys to date
 - Of these, approximately 150 recommended as not eligible; 47 recommended for additional work
 - Phase I findings to date will be submitted to SHPO in December 2022
 - Phase II work to be initiated in January 2023
 - Architectural structure surveys to be completed in winter 2022

- NRHP Sites
 - Fort Blount – will be crossed by new pipeline; currently evaluating construction methods
 - Site is comprised of prehistoric and historic components
 - Hartsville Battlefield – proposing replacement in trench
 - Site is comprised of prehistoric stone box graves, Averitt-Herrod House, and Civil War Battlefield
 - Officer Farmstead – historic district; will be crossed by new pipeline

Environmental Topics – Environmental Justice



- Completed to date
 - Desktop assessment of socioeconomic conditions
 - Preliminary desktop identification of environmental justice communities
 - Outreach to local stakeholders to identify environmental justice communities and needs
 - Interviews with right-of-way agents
 - Field verification of desktop information to identify environmental justice communities and other sensitive receptors at a sub-census level completed in September 2022
- Upcoming work
 - Update assessment based on new FERC recommendations
 - Study area to include census tract block groups crossed by pipeline and within 1 mile of compressor station
 - Potential impacts to children
 - Linguistically isolated populations
 - Preliminary analysis of environmental justice communities and impacts to be completed as part of draft resource reports filed in December 2022
 - Full analysis, including mitigation if required, to be completed in summer 2023

Environmental Topics – Air Emissions

Proposed Compressor Station



- New electric-powered compressor station in Trousdale County
- Site will be true minor source with respect to PSD, Title V and the Site will not be a major source of hazardous air pollutants
- Equipment inventory
 - Two (2) Electric Motor Driven (EMD) compressors with natural gas-fired turbine as a backup
 - Natural gas-fired emergency backup power
 - Separator vessel vents, storage tanks, and truck loading
 - Fugitive equipment emissions
 - Gas releases
- Authorization Mechanisms
 - Permit by Rule
 - Exemptions
- GHG Mitigation Elements
 - Recompression of vent gas recovery at station and pipeline facilities
 - Non-venting actuators

Minimization Measures

- Evaluating route and site locations based on survey findings and constructability; will continue to review alternatives throughout pre-filing process to minimize impacts where practicable
 - Approximately 95% of proposed route follows East Tennessee's existing right-of-way
 - Four compressor station site alternatives were evaluated; preferred site selected based on a variety of factors
 - The solar array will partially offset power required for the compressor station; however, it will be addressed as a non-jurisdictional facility in the FERC application
- Complete alternatives analysis will be completed as part of the FERC application as well as other federal and state environmental permit applications

Mitigation Measures

- Wetlands and waterbodies
 - Currently evaluating each waterbody to determine appropriate construction method for crossing
 - Crossing types can include:
 - Dry crossing
 - Open-cut crossing
 - Trenchless construction (boring or HDD)
 - Temporary equipment bridges and/or matting
 - Construction and restoration will be in accordance with:
 - FERC Upland Erosion Control, Revegetation, & Maintenance Plan (FERC Plan)
 - FERC Wetland and Waterbody Construction and Mitigation Procedures (FERC Procedures)
 - FERC Guidance for Horizontal Directional Drill Monitoring, Inadvertent Return Response, and Contingency Plans (HDD Guidance)
 - USACE Sections 404/10 permits and Tennessee Aquatic Resource Alteration Permit
- Cultural resources
 - In consultation with TN SHPO, will develop avoidance and mitigation for eligible and listed sites
- Compensatory mitigation to be developed in accordance with USACE, USFWS, and TDEC requirements

Q&A

FERC's Guidance for Cooperating Agencies

What is a Cooperating Agency?

The Council on Environmental Quality's regulations covering NEPA can be found at 40 CFR Parts 1500-1508 (as amended 2020). As defined by the CEQ in 40 CFR section 1508.1(e), "*Cooperating agency* means any Federal agency (and a State, Tribal, or local agency with agreement of the lead agency) other than a lead agency that has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major Federal action that may significantly affect the quality of the human environment." For further information specific to cooperating agencies, see the attached section 1501.8 at the end of this document.

In addition, the CEQ has issued various guidance documents related to lead agency/cooperating agency roles and responsibilities. See <https://www.energy.gov/nepa/ceq-guidance-documents>

Why should my agency agree to be a Cooperating Agency? What are the benefits?

If your agency has jurisdiction by federal law and/or a NEPA responsibility regarding the project (for example, if you must issue a right-of-way grant for crossing federally managed land or issue a permit to use state land), you should consider becoming a cooperating agency. Per 40 CFR section 1501.8(a), "Upon request of the lead agency, any Federal agency with jurisdiction by law shall be a cooperating agency."

One of FERC's main goals will be to ensure that the NEPA document includes the necessary information for your agency to make a timely decision on the applicable permit (assuming that the project proponent does its part in satisfying your agency-specific requirements). We will work with you to establish schedules that take into account any statutory requirements.

If your agency does not have a NEPA responsibility but does have technical knowledge or special expertise with regard to the environmental issues specific to the project, being a cooperating agency is a good and efficient way to ensure that expertise is reflected in the analysis of impacts and design of mitigation presented in the NEPA document.

Being a cooperating agency allows you to participate in pre-decisional, deliberative discussions and have access to working documents. This really helps facilitate interagency discussions. You can also use FERC Notices to meet specific agency requirements for public notice and comment.

There will be other benefits that the FERC PM can discuss with you related to the particular project under consideration.

What are my responsibilities as a cooperating agency?

Per 40 CFR section 1501.8(b), cooperating agencies should be prepared to:

- Commit the necessary resources (staff and time) to meet the schedule established by the FERC. FERC projects often follow an aggressive schedule, with short review time frames. Be prepared to elevate, as soon as practicable, to FERC any issues relating to purpose and need, alternatives, or other issues that may affect your agency's ability to meet the schedule.
- Participate in scoping and attend agency meetings, public meetings, and site visits, as necessary.
- Provide agency-specific information and wording where applicable, in order to jointly issue environmental documents with FERC. For example, if you believe an EIS section is deficient or does not reflect your agency's needs, please provide revised text or inserts.
- Commit to keeping administrative draft documents confidential. As is the case with most agencies, the FERC considers working drafts to be part of the deliberative process and not subject to public release, even under a FOIA request. This also means not releasing them to the applicant.

Also, please be aware that if you choose to be a cooperating agency on a particular project, you cannot Intervene¹ in the official FERC proceeding for that project.

We'd like to cooperate. How do we inform FERC?

There are several ways. The easiest way is to just tell the FERC PM that you'd like to cooperate. That's all there is to it! If you need formal documentation, you can send an official request letter, to which you will either receive a phone or e-mail response. For high-profile or highly controversial projects, we may respond with an official letter.

My agency hasn't even received an application yet. Why are we starting the NEPA review?

¹ Intervenor play a formal role in the FERC process; only Intervenor have the right to request rehearing of a FERC decision. For more information, see 18 CFR 385.214.

The FERC has established a “pre-filing” process during which the environmental review will start before a project sponsor submits an official FERC application. Many (but not all) projects will go through the FERC pre-filing process. The benefits of the pre-filing process include allowing for early public involvement and for identifying and addressing many environmental issues early in the process. Some project sponsors use the process to help define the pipeline route or the need for specific construction methods. Many agency concerns can also be resolved prior to the filing of the formal FERC application.

Depending on your agency’s needs and statutory timelines, the project sponsor may file an application with your agency during the FERC pre-filing process or it may wait until later in the process.

How do I know if a FERC project is using the pre-filing process?

Before requesting approval from FERC to use the pre-filing process, the project sponsor must contact key agencies to inform them about the project and the pre-filing process, and must indicate to the FERC whether those agencies are willing to participate in the process. This indication of participation is not a commitment but ensures that an agency is aware of the project before being contacted by FERC.

After starting the pre-filing process, the FERC PM will begin to contact agencies and issue the FERC Notice of Scoping. Each project will have a docket number. If the prefix is a “PF (e.g., PF12-00-000),” that means it is in pre-filing. Any project designated with a “CP” docket prefix has already been formally filed at FERC.

How does FERC conduct scoping? How can my agency be involved?

The FERC environmental review process does not have any FERC-specific statutory timelines. However, the FERC typically issues its Notice of Intent (NOI) to prepare a NEPA document within 60 days of the certificate application. If you have already agreed to be a cooperating agency prior to the issuance of the NOI, we’ll mention that in the NOI along with any pertinent text you may want to include regarding your agency’s permitting or participation.

A FERC scoping period typically runs for 30 days, although this is flexible depending on the specific project. The location and number of scoping sessions will be determined by the FERC PM based on the project specifics. Your ideas regarding meeting locations, your previous experience holding meetings for your projects, your familiarity with local concerns, etc. can be very valuable for our scoping effort. So please give us your input!

Some projects with an exceptionally long pre-filing period or a lot of changes over time may cause us to re-open scoping and/or hold an additional round of sessions later in the process.

Please consider taking a role in the FERC scoping sessions. As the lead agency, FERC will schedule and run the public sessions, but we invite cooperating agencies to attend with us. There will not be a formal presentation by FERC staff when the session opens. The scoping sessions would entail individuals providing verbal comments on a one-on-one basis with a court reporter (with FERC staff or representative and cooperating agency staff present) and the comments becoming part of the public record for the proceeding. Agency staff that attend may choose to remain in the waiting area to speak with individuals and explain their permitting role for the project. The extent to which you participate is up to you.

We ask that any scoping comments that are sent directly to your agency be forwarded to FERC so they become part of the public record for the project and can be addressed in the NEPA document. We may ask for your help in addressing comments that are very specific to your agency role.

My agency has specific notification requirements and timeframes. Can FERC accommodate these?

In most instances the answer is yes. We encourage cooperating agencies to use our Notices for any agency-required public notifications, when possible. We also have the ability to alter our typical time frames if you have a statutory requirement that differs (for example, having a 90-day comment period for a draft EIS for a Plan Amendment). However, you must let the FERC PM know early in the process!

How does FERC gather environmental information? What exactly are “Resource Reports”?

A project sponsor is required to submit a complete set of environmental reports when it files its FERC application. These “Resource Reports” are the applicant’s means of conveying the bulk of the project-related environmental information to FERC. Each report has a specific focus. For example, RR1 is Project Description; RR2 is Water Resources, RR3 is Vegetation, Wildlife, and Fisheries, etc. Our regulations at 18 CFR 380.12 list all the items that need to be included. Chances are that the baseline information that you need will be captured.

If a project goes through the pre-filing process, the FERC and cooperating agencies can comment on draft versions of the reports as the company develops its environmental

information. Other stakeholders such as landowners, NGOs, and resource agencies have the opportunity to comment as well. Resource Reports contain not only factual baseline information but also the applicant's assessment of impacts and proposed conservation/mitigation measures to reduce impacts.

Much of the FERC NEPA analysis is based on the information contained in the Resource Reports; however, they are not NEPA documents.

How does the FERC process the project data? Can we talk directly with the applicant?

FERC resource specialists evaluate the information provided in the Resource Reports. Depending on the size and complexity of the project, we may have contractors working under our direction. Part of our responsibility is ensuring that the project sponsor obtain and file adequate environmental information for us to complete our independent analysis of the project's potential effects.

The FERC over the course of a project (whether before or after filing of an application) will issue comments and data requests to ensure that the applicant provides all the necessary information for us to complete the NEPA review. An applicant's data responses basically supplement the Resource Reports. If you note any data deficiencies, please let FERC know rather than asking the applicant to address issues separately. Our data requests can easily convey your questions as long as you let us know what they are. If you do issue your own data request or receive information directly from the applicant, we'd ask that you forward that to us as soon as possible. This ensures all the necessary information is consolidated and that important pieces of information are not overlooked.

How does the FERC's review process for administrative draft documents work?

The FERC PM will set up a project schedule early in the environmental review process. Administrative review turnarounds are typically less than 4 weeks; however, there should be plenty of lead time in announcing when these review periods will be. We understand that this may be much more aggressive than what you are used to, but it is imperative that you stay on schedule. The FERC PM may be able to adjust the schedule somewhat—if you anticipate a problem, the best solution is to discuss with the FERC PM as soon as you anticipate it and suggest a workable solution. We'll do our best to accommodate you, but be aware that late comments run the risk of not being incorporated into the NEPA document.

All comments you wish to forward to FERC during this review should be e-mailed to the FERC PM and, if applicable, the 3rd-party contractor manager, and not filed into the docket.

How can I ensure that specific information my agency needs makes it into the NEPA document?

As indicated above, please submit specific wording and/or text inserts where applicable. This is especially helpful for the discussions related directly with your agency's permitting and regulations. If there are additional studies you need to have in the NEPA document, please make sure those are identified as early in the process as possible. You should also identify whether you or the applicant will supply the study results.

Does the FERC use contractors to prepare NEPA documents?

In many cases, yes. For certain larger or more complex EAs and for all EISs, the FERC will use a 3rd-party contractor to assist us in preparing the NEPA document. The project sponsor is required to solicit proposals from potentially interested contracting firms. The sponsor then forwards its top-rated proposals (at least three) to FERC environmental staff to review and potentially select from.

The FERC PM and project team will work hand-in-hand with the contracting team and will review every word, idea, analysis, etc. before moving forward. That is one reason why we encourage a close working relationship with the cooperating agencies. In many ways, it is a daily collaboration between FERC staff, cooperating agency staff, and the contractor. Our contractor can also work for you, through us. Be prepared to participate in meetings, conference calls, and e-mail exchanges as guided by your particular requirements for the project.

For some projects, we may ask that the project sponsor provide an applicant-prepared draft EA. An applicant-prepared draft EA can only be used in conjunction with the pre-filing process—we review draft versions during pre-filing to ensure the document meets our needs and standards, and addresses issues raised during scoping. As a cooperating agency, you will be able to participate in this review. The sponsor's final version of the applicant-prepared draft EA must be filed at the time of the official (CP) application. We will then independently review the document and finalize and issue our EA.

What about ESA Section 7 and NHPA Section 106 consultations?

The FERC, as the lead agency, will be responsible for completing these consultations. Of course the FERC will consider any technical assistance or other input you may have with regard to these consultations. Also, on federal land FERC will give deference to the federal land managing agency for determinations of eligibility and effect, and treatment.

What are some of the requirements of the Energy Policy Act of 2005 that I need to know?

Briefly, EAct 2005 establishes the FERC as the lead agency for NEPA review and as the coordinator of all federal authorizations. To fulfill this obligation, FERC establishes a schedule for all federal agencies and state agencies acting under federal delegated authority. Your assistance in complying with this aspect of EAct generally falls into the following categories:

- working with FERC staff and the project sponsor during the pre-filing process (i.e., identifying concerns, information requirements, and potential permitting obstacles; and being an active cooperating agency);
- being aware of the overall project schedule for permitting authorizations. The formal FERC announcement for most projects (i.e., all EISs and any EAs that will take longer than 90 days to produce) is via a project-specific “Notice of Schedule for Environmental Review” published in the *Federal Register*. This notice will alert all agencies to the schedule FERC has established for the project and give agencies a heads-up for the 90-day deadline (which starts from the date of the final FERC NEPA document) for applicable permitting decisions; and
- providing the information necessary to enable FERC to establish the complete consolidated record for the project (e.g., copies of data requests; indication of completeness of applications; etc.).

For further information and details of EAct (scheduling, the consolidated record, regulations, legal issues, etc.), please visit the FERC web link at <https://www.ferc.gov/enforcement-legal/legal/federal-statutes/energy-policy-act-epact-2005>.

40 CFR § 1501.8 - Cooperating agencies

(a) The purpose of this section is to emphasize agency cooperation early in the NEPA process. Upon request of the lead agency, any Federal agency with jurisdiction by law shall be a cooperating agency. In addition, upon request of the lead agency, any other Federal agency with special expertise with respect to any environmental issue may be a cooperating agency. A State, Tribal, or local agency of similar qualifications may become a cooperating agency by agreement with the lead agency. An agency may request that the lead agency designate it a cooperating agency, and a Federal agency may appeal a denial of its request to the Council, in accordance with §1501.7(e).

(b) Each cooperating agency shall:

- (1) Participate in the NEPA process at the earliest practicable time.
- (2) Participate in the scoping process (described in §1501.9).
- (3) On request of the lead agency, assume responsibility for developing information and preparing environmental analyses, including portions of the environmental impact statement or environmental assessment concerning which the cooperating agency has special expertise.
- (4) On request of the lead agency, make available staff support to enhance the lead agency's interdisciplinary capability.
- (5) Normally use its own funds. To the extent available funds permit, the lead agency shall fund those major activities or analyses it requests from cooperating agencies. Potential lead agencies shall include such funding requirements in their budget requests.
- (6) Consult with the lead agency in developing the schedule (§1501.7(i)), meet the schedule, and elevate, as soon as practicable, to the senior agency official of the lead agency any issues relating to purpose and need, alternatives, or other issues that may affect any agencies' ability to meet the schedule.
- (7) Meet the lead agency's schedule for providing comments and limit its comments to those matters for which it has jurisdiction by law or special expertise with respect to any environmental issue consistent with §1503.2 of this chapter.
- (8) To the maximum extent practicable, jointly issue environmental documents with the lead agency.

(c) In response to a lead agency's request for assistance in preparing the environmental documents (described in paragraph (b)(3), (4), or (5) of this section), a cooperating agency may reply that other program commitments preclude any involvement or the degree of involvement requested in the action that is the subject of the environmental impact statement or environmental assessment. The cooperating agency shall submit a copy of this reply to the Council and the senior agency official of the lead agency.

For the full CEQ regs for implementing NEPA, see [40 CFR Parts 1500-1508 \(as amended 2020\)](#)