

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 15-1133

September Term, 2016

FILED ON: NOVEMBER 4, 2016

SIERRA CLUB,

PETITIONER

v.

FEDERAL ENERGY REGULATORY COMMISSION,
RESPONDENT

AMERICAN PETROLEUM INSTITUTE, *ET AL.*,
INTERVENORS FOR RESPONDENT

On petition for review of orders of the
Federal Energy Regulatory Commission

BEFORE: BROWN, MILLETT, and WILKINS, *Circuit Judges.*

J U D G M E N T

This petition was considered on the record from the Federal Energy Regulatory Commission and was briefed by the parties. *See* Fed. R. App. P. 34(a)(2); D.C. Cir. R. 34(j). The Court has accorded the issues full consideration and has determined that they do not warrant a published opinion. *See* D.C. Cir. R. 36(d). It is

ORDERED AND ADJUDGED that the petition for review be denied. This Court has explicitly rejected Petitioner’s arguments regarding the Commission’s consideration of the Corpus Christi projects’ indirect and cumulative effects under the National Environmental Policy Act (“NEPA”). Regarding the indirect effects of natural gas exports, “the Commission’s NEPA analysis did not have to address the indirect effects of the anticipated *export* of natural gas . . . because the Department of Energy, not the Commission, has sole authority to license the export of any natural gas.” *Sierra Club v. FERC*, 827 F.3d 36, 47 (D.C. Cir. 2016). As to the cumulative effects, “[a] NEPA cumulative-impact analysis need only consider the effect of the current project[s] along with any other past, present or likely future actions *in the same geographic area* as the project[s] under review.” *Id.* at 50. This is exactly what the Commission did in this case, so it did not err.

Additionally, the Commission did not violate the hard look doctrine. This Court will uphold an agency's discussion of alternatives "so long as the alternatives are reasonable and the agency discusses them in reasonable detail." *Citizens Against Burlington, Inc. v. Busey*, 938 F.2d 190, 196 (D.C. Cir. 1991). Here, the Commission reasonably concluded electric motors were not an appropriate alternative because they would result in additional environmental impacts, raised reliability concerns, and were unnecessary to meet the EPA's air quality standards. Thus, the Commission did not violate the hard look doctrine.

Finally, Petitioner's arguments regarding greenhouse gas emissions have no merit. This Court has already considered and rejected identical arguments relating to the social cost of carbon. *See EarthReports, Inc. v. FERC*, 828 F.3d 949, 956 (D.C. Cir. 2016). The same is true of Petitioner's arguments for using the projects' consistency with federal greenhouse gas emission reduction goals as a tool. This argument simply restates Petitioner's arguments regarding cumulative impacts, which this Court has rejected. *Sierra Club*, 827 F.3d at 50; *see also WildEarth Guardians v. Jewell*, 738 F.3d 298, 309–11 (D.C. Cir. 2013).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after disposition of any timely petition for rehearing or petition for hearing en banc. *See* FED. R. APP. P. 41(b); D.C. CIR. RULE 41.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/

Ken Meadows
Deputy Clerk