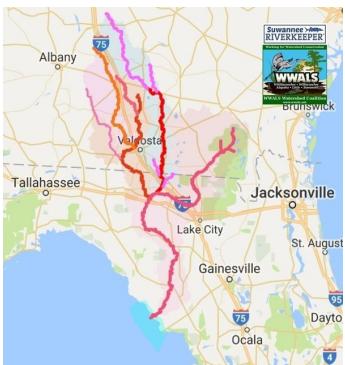


Date: December 29, 2017

To: Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, DC 20426
Via e-filing

Re: Motion to reject FERC DSEIS, to take Sabal Trail out of service, and to revoke its permit
FERC Docket Numbers CP14-554-002, CP15-16-003, and CP15-17-002



WWALS Watershed Coalition advocates for conservation and stewardship of the Withlacoochee, Willacoochee, Alapaha, Little, and Suwannee River watersheds in south Georgia and north Florida through education, awareness, environmental monitoring, and citizen activities.



Dear Secretary Bose,

Intervenor WWALS Watershed Coalition, Inc. (“WWALS”) moves for Federal Energy Regulatory Commission (“FERC”) to reject the incorrect and inadequate Draft Supplemental Environmental Impact Statement (“DSEIS”) for the Southeast Markets Pipeline Project (“SMPP”) and to take SMPP out of service at least until a real SEIS is produced, taking into account all of the criteria of FERC’s own rules as outlined herein, and with public hearings, as well as to revoke its permit.

In February 2016 FERC issued a Certificate of Convenience and Necessity (the “FERC 2016 Order”)¹ to Sabal Trail and the rest of the Southeast Market Pipelines Project (SMPP), including Williams Transco’s Hillabee Expansion Project and Florida Power & Light (“FPL”)’s Florida Southeast Connection (“FSC”). In August 2017, the D.C. Circuit Court, deciding for plaintiffs Sierra Club, Flint Riverkeeper, and Chattahoochee Riverkeeper, required FERC to revisit greenhouse gases,² writing (“D.C. Circuit Court Decision”): “The orders under review are vacated and remanded to FERC for the preparation of an environmental impact statement that is consistent with this opinion.” That opinion included accounting for Greenhouse Gases (“GHG”). In September 2017 FERC issued a Draft Supplemental Environmental Impact Statement (“DSEIS”).³ Many parties commented, including WWALS and seven other Riverkeepers (the “Riverkeepers’ Response”).⁴ In December 2017, Sabal Trail responded to some of those comments (“Sabal Trail’s December Response”).⁵ Suwannee Riverkeeper, WWALS Watershed Coalition (“WWALS”) herein responds to Sabal Trail’s December Response, and to some other comments. WWALS argues that no SEIS can be complete without accounting for GHG from Liquid Natural Gas (“LNG”) exports, nor without comparing natural gas to solar power, according to precedents already set by FPL, FERC, and others, which also reopen the whole basis of the FERC 2016 Order.

¹ “Order issuing certificates and approving abandonment re Florida Southeast Connection, LLC, et al under CP14-554 et al.”, FERC Accession Number 20160202-3056, February 2, 2016, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14425623

² U.S. DC Circuit Court of Appeals Case No. 16-1329, Sierra Club, Et al., Petitioners, v. Federal Energy Regulatory Commission, Respondent, Duke Energy Florida, LLC, et al., Intervenors, decided August 27, 2017, <https://www.cadc.uscourts.gov/internet/opinions.nsf/2747D72C97BE12E285258184004D1D5F/%24file/16-1329-1689670.pdf>

³ “Draft Supplemental Environmental Impact Statement for the Southeast Market Pipelines Project to address 8/22/17 opinion by the US Court of Appeals under CP14-554, et al.” FERC Accession Number [20170927-3025](https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14605162), September 27, 2017, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14605162

⁴ “Opposition to the incorrect and inadequate FERC Sabal Trail SEIS and request for pipeline shut down by Suwannee Riverkeeper (WWALS) and Apalachicola, Ogeechee, Grand, Choctawhatchee, Chattahoochee, Indian, and Flint Riverkeepers.”

FERC Accession number 20171120-5130, November 20, 2017, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14621198, <http://wwals.net/?p=39222>

⁵ “Response to Comments on Draft SEIS of Sabal Trail Transmission, LLC under CP15-17, et. al.”, FERC Accession Number 20171204-5138, December 4, 2017, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14624589

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I. The DSEIS did not account for all GHG emissions

The Draft SEIS did not account for all GHG emissions because it did not include a correct list of coal plants to be “modernized”, and did not account for GHG from LNG export, over which even FERC admitted in the FERC 2016 Order that it does have authority.

I.A. Wrong list of coal plants

Sabal Trail’s December Response says:

“The draft SEIS provides detailed quantitative estimates of the downstream GHG emissions that could possibly result under various scenarios from burning the natural gas transported in the pipelines, and explains how downstream emissions are offset by the conversion of several power plants from coal to natural gas.”

Sabal Trail ignores that, as pointed out in the Riverkeepers’ Response, the draft SEIS incorrectly lists three power plants as the alleged primary need for Sabal Trail’s gas, when they are not the three that FPL listed in 2013 and the Florida Public Service Commission (FPSC) used in its October 2013 Order (“FPSC Order”);⁶ the FERC 2016 Order depends upon that FPSC Order for

⁶ PAA Order PSC-13-0505-PAA-EI on FPL’s proposed Sabal Trail Transmission, LLC and Florida Southeast Connection pipelines”, Document No. 06488-2013, October 28, 2013, <http://www.floridapsc.com/ClerkOffice>ShowDocket?orderNum=PSC-2013-0505-PAA-EI>

alleged need. FERC could have listed several coal plants in China and they would have been no less relevant than the three plants FERC did list.

Even FPL's corporate parent NextEra told FERC that the DSEIS did not correctly list the coal plants to be "modernized":⁷

"In fact, as explained in these comments, the Commission's netting calculations were very conservative because they excluded more than 1,200 MW of additional coal-fired generation from its net offsets that will (or has occurred) occur prior to 2021..."

Too few coal plants would also mean the DSEIS did not list the correct coal plants.

FERC's DSEIS GHG numbers cannot be correct given that it does not list the correct coal plants allegedly in need of "modernization" to burn natural gas instead.

Neither FERC nor NextEra mention that coal plants could instead be modernized by deployment of solar panels, and they should, according to precedents set by FPL and FERC; see section II.E. below.

I.B. LNG export cannot be ignored

FERC should have accounted for *all* GHG emissions from burning Sabal Trail gas, according to Sabal Trail's own quote from the DC Circuit Court decision in Sabal Trail's December Response:

"the EIS for the [SMP] Project should have either given a quantitative estimate of the downstream greenhouse emissions that will result from burning the natural gas that the pipelines will transport or explained more specifically why it could not have done so."

Neither FERC in the DSEIS nor Sabal Trail in its response accounted for GHG from burning liquid natural gas (LNG) exports, even though FERC by its own admission in the FERC 2016 Order has responsibility to oversee environmental effects of LNG terminals, and FERC has permitted at least one pipeline leading to an LNG export operation and is in the permitting process for the LNG export terminal to which that pipeline leads, after FERC permitted several other LNG export terminals. The DSEIS did not account for leaks of gas from that pipeline, nor for leaks of hazardous air pollutants (HAPs) from the LNG terminals, nor for burning gas in the locations to which the gas is being or will be exported from those LNG terminals.

I.B.i. FERC permitted JEP from Sabal Trail to Eagle LNG in Jacksonville, FL

FERC cannot disclaim responsibility for LNG export permitting, because FERC itself permitted Kinder Morgan's Jacksonville Expansion Project ("JEP") of Florida Gas Transmission ("FGT") from Suwannee County, Florida, to Eagle LNG, and Eagle LNG is in the FERC permitting process, only delayed because of FERC's lack of quorum, according to FERC Chair Neil Chatterjee to Florida Representative Ted Yoho.⁸ Although FERC has yet another new Chairman since then, Kevin McIntyre,⁹ there is nothing in the Eagle LNG FERC Docket No. CP17-41 disclaiming FERC responsibility for Eagle LNG.

FERC once again ignores federal law, as it did for Pivotal LNG in April 2, 2015 in Docket RP15-259, as FERC Commissioner Norman Bay pointed out then ("Norman Bay's dissent"):¹⁰

⁷ "Comments of NextEra Energy, Inc. on the Supplemental Draft Environmental Impact Statement under CP14-554, et. al." FERC Accession Number 20171120-5173, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14621278, p. 2, II.

⁸ "Letter to Ted S. Yoho re the Eagle LNG Partners Jacksonville, L.L.C.'s Eagle LNG Project under CP17-41," FERC Accession Number 20171103-0266, November 3, 2017, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14616757

⁹ "Kevin McIntyre to be sworn in as FERC chairman Thursday, filling the commission," Josh Siegel, Washington Examiner, December 6, 2017, <http://www.washingtonexaminer.com/kevin-mcintyre-to-be-sworn-in-as-frc-chairman-thursday-filling-the-commission/article/2642778>

¹⁰ "Order on Petition for Declaratory Order re Pivotal LNG, Inc under RP15-259. Commissioner Bay is dissenting with a separate statement attached," FERC Accession Number 20150402-3057, April 2, 2015, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14320613

The central flaw in the majority's reasoning is that it fails to address the plain language of the Natural Gas Act. The Act makes clear Congress's intent to regulate the import and export of gas. Section 1(a) declares that "[f]ederal regulation" of the "transportation of natural gas and the sale thereof in interstate and foreign commerce is necessary in the public interest."¹ Section 1(b) similarly provides that the Act "shall" apply to "the importation or exportation of natural gas in foreign commerce and to persons engaged in such importation or exportation."² To that end, section 3 states that "no person shall export any natural gas from the United States to a foreign country or import any natural gas from a foreign country without first having secured an order of the Commission authorizing it to do so."³ To effectuate these congressional directives, the Department of Energy authorizes the export of the commodity natural gas, while the Commission exercises authority over the siting, construction, operation, and maintenance of export facilities in order to ensure that any authorized exports will serve the public interest.⁴

Here, the majority acknowledges that "liquefaction facilities operated by Pivotal and its affiliate ... [will] produce liquefied natural gas that [will] ultimately be exported to foreign nations by a third party" and that such foreign sales must be made pursuant to an export license from DOE.⁵ There can be little doubt, therefore, that the facilities will be involved in the "exportation of natural gas in foreign commerce."⁶

¹ 15 U.S.C. § 717(a).

² *Id.* § 717(b).

³ *Id.* § 717b(a) (*emphasis added*).

⁴ See, e.g., NET Mex. Pipeline Partners, LLC, 145 FERC ¶ 61,112, P 13 (2013).

⁵ See Order PP 1, 13.

⁶ 15 U.S.C. § 717(b).

Similarly, there is no doubt that Eagle LNG, getting gas through JEP from Sabal Trail, will be involved in “exportation of natural gas in foreign commerce.”

What Norman Bay wrote in his 2015 dissent applies equally to Sabal Trail, JEP, and Eagle LNG:

Instead of addressing the plain language of the statute, the majority simply ignores it....

Not only does Norman Bay’s dissent apply to all the DOE-authorized LNG export facilities at the end of Sabal Trail’s Citrus County Pipeline and of Florida Southeast Connection, it applies to Eagle LNG on the St. Johns River in Jacksonville, Florida. While DOE FE is involved in permitting Eagle LNG,¹¹ FERC also is permitting that facility that will be involved in “exportation of natural gas in foreign commerce,” specifically “to export domestically produced liquefied natural gas (LNG) up to the equivalent of 49.8 billion cubic feet of natural gas per year to Free Trade Agreement (FTA) countries, and to Non-Free Trade Agreement (NFTA) countries.”¹²

FERC cannot disclaim responsibility for GHG from the JEP pipeline, from Eagle LNG, nor from burning gas in the locations to which the GHG may be exported.

I.B.ii. FERC permitted Floridian LNG, Martin County, FL, and Crowley Maritime’s Carib Energy, Jacksonville, FL

The Department of Energy (“DoE”) Office of Fossil Energy (“FE”) has repeatedly noted FERC cannot shirk its responsibilities for the Floridian LNG facility in Martin County, Florida, nor for LNG shipped from there by Carib Energy, now owned by Crowley Maritime of Jacksonville, Florida, and Floridian itself has repeatedly reminded FE of FERC’s responsibility. Further,

¹¹“Eagle LNG Partners Jacksonville LLC - Dkt. No. 16-15-LNG Exports to (FTA and NFTA) Countries,” “The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application (Application), filed on January 27, 2016, by Eagle LNG Partners Jacksonville LLC (Eagle LNG), seeking a long-term multi-contract authorization to export domestically produced liquefied natural gas (LNG) up to the equivalent of 49.8 billion cubic feet of natural gas per year to Free Trade Agreement (FTA) countries, and to Non-Free Trade Agreement (NFTA) countries.” <https://energy.gov/fe/downloads/eagle-lng-partners-jacksonville-llc-dkt-no-16-15-lng-exports-fpa-and-nfta-countries>

¹² *Ibid.*

FERC has not followed the rules of the Pipeline and Hazardous Materials Safety Administration (PHMSA) of the U.S. Department of Transportation regarding containment of flammable gas and hazardous air pollutants (HAPs), which means FERC has not accounted for possible escape of GHG from Floridian LNG despite FERC's responsibility to do so.

Earlier FERC did in fact issue in 2008 ("FERC 2008 Floridian Order")¹³ and modify in 2012¹⁴ a certificate of convenience and necessity for the Floridian LNG facility, as referenced in DoE FE's 2014 Order further authorizing LNG exports from Floridian LNG to Free Trade Agreement (FTA) countries.¹⁵ DoE FE further referenced FERC's authorization in its November 25, 2015 Order authorizing non-FTA LNG export from Floridian¹⁶ which says:¹⁷ "Floridian states that its Facility is subject to the jurisdiction of the Federal Energy Regulatory Commission (FERC)."

Note this November 25, 2015 explicit acknowledgment by DoE FE and by Floridian LNG of FERC's jurisdiction over Floridian LNG is *after* Norman Bay's April 2, 2015 complaint that FERC was shirking its responsibility for LNG export.¹⁸ Neither Floridian nor DoE FE accepted FERC's attempt to shirk its LNG export oversight responsibility.

FERC later authorized FSC to deliver gas it gets from Sabal Trail to Martin County a few blocks from Floridian LNG (see the FERC 2016 Order and the FERC dockets in the subject of this letter). FERC cannot claim not to know about this connection between Sabal Trail, FSC, Floridian LNG, and LNG exports.

The September 10, 2014 DoE/FE Order authorizing Crowley Maritime's Carib Energy to get LNG from Floridian for export to any non-Free Trade Agreement (non-FTA) "country in Central America, South America, or the Caribbean which presently has or in the future acquires the capacity to import LNG via approved ISO IMO7/TVAC-ASME LNG containers transported on ocean-going carriers" explicitly requires Carib to follow the "rules, regulations, orders, policies, and other determinations" of FERC.¹⁹

When the FERC 2008 Floridian Order granted a certificate of public convenience and necessity under Section 7(c) of the Natural Gas Act for Floridian Natural Gas Storage Company, LLC's (FGS) proposed LNG facility, the decision was based in part on the Commission's adoption of the findings and conclusions of the final environmental impact statement, which stated

¹³ Floridian Natural Gas Storage Company, LLC, Order Issuing Certificate, 124 FERC ¶ 61,124, August 29, 2008, FERC Docket No. CP08-13-000, FERC Accession Number 20080829-4004, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=13643142.

¹⁴ Floridian Natural Gas Storage Company, LLC, Order Amending Certificate, 140 FERC ¶ 61,167, August 31, 2012, FERC Docket No. CP12-100-1000.

¹⁵ "Order granting long-term multi-contract authorization to export liquefied natural gas in ISO containers loaded at the Floridian facility in Martin County, Florida, and exported via ocean-going vessel to free trade agreement nations in central America and the Caribbean," Advanced Energy Solutions, LLC, FE Docket No. 13-104-LNG, DOE/FE Order No. 3360, November 14, 2013,

https://fossil.energy.gov/ng_regulation/sites/default/files/programs/gasregulation/authorizations/2013/orders/ord3360.pdf

¹⁶ "FINAL OPINION AND ORDER GRANTING LONG-TERM, MULTI-CONTRACT AUTHORIZATION TO EXPORT LIQUEFIED NATURAL GAS IN ISO CONTAINERS LOADED AT THE PROPOSED FLORIDIAN FACILITY IN MARTIN COUNTY, FLORIDA, AND EXPORTED BY VESSEL TO NON-FREE TRADE AGREEMENT NATIONS," Floridian Natural Gas Storage Company, LLC, FE Docket No. 15-38-LNG, DOE/FE Order No. 3744, November 25, 2015, <https://www.energy.gov/sites/prod/files/2015/11/f27/ord3744.pdf>, Page 1, Footnote 3, "DOE/FE issued authorization to Carib to export LNG from the Floridian Facility at the "equivalent to the maximum daily send out capacity of natural gas in liquefied state via the FERC-authorized truck loading station at the Floridian facility" (14.6 Bcf/yr, or 0.04 Bcf/d). Carib Energy (USA) LLC , DOE/FE Order No. 3487 , FE Docket No. 11-141-LNG, Final Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas in ISO Containers by Vessel to Non-Free Trade Agreement Nations in Central America, South America, or the Caribbean (Sept. 10, 2014) [hereinafter Carib]."

¹⁷ *Ibid.*, p. 7, IV.B.

¹⁸ "Order on Petition for Declaratory Order re Pivotal LNG, Inc under RP15-259. Commissioner Bay is dissenting with a separate statement attached," FERC Accession Number 20150402-3057, April 2, 2015, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14320613

¹⁹ "FINAL ORDER GRANTING LONG-TERM MULTI-CONTRACT AUTHORIZATION TO EXPORT LIQUEFIED NATURAL GAS IN ISO CONTAINERS BY VESSEL TO NON-FREE TRADE AGREEMENT NATIONS IN CENTRAL AMERICA, SOUTH AMERICA, OR THE CARIBBEAN," CARIB ENERGY (USA) LLC, FE Docket No. 11-141-LNG, DOE/FE Order No. 3487, September 10, 2014, https://fossil.energy.gov/ng_regulation/sites/default/files/programs/gasregulation/authorizations/2014/orders/ord3487.pdf, p. 6, IV.A. "Pursuant to the May 3, 2013, amendment, Carib states that it is a wholly owned subsidiary of Crowley Petroleum Services, Inc. (Crowley). Carib further asserts that Crowley is a wholly owned subsidiary of Crowley Maritime Corp." p. 8, IV.D. "Carib states in the December 12 amendment that the Floridian Facility received a certificate of public convenience and necessity from the Federal Energy Regulatory Commission (FERC) in Docket No. CP08-13-000 on August 29, 2008,¹⁷ and that a requested amendment of the certificate was approved in FERC Docket No. CP12-100-000 on August 31, 2012.¹⁸", numerous other references to FERC and its EIS, including pp. 19-20, X.C. "Carib shall ensure that all transactions authorized by this Order are permitted and lawful under United States laws and policies, including the rules, regulations, orders, policies, and other determinations of the Office of Foreign Assets Control of the United States Department of the Treasury, the FERC, and the U.S. Department of Transportation."

that staff believed the proposed facility would comply with the federal safety standards contained in Title 49, Code of Federal Regulations, Part 193.

On July 7, 2010,²⁰ and July 16, 2010,²¹ the Pipeline and Hazardous Materials Safety Administration (PHMSA) of the U.S. Department of Transportation issued two written interpretations concerning the flammable vapor-gas exclusion zone requirements contained in Title 49, Code of Federal Regulations, Part 193.2059. As noted in the Commission's October 8, 2010, letter to Floridian,²² the new interpretations would apply to any liquefied natural gas facility "that is not yet in existence or under construction," and in accordance with the FERC 2008 Floridian Order, FGS must receive written authorization from the Commission prior to constructing any facilities associated with the above referenced docket. Such authorization will only be granted following a determination that the facilities are in compliance with the interpretations issued by PHMSA on the Part 193 regulations in Subpart B.

FERC issued an Order July 16, 2014.²³

1. *On September 4, 2013, Floridian Natural Gas Storage Company, LLC (Floridian) filed an application to amend its certificate of public convenience and necessity to construct and operate a liquefied natural gas (LNG) storage facility near Indiantown in Martin County, Florida (Storage Project).¹ Floridian seeks authorization to modify the previously authorized Phase 1 facilities by substituting a 1 billion cubic feet (Bcf) single-containment LNG storage tank for the previously authorized 4 Bcf full-containment tank and reducing the associated Phase 1 vaporization capacity.*

¹ *Floridian was first authorized to construct and operate its Storage Project by Commission order issued August 29, 2008, in Docket No. CP08-13-000. Floridian Natural Gas Storage Co. (Floridian), 124 FERC ¶ 61,214 (2008) (2008 Certificate Order). On August 15, 2013, Floridian was granted an extension of time from August 29, 2013 until August 29, 2014 to complete construction and make the authorized facilities available for service. On August 11, 2014, Floridian was granted a second extension to complete construction by August 29, 2015.*

The United States Department of Energy has authorized LNG exports from this facility based on 8 Bcf storage capacity, and questions remain²⁴ concerning the modeling that was used to calculate the Flammable Vapor-Gas Dispersion Exclusion Zones for the new Phase 1 storage tank.

Pursuant to section 112 of the Clean Air Act, EPA issued final rules to reduce emissions of hazardous air pollutants (HAPs) from oil and natural gas production facilities as well as natural gas transmission and storage facilities. Natural gas leaks into the atmosphere from oil and natural gas wells, storage tanks, pipelines, and processing plants. These leaks were the source of about 32% of total U. S. methane emissions and about 4% of total U. S. greenhouse gas emissions in 2015.

FERC's DSEIS does not account for HAP leaks from Floridian or other LNG export operations that may receive gas from Sabal Trail: this is yet another reason the DSEIS is inadequate.

FERC cannot disclaim responsibility for Sabal Trail gas or byproduct gases escaping from nor now or later exported as LNG from facilities FERC itself authorized, nor for that matter from other facilities that DoE FE authorized.

I.B.iii. FERC never disclaimed Strom Inc. containerized LNG, Citrus County, FL

Inland LNG facilities such as Floridian LNG or Strom Inc. are located at potential sites of exit for natural gas exports via what could be called "rolling pipelines on wheels." Despite Strom Inc.'s attempts to get it to do so, FERC never disclaimed

²⁰ "Interpretation Response #PI-10-0021," PHMSA, July 7, 2010, <https://www.phmsa.dot.gov/regulations/title49/interp/PI-10-0021>

²¹ "Interpretation Response #PI-10-0005," PHMSA, July 16, 2010, <https://www.phmsa.dot.gov/regulations/title49/interp/PI-10-0005>

²² "Letter to Floridian Natural Gas Storage Company, LLC re PHMSA interpretations on the Part 193 exclusion zone regulations under CP08-13," FERC Accession Number 2010008-3035, October 8, 2010, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=13855234

²³ "Order Amending Certificate re Floridian Natural Gas Storage Company, LLC under CP13-541," FERC Accession Number 20150716-3019, July 16, 2015, http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20150716-3019

²⁴ "Comment of Cecile T Scofield in Docket(s)/Project(s) CP13-541-000 Submission Date: 7/15/2015," FERC Accession Number 20150715-5021, July 15, 2015, http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20150715-5021

responsibility for Strom's LNG facility, now to be located in Crystal River, Citrus County, Florida, which Strom explicitly has said may get its gas from Sabal Trail.

On March 24, 2014, Strom Inc. filed a petition for exemption from FERC jurisdiction for what it called "'LNG in a Box" or similar LNG natural gas to LNG ("LNG/B") projects':²⁵

This project will not affect any river, basin or other waterways pursuant to FERC rules and regulations and federal agencies rules and regulations. Additionally, the LNG/B is not defined as an LNG terminal¹ since it is not a building, structure, fixture or improvements as defined by federal law.

Strom further states that under the NGA, the LNG/B is exempt from FERC's jurisdiction pursuant to Section 2 of the Natural Gas Act (15 USC §717a). According to this section, specifically exempted from the definition of LNG terminal is "any pipeline or storage facility subject to the jurisdiction of the Commission under 717f".⁶ Since Strom intends to convert natural gas purchased from companies that are subject to and approved by FERC for LNG terminal and for import and export of LNG, Strom contends that the use of the LNG/B is not subject to permitting under FERC rules and NGA.⁷

¹ Section 2 of the Natural Gas Act (15 USC §717a).

⁶ Section 2 of the Natural Gas Act (15 USC §717a)(11)(b)

⁷ 18 CFR Chapter I

Strom even argued in the same petition:

This device is not considered a "facility" or structure as defined in the NGA Section 3.

Passing up a golden opportunity to agree with Strom, Inc. on FERC's own position, FERC addressed none of Strom's points about the nature of its LNG export operations and facilities. FERC instead issued an order denying Strom Inc.'s request to waive FERC's filing fee²⁶ and a month later filed notice to dismiss Strom's entire request and to close the FERC docket.²⁷

As DoE FE wrote in its October 21, 2014 Order authorizing Strom Inc.'s LNG export operation in Crystal River, Florida at the end of Sabal Trail's Citrus County Pipeline (emphasis added):²⁸

Source of Natural Gas. Strom states that the natural gas to be liquefied at the Project will come from the robust, liquid US. natural gas market. which includes natural gas produced from shale deposits. In the Amendment to its Application, Strom asserts that the Project can receive natural gas by short lateral pipeline from either Florida Gas Transmission Company's current interstate transmission pipeline or, in the future, from the proposed Sabal Trail Transmission Pipeline, which Strom asserts has received state approval by the Florida Public Service Commission. Strom states that it intends to purchase natural gas from these pipeline companies under long-term purchase agreements, as well as from utilities that have excess natural gas.

DoE FE noted that Strom, Inc. explicitly said Sabal Trail was a likely future source of gas for its containerized LNG.

In that same DoE FE Order, FE notes that Strom, Inc. informed FE that Strom had tried and failed to get FERC to disclaim responsibility:

²⁵ "Petition for Declaratory Order of Strom, Inc. under CP14-121," FERC Accession Number 20140324-5238, March 24, 2017, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14197490

²⁶ "Order Denying Waiver of Filing Fee re Strom, Inc. under CP14-121," FERC Accession Number 20140721-3009, July 21, 2017, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14235765

²⁷ "Notice to Dismiss Petition for Declaratory Order and Terminate Docket re Strom, Inc under CP14-121," FERC Accession Number 20140822-3044, August 22, 2014, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14245339

²⁸ "ORDER GRANTING LONG-TERM MULTI-CONTRACT AUTHORIZATION TO EXPORT LIQUEFIED NATURAL GAS IN ISO CONTAINERS LOADED AT THE PROPOSED STROM LNG TERMINAL IN CRYSTAL RIVER, FLORIDA AND EXPORTED BY VESSEL TO FREE TRADE AGREEMENT NATIONS," DoE/FE ORDER NO. 3537, FE DOCKET NO. 14-56-LNG, October 21, 2014, https://energy.gov/sites/prod/files/2014/10/f18/ord3537_0.pdf, <http://spectrabusters.org/?p=7111>

Procedural History. Strom states that, on March 14, 2014, it filed a Motion for Declaratory Order with the Federal Energy Regulatory Commission (FERC), requesting clarification of FERC's authority or intention to regulate the MLNG units that Strom proposes to utilize to liquefy LNG for export and other purposes. We note, however, that on August 22, 2014, FERC dismissed Strom's petition for lack of a filing fee and closed the docket.⁶ Concurrently with this Application, Strom filed two applications with DOE/FE, requesting long-term, multi-contract authorization to export LNG to non-FTA countries. Those applications are currently pending in FE Docket Nos. 14-57-LNG and 14-58-LNG, and DOE will review them separately from this Order. 15 U.S.C. § 717b(a).

⁶ Fed. Energy Regulatory Comm'n, Strom, Inc., Docket No. CP14-121-000. Notice to Dismiss Petition for Declaratory Order and Terminate Docket (Aug. 22, 2014).

As Norman Bay's dissent said:

"An LNG terminal is simply one type of export facility."

In any adequate SEIS, FERC needs to account for GHG from all LNG export operations that may receive gas from Sabal Trail, including leaks of gas or HAP byproducts from those LNG terminals, from containers on trucks, trains, or ships, including accidents, and from burning gas where-ever it goes: all these are GHG.

I.B.iv. FERC cannot shirk its LNG export responsibility for GHG

Nonetheless, FERC did try to disclaim all responsibility for LNG export in the FERC 2016 Order:

86. Allegations that the projects will be used to export gas also do not persuade us to find that the applicants have not demonstrated project need. Neither Sabal Trail nor Florida Southeast has proposed to connect to any LNG export facilities. In addition, Florida Power & Light stated that it lacks legal authority to export natural gas, and that it is contracting for capacity to serve its natural gas plants. Florida Power & Light adds that it is not an owner of the Floridian LNG project in Martin County, Florida, nor is any of its affiliates.⁶⁴

⁶³ Florida Power & Light December 23, 2014 Motion to Intervene and Comments in Docket No. CP15-17-000 at 6.

⁶⁴ Id. at 4, 6.

Any intent on the part of Sabal Trail or FPL is not relevant. What is relevant is that Sabal Trail gas is on its way to LNG export through FERC-permitted JEP and FERC-permitting Eagle LNG, as well as through other LNG export operations including FERC-permitted Floridian LNG, as well as through Strom, Inc., for which FERC never did (and cannot) disclaim responsibility. So any SEIS for Sabal Trail must account for GHG from leaks from all such facilities and export shipping and from burning LNG thus exported.

Paragraph 86 of the FERC 2016 Order continues:

Moreover, the Commission does not have jurisdiction over the exportation and importation of natural gas. Such jurisdiction resides with the U.S. Department of Energy (DOE), which must act on any applications for natural gas export and import authority.⁶⁵

⁶⁵ Section 3(a) of the NGA provides, in part, that "no person shall export any natural gas from the United States to a foreign country or import any natural gas from a foreign country without first having secured an order of the Commission authorizing it to do so." 15 U.S.C. § 717b(a) (2012). In 1977, the Department of Energy Organization Act transferred the regulatory functions of section 3 of the NGA to the Secretary of Energy. 42 U.S.C. § 7151(b) (2012). Subsequently, the Secretary of Energy delegated to the Commission authority to "[a]pprove or disapprove the construction and operation of particular facilities, the site at which such facilities shall be located, and with respect to natural gas that involves the construction of new domestic facilities, the place of entry for imports or exit for exports." DOE Delegation Order No. 00-004.00A (effective May 16, 2006). The proposed facilities are not located at a potential site of exit for natural gas exports. Moreover, the Secretary of Energy has not delegated to the Commission any authority to approve or disapprove the import or export of the commodity itself, or to consider whether the exportation or importation of natural gas is consistent with the public interest. See Corpus Christi Liquefaction, LLC, 149 FERC ¶ 61,283, at P 20 (2014) (Corpus Christi). See also National Steel Corp., 45 FERC ¶ 61,100, at 61,332-33 (1988) (observing that DOE, "pursuant to its exclusive jurisdiction, has

approved the importation with respect to every aspect of it except the point of importation” and that the “Commission’s authority in this matter is limited to consideration of the place of importation, which necessarily includes the technical and environmental aspects of any related facilities”).

For FERC to be aware that at least some Sabal Trail gas is destined for export, it is irrelevant whether FERC has direct jurisdiction over LNG export. FERC did permit JEP and Floridian LNG, both of which lead to export, FERC never disclaimed responsibility for Strom, Inc.’s containerized LNG, and Eagle LNG is in FERC permitting now, so FERC cannot claim not to know that some Sabal Trail gas is destined for export through those facilities.

This point goes beyond Norman Bay’s dissent, in that FERC does not have to have any authority over actual LNG export to know that such export is or will be using gas from a FERC-permitted pipeline, and thus for FERC to be responsible for GHG from that LNG export.

However, even FERC admits FERC does have authority over GHG from LNG export from related facilities it permits. As FERC’s footnote 65 above concludes, FERC does have authority over “the technical and environmental aspects of any related facilities.” GHG from leaks of Sabal Trail gas or HAP byproducts at such facilities or from LNG export, including burning gas for power anywhere in the world, are environmental aspects of Floridian LNG, Eagle LNG, JEP, and Sabal Trail.

The purpose of exportation of natural gas is to burn it for power somewhere in the world. Methane burned anywhere in the world produces GHG, and should be accounted for in any EIS for Sabal Trail or SMPP, along with the inevitable leaks of such gas or HAP byproducts anywhere along the export chains.

II. FERC’s own rules require balancing “need” with detrimental effects: that balance has tipped

The Court, in requiring FERC to account for previously-unaccounted-for adverse effects of SMPP, re-opens the balance of such adverse effects against public benefits.

FERC’s own rules say:²⁹

“the Commission will determine whether a project is in the public convenience and necessity by balancing the public benefits against the adverse effects of the project.”

Let us do what FERC did not in the DSEIS: let us examine that balance.

II.A. FERC second-guessing FPSC reopens the question of need

Sabal Trail’s December 2017 Response claims:

“The Commission’s legal authority does not extend to decisions regarding how a state’s electric generating needs are met, such as siting of power plants or determining the need for and type of electricity generation. Rather, authority over these issues is reserved exclusively to the states. Thus, the Commission cannot second-guess the Florida Public Service Commission’s (“FPSC”) and the Florida Siting Board’s conclusion that natural gas-fired generation is necessary to meet the state’s growing electricity demand, or where those plants should be located.”

FPL already second-guessed its own 2013 application to FPSC for Sabal Trail by admitting in 2016 that Florida does not need any new electricity until 2024 at the earliest; see below, II.B. “access to new supplies.”

²⁹ “ORDER CLARIFYING STATEMENT OF POLICY,” 90 FERC ¶ 61,128, 9 February 2000, page 16, “III. Factors to Balance in Assessing Public Convenience and Necessity.” <https://www.ferc.gov/legal/maj-ord-reg/PL99-3-001.pdf>

And FERC did second-guess the FPSC by naming a *different* trio of coal plants supposedly to be “modernized” to natural gas burning; different from the three FPL and FPSC themselves named in 2013 as the primary justification for Sabal Trail.

Thus FERC itself has set the precedent of second-guessing the state agency FPSC.

Not only have the original three power plants named by FPL and FPSC already been “modernized”, taking away the alleged primary need for Sabal Trail, but many other factors have changed in the four years since 2013, as detailed in the following subsections.

II.B. The Public Benefits of SMPP have been disproven

FERC's own rules say about balancing public benefits against adverse effects.³⁰

“The public benefits could include, among other things, meeting unserved demand, eliminating bottlenecks, access to new supplies, lower costs to consumers, providing new interconnects that improve the interstate grid, providing competitive alternatives, increasing electric reliability, or advancing clean air objectives.”

Let's look at each of those criteria.

- *meeting unserved demand,*

According to Sabal Trail's Information Postings,³¹ posted daily as required by FERC, Sabal Trail on November 14, 2017, lost 300,000 Dekatherms/day of customer demand, and its nominated capacity (amount of gas scheduled)³² went to zero. Apparently there is no unserved demand, so there is no public benefit in meeting it.

- *eliminating bottlenecks,*

While Sabal Trail was pumping zero gas, the two pre-existing large natural gas pipelines into Florida, Florida Gas Transmission (“FGT”) and Gulfstream, took up the slack. This is the inverse of the situation when Sabal Trail started pumping gas in June, 2017, when the amount it pumped reduced by the same aggregate amount what FGT and Gulfstream pumped.³³ Apparently there are no bottlenecks, so there is no public benefit in eliminating bottlenecks.

- *access to new supplies,*

As mentioned above, Sabal Trail appears to have lost a major customer, and has never posted any request for more capacity. Furthermore, FPL's own 2016 Ten Year Site Plan³⁴ states plainly that Florida needs no new electricity before 2024 at the

³⁰ *Ibid.*

³¹ “Sabal Trail Transmission, LINK System Informational Postings,” Enbridge, <https://infopost.spectraenergy.com/infopost/STTHome.asp?Pipe=STT>

³² “CONFIRMED NOMINATION (Scheduled Quantity) – An agreement by a seller to deliver/cause delivery or a transporter to receive and deliver a specific quantity of gas for a specified period at various points under a Sales or Transportation Agreement or for all contracts at one specific point. The confirmed nomination is in response to a purchaser's or shipper's nomination.” Glossary, Municipal Gas Authority of Georgia, unknown date, accessed December 18, 2017, <https://gasauthority.com/resources/natural-gas-faq/glossary/>

“Shippers inject or withdraw natural gas and are responsible for keeping the difference between actual and nominated gas volumes within the agreed on tolerance levels (5 to 10 percent of nominated volume, but flows should not exceed the maximum daily quantity). Balancing is performed both daily and monthly. Negative imbalances — those occurring when a shipper withdraws more gas than it injects — are subject to penalties.” Development of Natural Gas and Pipeline Capacity Markets in the United States, Andrej Juris, <https://pdfs.semanticscholar.org/31f1/86884e6804d5c6b7a1cf49e3b575a8a18d0b.pdf>
See also FERC, PR, 2015-04-16, [FERC Approves Final Rule to Improve Gas-Electric Coordination](#), about [Order No 809](#), which includes details about the gas purchase, nomination, and use process. And see FERC, [Standards for Business Practices for Interstate Natural Gas Pipelines](#) 16 October 2015, Item G-1: FERC Adopts NAESB Standards Version 3.0, Scheduling Processes of Interstate Natural Gas Pipelines and Public Utilities [Order No. 587-W | Instruction Manual | Sample Tariff](#).

³³ “Sabal Trail Adding Pipeline Capacity But Not Demand,” BTU Analytics, SeekingAlpha, 20 June 2017, <https://seekingalpha.com/article/4082770-sabal-trail-adding-pipeline-capacity-demand>

³⁴ “Ten Year Power Plant Site Plan 2016-2025”, FPL, April 2016, <https://www.nrc.gov/docs/ML1621/ML16216A227.pdf>

earliest. FPL's 2017 Ten Site Year Plan confirms that prediction,³⁵ and actually shows lower peak load forecast than FPL's 2016 Ten Year Plan, as pointed out by FPL.³⁶ So there is no public benefit in new supplies of natural gas.

- *lower costs to consumers,*

Utility-scale solar power now costs less than natural gas,³⁷ so natural gas does not provide any public benefit of lower costs to consumers. Tallahassee, capital of Florida, has completed a 20MW 120-acre solar farm on the grounds of Tallahassee International Airport. Even before that solar farm is to go online January 1, 2018,³⁸ it is already completely subscribed by customers.³⁹

Customers who choose to purchase energy at the solar rate will pay 5 cents per kilowatt hour (kWh) in lieu of the cost of natural gas; this rate will remain fixed for the next 20 years.

Can any natural gas utility beat 5 cents per kWh?

- *providing new interconnects that improve the interstate grid,*

No pipeline can be as geographically distributed as solar power, so a pipeline does not provide nearly as much public benefit of new interconnects to improve the interstate electrical grid as does distributed solar power.

- *providing competitive alternatives,*

With Fluor's massive write-off because of three gas-fired plants,⁴⁰ and the recent massive layoffs and writeoffs by GE and Siemens,⁴¹ there is little evidence that natural gas is competitive any more. Quite the contrary, as Siemens stated: "The power generation industry is experiencing disruption of unprecedented scope and speed."⁴²

The actual competitive alternative is solar power.⁴³

By 2024, solar and wind energy technology is expected to attract two-thirds of global investment in power plants and account for as much as 40 percent of total power generation by then, according to the International Energy Agency. As such renewables take hold, natural gas is likely to be pushed from a primary role to a supporting role when the wind does not blow and the sun does not shine.

Even IEA's notoriously far-too-conservative solar power predictions⁴⁴ show that FPL was right in its 2016 Ten Year Plan (see above): Florida needs no new electricity until 2024 at the earliest. And probably not then, either. Florida already has plenty of natural gas to play a supporting role.

³⁵ "Ten Year Power Plant Site Plan 2017-2026", FPL, April 3, 2017, <https://www.fpl.com/company/pdf/10-year-site-plan.pdf>

³⁶ "FPL's 2017 Ten-Year Site Plan: Key Forecasts and Resource Plan: Presentation for the Florida Public Service Commission 2017 Annual Workshop," September 12, 2017, by Dr. Steven Sim, Director, Integrated Resource Planning, FPL, page 3, http://www.psc.state.fl.us/Files/PDF/Utilities/Electricgas/TenYearSitePlans/2017/FPL_Presentation.pdf

³⁷ "Levelized Cost of Energy Analysis (LCOE 11.0)", Lazard, November 2, 2017, <https://www.lazard.com/perspective/levelized-cost-of-energy-2017/>

³⁸ "Tallahassee Solar: Ready to shine bright," Tallahassee.com, December 19, 2017, <http://www.tallahassee.com/story/life/chronicle/2017/12/19/tallahassee-solar-ready-shine-bright/965202001/>

³⁹ "Tallahassee Solar Program," accessed December 20, 2017, <http://talgov.com/you/solar.aspx>

⁴⁰ "Fluor Stumbles on Fixed-Price Power Projects: A second-quarter charge trims the earnings estimate for the year," Richard Korman, ENR, August 8, 2017, "Problems on three gas-fired power plant projects with fixed-price contracts forced Dallas-based Fluor Corp. to book a \$124-million charge in 2017's second quarter. CEO David. T. Seaton says some members of the power team have exited and that the trouble projects were all acquired by the same pursuit team." <https://www.enr.com/articles/42478-fluor-stumbles-on-fixed-price-power-projects?v=preview>

⁴¹ "G.E. Cuts Jobs as It Navigates a Shifting Energy Market," Tiffany Hsu and Clifford Kraussdec, New York Times, December 7, 2017, "The global forces are roiling many big conglomerates that have long served the industry. Siemens, G.E.'s main rival, said last month that it would cut 6,900 jobs worldwide in units focused on power plant technology, generators and large electrical motors. "The power generation industry is experiencing disruption of unprecedented scope and speed," Siemens said in a statement at the time." https://www.nytimes.com/2017/12/07/business/general-electric-power-jobs.html?_r=0

⁴² *Ibid.*

⁴³ *Ibid.*

⁴⁴ "Photovoltaic growth: reality versus projections of the International Energy Agency – the 2017 update," Auke Hoekstra, Steinbuch, June 12, 2017, <https://steinbuch.wordpress.com/2017/06/12/photovoltaic-growth-reality-versus-projections-of-the-international-energy-agency/>

Not even a supporting role will be needed for natural gas, if Florida follows the plans of Stanford Professor Mark Z. Jacobson's research group in converting everything, including heating, cooling, and transportation, to wind, water, and solar power by the year 2050.⁴⁵ According to FERC's own annual figures for electricity generation from various power sources, the U.S. is well on the path towards Jacobson's plans, in particular towards more total electricity coming from solar power than any other source by 2023, as predicted by FERC's own former Chairman Jon Wellinghoff in 2013.⁴⁶ Any DSEIS for SMPP must compare GHG from solar power to GHG from natural gas.

FERC can compare solar to gas, as Duke Energy Florida pointed out:⁴⁷

The court explained that quantification could "permit the agency to compare the emissions from this project to emissions from other projects..."

So FERC could compare SMPP emissions to emissions from other projects such as FPL's own and DEF's own solar projects, which are more competitive alternatives.

- *increasing electric reliability,*

Multiple studies show that electric grids become more reliable with increased solar and wind power.⁴⁸ Meanwhile, SMPP is a 500+ mile opportunity for failure through corrosion,⁴⁹ agricultural implements,⁵⁰ dirt road ditch pullers,⁵¹ sinkholes,⁵² or enemy action.⁵³ So a new pipeline does not increase electric reliability: quite the opposite; another pipeline puts reliability at more risk.

- *or advancing clean air objectives."*

Now that solar power is less expensive (see above) and faster and cheaper to build than natural gas pipelines and power plants, natural gas does not advance clean air objectives.

⁴⁵ "100% Wind, Water, and Solar (WWS) All-Sector Energy Roadmaps for Countries and States," Mark Z. Jacobson, Stanford University, retrieved December 29, 2017, <http://web.stanford.edu/group/efmh/jacobson/Articles/I/WWS-50-USState-plans.html>

⁴⁶ "U.S. electric power source projections: solar still most by 2023," John S. Quarterman, LAKE, February 20, 2017, <http://www.l-a-k-e.org/blog/2017/02/u-s-electric-power-source-projections-solar-still-most-by-2023.html>

⁴⁷ "Initial Comments of Duke Energy Florida, LLC under CP14-554, et. al.," FERC Accession Number 20171120-5154, November 20, 2017, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14621229

⁴⁸ "Germany Added Wind and Solar Power and Its Electric Grid Became More Reliable," Jeff Spross, United Nations University, August 19, 2014, <https://ourworld.unu.edu/en/germany-added-wind-and-solar-power-and-its-electric-grid-became-more-reliable>

"Wind, solar do not harm power grid reliability-draft U.S. study," Staff, Reuters, July 17, 2017, <https://www.reuters.com/article/us-usa-energy-study/wind-solar-do-not-harm-power-grid-reliability-draft-u-s-study-idUSKBN1A221U>

"Wind, solar energy have not harmed U.S. power grid: industry study," Nichola Groom, Reuters, June 20, 2017, <https://www.reuters.com/article/us-usa-energy-renewables/wind-solar-energy-have-not-harmed-u-s-power-grid-industry-study-idUSKBN19B13H>

"Advancing Past 'Baseload' to a Flexible Grid: How Grid Planners and Power Markets Are Better Defining System Needs to Achieve a Cost-Effective and Reliable Supply Mix," Judy W. Chang, et al., NRDC, June 26, 2017, http://www.brattle.com/system/publications/pdfs/000/005/456/original/Advancing_Past_Baseload_to_a_Flexible_Grid.pdf?1498246224

⁴⁹ "Spectra Safety Violations," Spectrabusters, <http://spectrabusters.org/hazards/spectra-safety-violations/>

⁵⁰ "Father, Son Killed in Northern Illinois Pipeline Explosion: Authorities in northern Illinois say a father and son were killed in a natural gas pipeline explosion while working on a farm field," U.S. News, December 6, 2017, <https://www.usnews.com/news/best-states/illinois/articles/2017-12-06/father-son-killed-in-northern-illinois-pipeline-explosion>

⁵¹ "SONAT pipeline break in Berrien County, GA," FERC Accession Number 20141117-5040, November 15, 2014, http://elibrary.ferc.gov/idmws/file_list.asp?document_id=39222

⁵² "Sinkhole at Sabal Trail path through SRSP, Hamilton Co., FL 2017-10-03," John S. Quarterman, WWALS, October 4, 2017, <http://wwals.net/?p=37641>

"Comment of Janet L Barrow under CP15-17, et. al.; A Citizen's Supplemental Information Regarding Sabal Trail's October, 2017 Monthly Report," Janet L. Barrow, FERC Accession Number 20171120-5026, November 20, 2017, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14620968, <http://wwals.net/?p=39624>

⁵³ "PIPELINE SECURITY: NEW TECHNOLOGY FOR TODAY'S DEMANDING ENVIRONMENT," Adrian Fielding, Pipeline & Gas Journal, May 2012, Vol. 239 No. 5, <https://pgjonline.com/2012/05/14/pipeline-security-new-technology-for-todays-demanding-environment/>

"Sinai Terrorists Blow Up Natural Gas Pipeline," Elad Benari, Arutz Sheva, January 17, 2014, http://www.israelnationalnews.com/News/News.aspx/176425#.U_4E2NSx15Q

"Comment of Roger B. Marietta in Docket(s)/Project(s) CP15-17-000 Submission Date: 7/24/2015," Roger B. Marietta, FERC Accession Number 20150724-5034, July 24, 2015, http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20150724-5034, <http://spectrabusters.org/?p=6317>

Even FPL emphasizes in its own press release about its 2017 Ten Year Site Plan:⁵⁴

"For the first time ever, FPL projects that solar power will outpace coal and oil combined as a percentage of the company's energy mix by 2020."

It may not take that long. New solar power deployments increased 110% in Florida in the first half of 2017 over the first half of 2016.⁵⁵

II.C. Where are the Customers or the Committed Capacity?

The only remaining alleged “benefit” from the FERC 2016 Order is that Sabal Trail has customers. Even that is now questionable since Sabal Trail in November 2017 lost 300,000 DTH/day in committed capacity.⁵⁶ That amount exactly matches the amount Duke Energy had previously contracted, with an initial termination date of October 15, 2017,⁵⁷ thirty days before Sabal Trail posted a 300,000 DTH/day drop in committed capacity on November 14, 2017.

On that same day, November 14, 2017, Sabal Trail’s nominated capacity dropped to zero or negative and stayed that way for seventeen days.⁵⁸ On December 2, 2017, Sabal Trail started shipping a trickle of gas, but its nominated capacity remains less than ten percent of its stated operational capacity.⁵⁹ How can Sabal Trail’s gas be needed when it doesn’t even ship it?

As Duke Energy pointed out:⁶⁰

"Natural gas transportation (as well as electric generation) is a seasonal business with relative peaks in utilization of pipeline capacity, depending on geographic location and customer base, occurring in the winter and summer."

Florida is in the middle of a cold spell, and winter is here. How can there be need for Sabal Trail’s gas if it is not even shipping it now?

Duke Energy Florida’s (DEF’s) November 20, 2017 comments on the present docket do not name any power plants to be fueled by Sabal Trail except the ones it is building in Citrus County, Florida, about which DEF claims:⁶¹

For DEF, the utilization of capacity from the SMP Projects, and specifically the Sabal Trail Project, will be used to fuel DEF’s new Citrus County Combined Cycle Project. Use of this facility, which has no alternate fuel source, will allow DEF to stop using two 1960s era coal plants, Crystal River Units 1 and 2, which are scheduled for decommissioning in 2018. DEF cannot retire those plants until the Citrus County facility is brought online. The Citrus County facility cannot be brought on-line without Sabal Trail capacity available to transport fuel.

That is a curious assertion, since in 2014 it was reported that:⁶²

⁵⁴ "FPL to generate even cleaner power for customers while keeping rates low with plans for major solar expansion and natural gas power plant modernization," FPL, News Release, April 3, 2017, <http://newsroom.fpl.com/2017-04-03-FPL-to-generate-even-cleaner-power-for-customers-while-keeping-rates-low-with-plans-for-major-solar-expansion-and-natural-gas-power-plant-modernization>

⁵⁵ "Report: Residential, C&I solar permits surge in Florida, Nevada," Frank Andorka, pv magazine, July 24, 2017, <https://pv-magazine-usa.com/2017/07/24/report-residential-ci-solar-permits-surge-in-florida-nevada/>

⁵⁶ "Sabal Trail Transmission, LINK System Informational Postings," Enbridge, <https://infopost.spectraenergy.com/infopost/STTHome.asp?Pipe=STT>, "Sabal Trail no gas for a week?" WWALS, November 22, 2017, <http://wwals.net/?p=39256>

⁵⁷ "Contract Number 850031-R1," Duke Energy, Florida, "Contract Primary Term Expiration Date: 10/15/2017... For Transportation, Max Daily Quantity (Dth): 300000", <https://infopost.spectraenergy.com/infopost/IndexOfCustomersDetail.asp?strKey1=850031&type=LOC&pipe=STT>

⁵⁸ "Sabal Trail Transmission, LINK System Informational Postings," Enbridge, <https://infopost.spectraenergy.com/infopost/STTHome.asp?Pipe=STT>, "Sabal Trail low gas 2017-12-02," WWALS, December 2, 2017, <http://wwals.net/?p=39525>

⁵⁹ "Sabal Trail Transmission, LINK System Informational Postings," Enbridge, <https://infopost.spectraenergy.com/infopost/STTHome.asp?Pipe=STT>, "Still low: Sabal Trail gas six weeks later 2017-12-27," WWALS, December 27, 2017, <http://wwals.net/?p=40665>

⁶⁰ "Initial Comments of Duke Energy Florida, LLC under CP14-554, et. al.,"

FERC Accession Number 20171120-5154, November 20, 2017, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14621229

⁶¹ *Ibid.*, p. 5.

⁶² "Natural-gas plant not tied to pipeline completion," Pat Faherty, Citrus County Chronicle, May 30, 2014,

http://www.chronicleonline.com/news/local/natural-gas-plant-not-tied-to-pipeline-completion/article_43cc9fea-479b-5215-bfb5-0bd56add81d1.html

Construction of Duke Energy's \$1.5 billion power plant in Citrus County is not dependent on completion of the controversial Sabal Trail natural gas pipeline....

Duke has contracted with Sabal Trail for natural gas to supply the plant. However, Duke lists the existing Florida Gas Transmission pipeline as an option if Sabal Trail is delayed or curtailed....

"The Citrus County combined-cycle natural-gas plant is not dependent on the proposed Sabal Trail Transmission being approved and constructed," said Duke Energy spokeswoman Heather Danenhower. "If the Sabal Trail Transmission pipeline is not approved and constructed, we would pursue natural gas transportation from existing providers in Florida."

Duke does not provide any explanation of why it now asserts it cannot do what it said in 2014 it could do: "...pursue natural gas transportation from existing providers in Florida."

FERC-required daily information postings by Sabal Trail, Gulfstream, and Florida Gas Transmission (FGT) demonstrate⁶³ that whatever gas Sabal Trail ships decreases what the other two pipelines ship, and conversely when Sabal Trail shipped nothing for seventeen days in November, the other two pipelines picked up the slack.

As reporting about DEF's proposed Crystal River facility noted in 2014:⁶⁴

"Other gas pipelines into Florida will be available as additional resources in the event of a supply disruption on the Sabal Trail pipeline."

See also:⁶⁵

"Duke lists the existing Florida Gas Transmission pipeline as a natural gas supply option if Sabal Trail is delayed or curtailed."

And see:⁶⁶

"Construction of Duke Energy's \$1.5 billion power plant in Citrus County is not dependent on completion of the controversial Sabal Trail natural gas pipeline."

As well as in FPSC Docket No. 140110-EI:⁶⁷

"Issue 3:3 Is the proposed Citrus County Plant needed, taking into account the need for fuel diversity and supply reliability? ... Position of the Parties DEF: ... Additional interconnects between Sabal Trail and FGT will allow DEF to deliver gas to the Plant in the event of Sabal Trail interruptions...."

Thus there is no reason to believe DEF could not source its methane for Crystal River from FGT or Gulfstream instead of from Sabal Trail.

⁶³ "Sabal Trail no gas for a week?" WWALS, November 22, 2017, <http://wwals.net/?p=39256>

⁶⁴ "Duke Energy Florida seeks okay for 1,640-MW power project," Barry Cassell, POWER Engineering, May 28, 2014, <http://www.power-eng.com/articles/2014/05/duke-energy-florida-seeks-okay-for-1-640-mw-power-project.html>

⁶⁵ "Duke sets open house on gas plant," Pat Faherty, Riverland News, July 3, 2014, <http://ufdc.ufl.edu/UF00100090/00214>, page 6

⁶⁶ "Natural-gas plant not tied to pipeline completion," Pat Faherty, Citrus County Chronicle, May 30, 2014, http://www.chronicleonline.com/news/local/natural-gas-plant-not-tied-to-pipeline-completion/article_43cc9fea-479b-5215-bfb5-0bd56add81d1.html

⁶⁷ "RECOM for 10/2/14 Commission conference, Item 7, from ENG, AFD, ECO, GCL and IDM staff," FPSC Document No: 05311-2014, September 22, 2014, Docket No. 140110-EI, p. 22, <http://www.psc.state.fl.us/library/filings/2014/05311-2014/05311-2014.pdf>

Meanwhile, Sabal Trail's own FERC-required information postings demonstrate that DEF has not used Sabal Trail gas for any other DEF power plants since the middle of November, for more than a month now.⁶⁸ The evidence strongly suggests that DEF is not actually a Sabal Trail customer now, and has no need to be in the future.

NextEra Energy in its comments on the DSEIS ("NextEra Comments") wrote:⁶⁹

The Commission found the SMP Project to be required by the public convenience and necessity.²⁴⁷⁰ The court rejected a petition for review challenging the need for the SMP Project, correctly finding that since 93 percent of the capacity is subscribed the applicants have satisfied the Commission's market need test and thus the SMP Project was required by the public convenience and necessity.²⁵⁷¹ In short, that the SMP Project is in the public convenience and necessity is a settled question.

Sabal Trail has unsettled that question by losing more than a third (300,000 out of 700,000 Dekatherms/day) of committed capacity, and by failing to ship any gas for seventeen days, and by failing since then to have even 10 percent nominated capacity.

Sabal Trail previously argued that the \$4 billion spent by investors in Sabal Trail and the rest of SMPP as a reason to go into service and for FERC not to revoke the FERC 2016 Order. But that is no reason, seeing as GE, Siemens, and Fluor also invested large sums into natural gas projects and had to lay off many employees and write off large amounts of money (see II.B.). Nothing in FERC's rules says it is FERC's job to protect profits of private companies.

By FERC's own criteria, Sabal Trail no longer provides public benefit.

II.D. The Adverse Effects of SMPP have increased

FERC's rules say FERC is supposed to balance any alleged public benefit against adverse effects. FERC's rules continue:⁷²

"Among the adverse effects the Commission will consider are the effects on existing customers of the applicant, the interests of existing pipelines and their captive customers, and the interests of landowners and the surrounding community, including environmental impacts."

Those criteria reveal such adverse effects have increased since 2013 or 2016:

- *the effects on existing customers of the applicant,*

Once again (see I.A.), the FERC DSEIS did not even correctly state the three power plants the existing customer FPL used as the primary alleged need back in 2013.

- *the interests of existing pipelines and their captive customers,*

What gas Sabal Trail ships takes away gas from the existing pipelines FGT and Gulfstream,⁷³ which would seem like an adverse economic effect for those other pipelines of decreasing their revenue.

- *and the interests of landowners and the surrounding community,*

⁶⁸ Sabal Trail Transmission, LINK System Informational Postings, Enbridge, <https://infopost.spectraenergy.com/infopost/STTHome.asp?Pipe=STT>, "Sabal Trail low gas 2017-12-02," WWALS, December 2, 2017, <http://wwals.net/?p=39525>

⁶⁹ "Comments of NextEra Energy, Inc. on the Supplemental Draft Environmental Impact Statement under CP14-554, et. al.." FERC Accession Number 20171120-5173, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14621278, p. 10, E.

⁷⁰ Florida Southeast Connection, LLC, et al., 154 FERC ¶ 61,080 at P 88 (2016).

⁷¹ 867 F.3d at 1379.

⁷² "ORDER CLARIFYING STATEMENT OF POLICY," 90 FERC ¶ 61,128, 9 February 2000, page 16, "III. Factors to Balance in Assessing Public Convenience and Necessity." <https://www.ferc.gov/legal/maj-ord-reg/PL99-3-001.pdf>

⁷³ Sabal Trail Transmission, LINK System Informational Postings, Enbridge, <https://infopost.spectraenergy.com/infopost/STTHome.asp?Pipe=STT>, "Sabal Trail no gas for a week?" WWALS, November 22, 2017, <http://wwals.net/?p=39256>

Landowners and the surrounding community from the beginning of the FERC pre-filing process have massively opposed Sabal Trail and the rest of SMPP.⁷⁴ They continue to do so.

For example, Sabal Trail's repeated and continuing leaks⁷⁵ of hazardous odorant⁷⁶ from the site of its proposed Dunnellon Compressor Station has provoked public opposition beyond those previously involved.⁷⁷

The public objects to smelling several miles away odorant that Sabal Trail's own contractor product specifications describe as:⁷⁸

Signal word *Danger*

Hazard statements:

H225 : Highly flammable liquid and vapour.

H302 : Harmful if swallowed.

H317 : May cause an allergic skin reaction,

H400 : Very toxic to aquatic life,

H411 : Toxic to aquatic life with long lasting effects.

Supplemental Hazard Statements:

Objectionable odor may cause nausea, headache or dizziness. May displace oxygen and cause rapid suffocation

Those odorant leaks have also demonstrated that no federal or state agency is actively taking responsibility for public safety regarding SMPP: not FERC, not PHMSA, not EPA, not OSHA, not FDEP, not SRWMD. Local citizens, landowners, and county and city emergency management departments are left to fend for themselves. That in itself is a massive adverse effect, notwithstanding anything the Pipeline Safety Act says.

- *including environmental impacts*

For this specific subject of the court ruling; see next subsection.

II.E. Environmental effects, natural gas, and solar power

FERC's rules also say:⁷⁹

"Raising a different issue, AF&PA states that in considering the potential adverse environmental impact of a project, the Commission should take into account the overall benefits to the environment of natural gas consumption, particularly when, as a result of the new facilities, natural gas will displace fuels that are more harmful to the environment."

"...in considering the potential adverse environmental impact of a project, the Commission will continue to take into account as a factor for its consideration the overall benefits to the environment of natural gas consumption."

The adverse effects of burning natural gas and of a pipeline now outweigh any environmental benefits, so the "overall environmental benefits of burning natural gas" are now detriments.

Now that FERC brought solar power into the discussion in the DSEIS. solar power needs to be compared with natural gas and coal before any natural gas pipeline SEIS is complete.

⁷⁴ FERC Docket CP15-16.

⁷⁵ "Questions from WWALS Watershed Coalition, Inc. about Leak at Sabal Trail Dunnellon Compressor Station Site under CP15-17." FERC Accession Number 20170727-5104, https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14590897, <http://wwals.net/?p=35429>, <http://wwals.net/?p=36562>

⁷⁶ "Methyl Mercaptan," OSHA, unknown date, retrieved December 17, 2017, https://www.osha.gov/dts/chemicalsampling/data/CH_254300.html

⁷⁷ "Stinky Leaks From Florida's Controversial Sabal Trail Pipeline Scares Residents," Jessica Lipscomb, Miami New Times, 17 August 2017, <http://www.miaminewtimes.com/news/floridas-controversial-sabal-trail-pipeline-is-already-leaking-odorant-9590389>

⁷⁸ "OSHA to WWALS about odorant leak, Dunnellon Compressor Station 2017-08-28," WWALS, September 20, 2017, <http://wwals.net/?p=37>

⁷⁹ "ORDER CLARIFYING STATEMENT OF POLICY," 90 FERC ¶ 61,128, 9 February 2000, page 18-19, III.B., <https://www.ferc.gov/legal/maj-ord-reg/PL99-3-001.pdf>

II.E.i. FPSC, Renewable Energy, and DEF Crystal River plant

FPSC considered renewable energy back on October 10, 2014, when approving DEF's Crystal River power plant:⁸⁰

DEF claims that it has provided sufficient evidence that demonstrates there are no renewable energy sources or conservation measures reasonably available to mitigate the need for the Citrus County Plant in 2018.

How much need is also quantified in that 2014 FPSC Order:⁸¹

DEF received six proposals in addition to the Company's proposed Citrus County Plant. Witness Borsch testified that none of the proposals individually met DEF's request for 820 MW in-service by May 1, 2018. Witness Borsch further attested that the total generation capacity (1,328 MW) offered by all bidders in response to the 2018 RFP was less than that of DEF's proposed Citrus County Plant (1,640 MW).

Note that while none of the proposals may have individually supplied 820 MW, all of them would have, according to DEF's own figures just quoted.

Times have changed, with DEF's 2017 announcement that it is building nine or ten 75 MW solar plants in Florida:⁸²

Duke Energy will build nine or more solar plants... As with all plants, the Hamilton facility would produce a peak of nearly 75 megawatts of energy, or enough for 20,000 homes.

It would only take eleven of those 75 MW solar plants to produce 825 MW, more than DEF's 2014 request to be in-service by May 1, 2018.

DEF is well aware of that possibility, since back in September 2014, Duke Energy announced in North Carolina a commitment of \$500 million for solar plants built by itself and others, for a total of 278 MW.⁸³ It is interesting that in North Carolina Duke Energy announced a cumulative total number of megawatts, and a month later Duke Energy Florida declined to accept a cumulative total of megawatts.

Three times that 2014 Duke Energy NC announcement would be \$1.5 billion for 834 MW, the same cost as DEF's announced cost of its Crystal River gas-powered plant, and more than DEF's "request for 820 MW in-service by May 1, 2018." All of those North Carolina solar facilities are generating power now, while DEF's Crystal River gas-fired power plant is not, which would seem to indicate that DEF and FPSC did not choose wisely.

According to DEF's filing with FPSC about those solar plants, DEF plans to build 700 MW over four years,⁸⁴ which would be 9.3 times 75 MW. DEF could instead build eleven such 75 MW solar plants in 2018 and meet its 820 MW request.

Apparently DEF has more than adequate source of funds to build more than 820 MW of solar power, since it committed not just \$1.5 billion, rather \$6 billion, to new energy initiatives this summer:⁸⁵

The Florida president of Duke Energy, Harry Sideris, said the proposed initiatives worth \$6 billion were filed Tuesday morning with the Florida Public Service Commission after months of outreach.

⁸⁰ "Final Order PSC-14-0557-FOF-EI granting Duke Energy's petition for determination of need for a combined cycle power plant located in Citrus County," Document No. 05802-204, October 10, 2014, FPSC Docket No. 140110-EI, <http://www.floridapsc.com/library/filings/2014/05802-2014/05802-2014.pdf>, page 16, Renewable Energy Sources, Technologies or Conservation Measures.

⁸¹ *Ibid.*, page 18, DEF's RFP Evaluation, para. 2.

⁸² "Duke Energy goes big on solar, drops nuclear charge for customers," Kevin Spear, Orlando Sentinel, 29 August 2017, <http://www.orlandosentinel.com/news/os-duke-energy-solar-embrace-20170829-story.html>

⁸³ "Duke Energy commits \$500 million to N.C. solar power expansion," John Downey, Charlotte Business Journal, September 15, 2014, https://www.bizjournals.com/triangle/news/2014/09/15/duke-energy-commits-500-million-to-n-c-solar-power.html?ana=e_trig_bn_breakingnews&u=6ouuRoeGpBZmIoXMJylsTA0654610b&t=1410827287&page=all

⁸⁴ "DEF's Petition for Limited Proceeding to Approve 2017 Second Revised and Restated Stipulation and Settlement Agreement," Duke Energy Florida, August 29, 2017, FPSC Docket No. 20170183-EI, Document No. 07346-2017, <http://www.floridapsc.com/library/filings/2017/07346-2017/07346-2017.pdf>

⁸⁵ "Duke Energy goes big on solar, drops nuclear charge for customers," Kevin Spear, Orlando Sentinel, 29 August 2017, <http://www.orlandosentinel.com/news/os-duke-energy-solar-embrace-20170829-story.html>

"This was a very collaborative process," Sideris said. "This is the first time we have had environmental groups involved and collaborating with us."

Also in Duke's plans are research and development of large batteries able to store solar energy, smart meters for all customers deployed through 2020, 500 charging stations for electric cars, improved cyber security and grid technology that would include outages detection.

Not only do DEF's initiatives demonstrate it has sufficient funds to meet its own 2014 request for 820 MW; those initiatives demonstrate DEF is moving strongly into batteries and load-balancing technology that would fit very well with solar power. Add some more solar power plants, and there would be no need for DEF's Crystal River gas power plant.

That 2014 FPSC Order also says:⁸⁶

SACE also asserts that DEF appears to believe that renewable energy must eliminate the need of the plant in its entirety and therefore did not consider if the size of the plant could be reduced using a mix of additional Demand Side Management (DSM) programs and solar power resources.

DEF could build eighteen of those 75 MW solar plants for 1,350 MW, thus eliminating the need for its Crystal River gas fired plant in its entirety, and thus eliminating not only GHG emissions from coal, but also from natural gas. The cost of that many solar power plants would probably be significantly less per megawatt than when DEF announced its \$500 million commitment in North Carolina, because the price of solar panels has dropped quite a bit since then, and Florida gets more sunshine than North Carolina.

DEF already built several solar farms in Florida since 2014 (5 MW at Walt Disney World, 5 MW in Taylor County, 4 MW in Osceola County, 8.8 MW in Suwannee County, FL) totalling at least 22.8 MW.⁸⁷ Duke Energy has added to its capabilities to build more solar power by buying 100% of REC Solar of California, in which Duke has had a majority stake since 2015.⁸⁸

Southern Company subsidiary Gulf Power already used a different California solar contractor to build 120 MW of solar power at Eglin Air Force Base in Fort Walton Beach, at Saufley Field of Pensacola Naval Air Station, and at Holley Field in Navarre,⁸⁹ thus demonstrating it is possibly to build significant solar power capacity quickly in the Sunshine State. Military money financed those Gulf Power solar plants, but entities other than Duke Energy financed many of those North Carolina solar facilities, indicating the same could happen in Florida, thus greatly reducing DEF's cost for more solar power than DEF's Crystal River gas-powered plant would ever deliver.

On top of such utility-scale solar installations, rooftop and community solar are rapidly expanding in Florida, including in DEF territory.

Way back in 2003, when solar panels were far more expensive, Austin Energy, the utility for Austin, Texas, ran the numbers and determined that providing rebates for business- and house-top solar power would buy just as much energy as investing the same amount in a coal plant, and would get that new electricity distributed so it would not all fail at once.⁹⁰ Such a calculation for Florida now should prove even more cost-effective against natural gas.

Similar calculations for solar power cost vs natural gas power plants would apply to all of FPL's coal plant "modernizations" and to all FPL's proposed natural gas power plants.

⁸⁶ "Final Order PSC-14-0557-FOF-EI granting Duke Energy's petition for determination of need for a combined cycle power plant located in Citrus County," Document No. 05802-204, FPSC Docket No. 140110-EI, <http://www.floridapsc.com/library/filings/2014/05802-2014/05802-2014.pdf>, page 16, Renewable Energy Sources, Technologies or Conservation Measures.

⁸⁷ "Solar Energy Florida," Duke Energy, accessed December 22, 2017, <https://www.duke-energy.com/our-company/environment/renewable-energy/solar-energy>

⁸⁸ "Duke Energy assumes full ownership of California-based REC Solar: Milestone follows Duke Energy's purchase of a majority share in REC Solar in 2015," PR, REC Solar, December 6, 2017, <https://recsolar.com/press/duke-energy-purchases-rec-solar/>

⁸⁹ "Gulf Power solar energy farms on target for summer launch," Joseph Baicum, Pensacola News Journal, January 19, 2017, <http://www.pnj.com/story/money/business/2017/01/19/solar-energy-farms-target-summer-launch/96720052/>

⁹⁰ "AE drops a solar bomb," Mike Clark-Madison, Austin Chronicle, December 5, 2003, <https://www.austinchronicle.com/news/2003-12-05/189099/>

Any SEIS for Sabal Trail or SMPP should include such calculations comparing solar power to gas-fired and coal-fired power plants in GHG and other adverse environmental and other effects, as well as cost, time for construction.

II.E.ii. Solar power is a reasonable alternative for the ends of the current court case

Sabal Trail's Response in the current FERC docket says:

"As an initial matter, NEPA only requires analyses of "reasonable" alternatives,^{10⁹¹} which are those that satisfy "the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action."^{11⁹²}

Sabal Trail's second footnote for that quote also includes a quote:

"an alternative is properly excluded from consideration in an environmental impact statement only if it would be reasonable for the agency to conclude that the alternative does not bring about the ends of the federal action."⁹³

The NextEra Comments emphasized that the FERC 2016 Order used 93 percent of committed capacity as its final criterion for issuing a Certificate of Convenience and Necessity. Here is the complete paragraph from the FERC 2016 Order:

87. As discussed above, 93 percent of the total design capacity of the Sabal Trail project is subscribed under precedent agreements with initial terms of 25 years. This is persuasive evidence of market need for this project. Even though the market, in its consideration of alternative means for addressing energy needs, could have selected renewable energy alternatives and energy efficiency gains, we find that the precedent agreements sufficiently demonstrate the need for the project.⁶⁶

⁶⁶ Final EIS at 4-1 to 4-2.

The NextEra Comments neglected to mention the last sentence of that paragraph. Since February 2016, the market has indeed selected renewable energy, as even FPL admits in its 2016 and 2017 Ten Year Site Plans, and as even Duke Energy demonstrates through its building of solar plants in North Carolina and Florida. Meanwhile, Sabal Trail's own FERC-required daily information postings show that Sabal Trail no longer has anywhere near 93 percent of total design capacity subscribed. So the conditions FERC cited for issuing that February 2016 Order no longer apply, and the revocation of that Order by the D.C. Circuit Court Decision should be implemented.

The end of the current subject federal action is to show electric power generation without undue greenhouse gas production. Solar power satisfies that end far better than natural gas, so solar power cannot be properly excluded from consideration. The DSEIS does not adequately consider and compare GHG from solar power and natural gas, so the DSEIS is inadequate.

III. Adverse effects outweigh public benefits: reject, stop, revoke

FERC's rules summarize the relation of public benefits to adverse impacts:

"The Commission will approve a project where the public benefits of the project outweigh the project's adverse impacts."

As we have demonstrated, FERC's own criteria for public benefits are no longer satisfied, while adverse effects have mounted.

⁹¹ 40 C.F.R. § 1502.14(a) (2017).

⁹² *Id.* § 1502.13; see also *City of Alexandria, Va. v. Slater*, 198 F.3d 862, 867 (D.C. Cir. 1999) ("The agency's choice of alternatives are, then, evaluated in light of these stated objectives; an alternative is properly excluded from consideration in an environmental impact statement only if it would be reasonable for the agency to conclude that the alternative does not bring about the ends of the federal action.").

⁹³ *City of Alexandria, Va. v. Slater*, 198 F.3d 862, 867 (D.C. Cir. 1999) ("The agency's choice of alternatives are, then, evaluated in light of these stated objectives; an alternative is properly excluded from consideration in an environmental impact statement only if it would be reasonable for the agency to conclude that the alternative does not bring about the ends of the federal action.").

Therefore intervenor WWALS moves for FERC to issue an injunction:

1. To reject the draft SEIS as incorrect and inadequate.
2. To take Sabal Trail and the other parts of SMPP out of service at the very least until a real SEIS is produced, accounting for all of FERC's own rules for balancing public benefits against adverse effects as outlined herein, and with public hearings.
3. To implement the revocation of the FERC 2016 Order already specified in the D.C. Circuit Court Decision.

If FERC will not do these things, the D.C. Circuit Court should issue a mandate:

1. To reject the draft SEIS as incorrect and inadequate.
2. To take Sabal Trail and the other parts of SMPP out of service at the very least until a real SEIS is produced, accounting for all of FERC's own rules for balancing public benefits against adverse effects as outlined herein, and with public hearings.
3. To implement the revocation of the FERC 2016 Order already specified in the D.C. Circuit Court Decision.

The public benefits of a new interstate natural gas pipeline never outweighed the adverse effects. In the four years since Sabal Trail was announced in 2013, Sabal Trail's own shipping record (or lack thereof) has demonstrated lack of demand for natural gas, the adverse effects, including GHG, of shipping and burning natural gas have become even more clear, and solar power has won the economic race. If FERC cannot justify Sabal Trail and SMPP in an accurate and complete SEIS, it is time to shut down this failed experiment in 20th century fossil fuel technology and get on with 21st century solar power for the Sunshine State.

WHEREFORE, WWALS respectfully requests FERC to reject the DSEIS, to enjoin the Sabal Trail pipeline and the rest of SMPP from carrying gas until the corrections indicated herein can be made to the DSEIS and to implement the revocation of the FERC 2016 Order in the D.C. Circuit Court Decision, as the FERC cannot make a decision on the public convenience and necessity of SMPP by balancing alleged public benefits against adverse effects including economy, health, and safety without having a complete and accurate DSEIS for Sabal Trail and the rest of SMPP.

Sincerely,

John S. Quarterman, Suwannee Riverkeeper
WWALS Watershed Coalition, Inc.