
INDEPENDENT ANALYSIS

Sufficiently Analogous

Federal Need Review for a Gas Shipper with
No State Regulator, in Two Tennessee Certificates

An Independent Working Paper



Prepared by Tommy N. Turner

Williamsburg and Christiansburg, Virginia

September 2026 · Version 1.0

Evidence snapshot 20 September 2026

DOI, all versions [10.5281/zenodo.22858535](https://doi.org/10.5281/zenodo.22858535)

tommynturner.com · ORCID [0009-0005-7422-9881](https://orcid.org/0009-0005-7422-9881)

Sufficiently Analogous

Federal need review for a gas shipper with no state regulator, in two Tennessee certificates

Series: An independent working paper

Evidence snapshot: 20 September 2026

Version: 1.0

Author: Tommy N. Turner, Turner Advisory Group, LLC

Location: Williamsburg and Christiansburg, Virginia

Contact: tommy@gofast.pro · tommynturner.com

ORCID: 0009-0005-7422-9881

DOI, this version: 10.5281/zenodo.22858536

DOI, all versions: 10.5281/zenodo.22858535

Licence: CC BY 4.0

Published: September 2026

Version note. First edition, and the third paper in a series on who reviews the fuel arrangement behind a new power plant. *What the Record Does Not Say* asks the question of Virginia, deposited at 10.5281/zenodo.22754151, all versions 10.5281/zenodo.22754150. *What the Certificate Points At* asks it of Georgia, deposited at 10.5281/zenodo.22754181, all versions 10.5281/zenodo.22754180. The three are companions and none depends on another.

Evidence snapshot. The federal record is read as FERC Docket Nos. CP22-493, CP23-516 and CP25-514 stood on 20 September 2026. Nine Commission orders are on disk, with the opinions of the two courts that reviewed instruments in these dockets, TVA's environmental impact statements for both plants and their errata, the Tennessee state instruments, and the Ridgeline compliance filings through September 2026. The applications and their exhibits are not on disk, the Cumberland section 401 certification is read only as the Sixth Circuit describes it, and the Fifth Circuit petitions have not been read. Where a sentence would rest on a document that was not retrieved, it says so.

On the negatives. This paper turns on absences as much as on statements. Every negative names the document set searched and the date the search was run, in the same sentence as the claim, and **no negative is graded primary**. Corpus growth stales a negative, so a grade here is a claim with a date on it.

On what is graded. Section 4 carries the load-bearing findings, and the claim-and-source table after section 7 grades each one against the deposited register. Where a step is this paper's reading of a document rather than the document's own words, it is marked at the point it is made.

Disclosure. The author serves on the advisory board of a Sloan Foundation-funded study at Emory University. The study had no role in this paper; the About the Author section states the role in full.

Abstract. Asked whether anyone outside itself must review the Tennessee Valley Authority's decision to contract for firm interstate gas capacity for two new power plants, the Federal Energy Regulatory Commission held that state commission oversight is not a prerequisite under section 7 of the Natural Gas Act and offered congressional oversight as "sufficiently analogous to state commission oversight." It wrote that sentence in the Cumberland rehearing order of 2024 and the Ridgeline certificate order of 2025, and in none of the other seven Commission orders held on disk. This paper reads the orders, the rehearing orders, the opinions of the two courts that reviewed instruments in these dockets, the shipper's own environmental impact statements, the state instruments and the compliance filings against each other: what the Commission found, what it held outside the proceeding, what the reviewing court said the orders found, and what the public record contains once a need finding rests on a precedent agreement with an unaffiliated shipper for the entire capacity. It grants the case for the orders in full before testing it. A third certificate, Mississippi Crossing, issued in 2026 on a record where the order counts seven shippers and a state regulator's own staff appears as an exhibit, is read against them. The evidence is a register of fifteen FERC certificate dockets, with a second-coder sheet of 543 claims for the three Tennessee rows. It is deposited separately from this paper at [10.5281/zenodo.22757119](https://zenodo.org/record/22757119).

1. The finding, the warrant, and where this paper sits

When the Federal Energy Regulatory Commission was asked who reviews the Tennessee Valley Authority's decision to contract for firm interstate gas capacity for two new power plants, it answered in two orders and in one sentence: "Regardless, Congress has oversight power over federal agencies, including TVA, and we find this sufficiently analogous to state commission oversight." The holding beside it is that "State commission oversight of shippers is not a prerequisite for Commission approval under NGA section 7." Across the nine Commission orders in the register, the congressional sentence is verbatim in both TVA orders and the prerequisite holding is in both in near-identical words, and neither appears in any other order. That is the finding. The paper's work is to show what the two orders do with the question once they have answered it that way, and what the public record contains as a result.

A shipper with no state regulator is the cleanest test of what federal need review does on its own. For a shipper that answers to a state commission, a silence in the FERC record about whether the capacity was needed and what it will cost can be explained by review that happened, or could have happened, somewhere else. TVA has no such regulator, and the Commission answered the objection that it has none rather than disputing it. Two proceedings outside the certificate dockets and their appellate review reached these projects. The Sixth Circuit reviewed Tennessee's section 401 certification and Aquatic Resource Alteration Permit for the Cumberland

pipeline and denied the petition. *Sierra Club v. Tennessee Department of Environment and Conservation*, 133 F.4th 661 (6th Cir. 2025). Its conclusion names what it decided, and all of it is water: the Department "reasonably explained its Pipeline-related decision making with respect to waterbody crossings, rock removal methodology, downstream sedimentation, trench excavation, and waterbodies' baseline conditions." The terms "demand", "market need", "prudent" and "antidegradation" each return zero across that opinion, and its single use of "necessity" is inside a standing argument the court rejected. The second is *Appalachian Voices v. TVA*, No. 3:23-cv-00604 (M.D. Tenn.), which was pending on the latest filing reached. Its amended complaint pleads six counts, every one of them under the National Environmental Policy Act and the Administrative Procedure Act, against the environmental impact statement and record of decision for the Cumberland plant, and its prayer asks that both be vacated, that a revised or supplemental statement be prepared, and that the court "[e]njoin further construction and operation of the Cumberland Gas Plant until TVA has complied with NEPA". The Tennessee Valley Authority Act's least-cost mandate appears inside the fifth count as the standard against which the statement's cost accounting is measured, "at the lowest system cost", 16 U.S.C. § 831m-1(b)(1), and not as a count of its own. The complaint does not contest that replacement generation was needed: "TVA acknowledged that it needed to retire the Cumberland Fossil Plant. The question facing the agency was what to replace it with." When the FERC record is silent on whether the capacity was needed and what it will cost, neither proceeding supplies the answer.

The evidence is a register of fifteen FERC certificate dockets, nine of whose orders are held on disk. Three rows carry the Tennessee Gas and East Tennessee dockets this paper is built on, Ridgeline, Cumberland and Mississippi Crossing, each claim graded and each quotation verified against the document on disk, with a second-coder sheet of 543 claims for the three Tennessee rows. Eleven of the fifteen rows are the projects the PJM Independent Market Monitor enumerates in its 2025 Annual and 2026 Q2 reports, taken as a closed enumeration of a defined source; four, including all three Tennessee dockets, were added because each carries a named shipper, a named capacity and a state or end use this work is about. The four are not a census of anything. The register and its source document carry the audit and are deposited separately from this paper, which carries the argument, at concept DOI 10.5281/zenodo.22757119. Version 1.4 is frozen at the snapshot date and is deposited at 10.5281/zenodo.22858412; cite the concept DOI, which resolves to the current version. The evidence snapshot date is 20 September 2026.

Where this sits. The Commission's test for need has rested on the same instrument since 1999, when the Certificate Policy Statement was issued, though the Commission's 2026 orders reach for scrutiny vocabulary the 2024 and 2025 orders do not use, as section 5 sets out. The orders in this paper cite the instrument as such: "Certification of New Interstate Nat. Gas Pipeline Facilities, 88 FERC ¶ 61,227,

corrected, 89 FERC ¶ 61,040 (1999), clarified, 90 FERC ¶ 61,128, further clarified, 92 FERC ¶ 61,094 (2000)". The Commission issued an updated policy statement in February 2022 and, as the same footnote records, "On March 24, 2022, the Commission issued an order converting the policy statements issued in February 2022 to draft policy statements", where they remain. A precedent agreement is evidence of need, and the threshold for looking behind one is affiliation together with plausible evidence of self-dealing. *Environmental Defense Fund v. FERC*, 2 F.4th 953 (D.C. Cir. 2021), vacated a certificate and a rehearing order where the Commission had declined to look behind a single affiliate agreement, and it states the threshold through *City of Oberlin*: the Commission may fully credit an affiliate agreement "but only so long as FERC finds 'no evidence of self-dealing' or affiliate abuse" and the operator "bears the risk for any unsubscribed capacity". Both TVA orders distinguish it on those facts: "*Environmental Defense Fund* involved a precedent agreement with an affiliated entity and plausible record evidence of self-dealing." The reviewing court in the *Cumberland* case states it as the rule and its exception: "There is an exception to that rule when an agreement involves affiliated entities and there is 'plausible evidence of self-dealing.'" On its facts, the court held, "that exception does not apply". *Sierra Club v. FERC*, 153 F.4th 1295 (D.C. Cir. 2025), is the *Cumberland* decision, read here against the orders it reviewed. The *Mississippi Crossing* order of July 2026 cites *Sierra Club* quoting *Environmental Defense Fund* for the self-dealing exception.

The commentary is thinner than the case law and mostly older than the orders. Kalen's account of "the natural gas pipeline wars" states the mechanism in a sentence, "The Commission accepts pre-construction contract commitments (precedent agreements), with shippers committing to use a set percentage of the pipeline's capacity to demonstrate a market need for the natural gas", and records the Commission's 2018 notice of inquiry into its certificate policy [Kalen 2020, 328 and 339; fetched rendering, PDF not retrieved to disk]. Macey's recent argument for a modern holding-company statute starts from the same premise, "FERC traditionally treats long-term precedent agreements between a pipeline developer and its shippers as strong evidence of market need", and from the affiliate case, "In many cases, the shippers who sign precedent agreements with pipelines are affiliates of the pipeline sponsor" [Macey 2026, 669 and 670; fetched rendering, PDF not retrieved to disk]. Both are about the affiliate problem. Neither is about a shipper that is unaffiliated, contracts for all of the capacity, and answers to no state. That shipper is what this paper is about, and neither account reaches it. Those two are what the search located.

2. The record in order

Two TVA gas supply projects were filed with the Commission within a year of each other. The documents read here for both, each in full, are the certificate orders, the

orders on rehearing, the opinion of the court that reviewed the Cumberland certificate, TVA's own environmental impact statements and their errata, the Ridgeline state instruments, and the compliance filings through September 2026. The Cumberland section 401 certification is not on disk and is read here only as the Sixth Circuit describes it. The applications and their exhibits are not on disk, and the Fifth Circuit petitions have not been read. The dates below come from those documents, from the Commission's own docket entries, and from nothing else.

Cumberland, CP22-493-000. TVA executed a precedent agreement with Tennessee Gas Pipeline on 11 August 2021, a fact stated by TVA in its own final environmental impact statement, in answer to a comment from the U.S. Environmental Protection Agency and the Southern Environmental Law Center that TVA "appears to have predetermined the outcome of the NEPA process by signing binding agreements for the methane gas Alternative A would use." TVA's answer: "TVA executed a precedent agreement with Tennessee Gas Pipeline on August 11, 2021. The precedent agreement is a preliminary agreement to enter into a future firm gas transportation agreement if certain conditions precedent are met." Tennessee held an open season from 8 to 29 October 2021, and both Cumberland orders say the agreement came out of it: "As a result of the open season, Tennessee and TVA executed a precedent agreement with a 20-year term for 100% of the new lateral capacity." The two accounts of when the agreement was made are not reconciled in any document on disk, and the certificate order's own sequence places it after an open season that closed in late October. The same order records a second award the lateral figure does not cover: "TVA was also awarded 221,000 Dth/d of firm transportation service on Tennessee's 100 Line and 800 Line mainline system, which will use existing unsubscribed reserved mainline capacity", at a discounted rate. The pipeline applied to the Commission on 22 July 2022. TVA published its final EIS on 2 December 2022 and an errata in July 2023, after a media inquiry led it to find that "two years of operational emissions (2027 and 2028) and associated social costs of GHG, from the retirement of the second CUF coal-fired unit were omitted from the LCA in the CUF FEIS in error." Tennessee's Department of Environment and Conservation issued its Clean Water Act section 401 certification on 21 July 2023, and the State Historic Preservation Office wrote on 14 September 2023 that "no historic properties eligible for listing in the National Register of Historic Places will be affected by this undertaking." The Commission issued the certificate on 18 January 2024, for "up to 245,040 dekatherms per day (Dth/d) of additional firm transportation service for Tennessee Valley Authority (TVA)" under "a precedent agreement with a 20-year term for 100% of the new lateral capacity", with a completion deadline of three years, 18 January 2027. On rehearing, 7 June 2024, the Commission set the order aside in part on greenhouse gas accounting, using the errata's numbers, left the capacity and the term as certificated, and re-decided both affiliation and need, adding a finding the certificate order had not made: "We find that Tennessee's precedent agreement with TVA did not arise from an

anticompetitive process and constitutes sufficient evidence of need for the project." Petitions for review were filed in the D.C. Circuit on 30 December 2024, argued 4 March 2025 and denied 30 September 2025. The contract preceded the certificate by twenty-nine months and TVA's own final EIS by fifteen.

Ridgeline, CP23-516-000. TVA published a notice of intent to prepare an EIS for the Kingston retirement on 15 June 2021, with scoping comments accepted to 15 July 2021. In August 2021 TVA executed a precedent agreement with East Tennessee Natural Gas, a fact TVA states in its own response to comments: "The Precedent Agreement that TVA and Enbridge executed in August 2021 defined the terms and conditions under which the potential pipeline project would be developed over time". The commenters' arithmetic on that sequence is on the same record: the agreement was signed "only a month after TVA was accepting comments on its Notice of Intent to prepare an EIS for the Kingston Fossil Plant Retirement". After executing the agreement East Tennessee held an open season and a reverse open season from 20 May to 17 June 2022 and, as the rehearing order records, "received no other interested bids or turnback of capacity". The pre-filing docket, PF22-7-000, dates from 20 May 2022; the pipeline applied on 18 July 2023 and amended on 19 December 2023; TVA's final EIS is dated February 2024. The National Park Service filed its Wild and Scenic Rivers Act Section 7(a) Determination for the Obed crossings on 16 January 2025. The Commission issued the certificate on 2 April 2025, for "up to 300,000 dekatherms per day (Dth/d) of incremental firm transportation service and 95,000 Dth of Customized Delivery Service for Tennessee Valley Authority (TVA)", with an errata on 28 April 2025 correcting paragraph 4 to place the delivery meter station in Roane County, and a completion deadline of 2 April 2028. The order on rehearing of 14 August 2025 set the certificate order aside in part; the notice of 14 October 2025 recorded the further rehearing request as denied by operation of law; the order of 22 January 2026 set the rehearing order aside in part and allowed recovery of the non-jurisdictional solar array costs in the initial incremental recourse rate. The state's section 401 certification and Aquatic Resource Alteration Permit took effect on 15 August 2025, four and a half months after the federal certificate, and were filed with the Commission on 19 August 2025. The Memorandum of Agreement with the State Historic Preservation Office was executed on 3 September 2025. On 7 October 2025 the Commission authorised construction; on 10 October 2025 the pipeline filed the one-sentence affirmation the certificate required; on 21 October 2025 construction began. On 13 May 2026 the Southern Environmental Law Center and others asked the Commission to stop work; the pipeline answered on 26 May; contracted biologists reported an equipment bridge installed in the Emory River before mussel and fish surveys were complete; the Compliance Monitor issued a stop-work order at the crossing on 29 May; on 11 June 2026 the Office of Energy Projects found "a serious violation of the Commission's April 2, 2025 Order Issuing Certificate"; construction at the crossing was permitted to resume on 4 August 2026. Petitions for review of the certificate are

pending in the Fifth Circuit at Nos. 25-60312 and 25-60681; the Commission's docket describes the petitioner as the pipeline, and the petitions have not been read.

What the sequence shows without argument. In both dockets the shipper's commitment came first, in the same month of the same year, and before either environmental review was complete. A precedent agreement always precedes the application, because it is the market showing the application rests on; what the dates locate is the agreement against the shipper's own environmental timetable, not against the pipeline's filing. In both dockets the state's instruments are water quality and historic preservation, and in Ridgeline the state's water instrument postdates the federal certificate. In both dockets the only term of service on the public record is the twenty years the Cumberland order recites; the Ridgeline record states no term in any document on disk, and the pre-construction condition that might have produced one required only that the pipeline affirm "that it has executed firm contracts for the capacity levels and terms of service represented in its signed precedent agreements", which it did in one sentence.

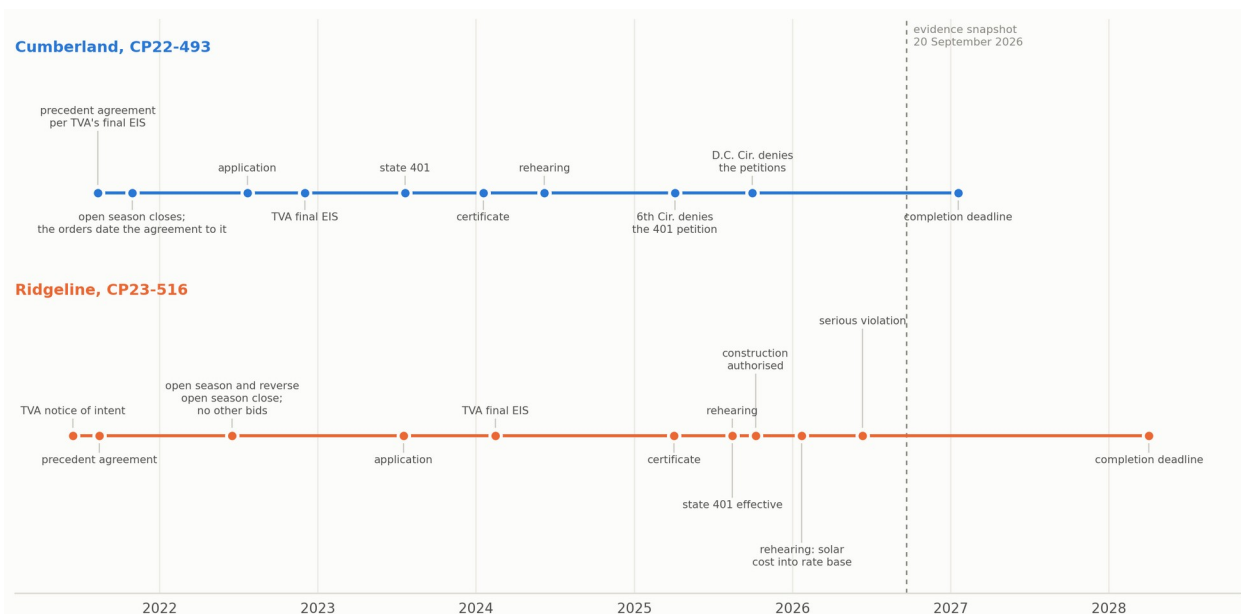


Figure 1. Two TVA gas supply dockets, June 2021 to April 2028. Cumberland above, Ridgeline below. Each row runs from the shipper's commitment to the completion deadline the certificate imposes. Every date is from a document named in this section. Cumberland carries two dates for the precedent agreement because the record does: TVA's final environmental impact statement gives 11 August 2021, and both Commission orders place the agreement after an open season that closed on 29 October 2021.

3. The strongest case for the orders

Section 7(e) requires two findings before a certificate issues: that the applicant "is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of this chapter and the requirements, rules, and regulations of the Commission thereunder", and that the proposed service "is or will be required by the present or future public convenience and necessity". The second is what is contested in these dockets, and the Certificate Policy Statement of 1999 tells the Commission how to answer it. The same subsection supplies the conditioning power, "such reasonable terms and conditions as the public convenience and necessity may require". Both orders recite it: "the threshold requirement for an applicant proposing new projects is that the applicant must be prepared to financially support the project without relying on subsidization from its existing customers", then adverse effects on "the applicant's existing customers, existing pipelines in the market and their captive customers, and landowners and communities affected by the route", then a balance. "This is essentially an economic test." Both projects charge a separate incremental rate and so pass the threshold; both orders find that the project "will not adversely affect service" to the pipeline's existing customers and that "there will be no adverse impact on other pipelines in the region or their captive customers"; both were served by a shipper that took the full capacity under a binding precedent agreement. That is the evidence of need the Policy Statement contemplates as the orders read it, and in these orders the conclusion is stated without embellishment: "Therefore, we conclude that the precedent agreement is significant evidence of need for the proposed project."

The concern that leads the Commission to look behind a precedent agreement is affiliation, and it is absent. Both orders distinguish the objectors' authority on its facts: "Environmental Defense Fund involved a precedent agreement with an affiliated entity and plausible record evidence of self-dealing." Here the shipper is "an unaffiliated entity", it took "the project's full capacity", and "the record contains no evidence of self-dealing." A pipeline that builds for one unaffiliated customer who has contracted for all of it has produced the cleanest need showing the Policy Statement contemplates, and the Commission said so in the one sentence the doctrine requires.

The shipper is not unregulated. TVA is "a wholly owned corporate agency and instrumentality of the United States of America". It plans under a statute, 16 U.S.C. § 831m-1, which the Commission cites: "TVA is required to conduct a least-cost planning program when evaluating and selecting new energy resources". It answers to Congress, and the Commission called that oversight "sufficiently analogous to state commission oversight." Its generation decisions went through a full environmental impact statement of its own for each plant, with public comment, and the objectors' arguments about predetermination were made in that process and addressed there: "TVA's objectivity is not impacted by the precedent agreement

because it does not constitute an irreversible or irretrievable commitment by TVA to enter into a gas transportation agreement with (or to purchase gas supply from) Tennessee Gas Pipeline." The premise that no one reviews this shipper is, on this reading, false in substance; the reviewers are Congress and TVA's own board under its own statute, and the Natural Gas Act names neither as a condition of a certificate.

The Commission's refusal to weigh TVA's generation choice is not evasion. It is the statute. Both certificate orders: "Under the Tennessee Valley Authority Act (TVA Act), the TVA Board has the exclusive authority to evaluate the need for generation facilities within TVA's service territory." The Ridgeline order adds the jurisdictional ground: "Aside from nonfederal hydroelectric projects, the Commission does not have jurisdiction over facilities used for the generation of electricity or over decisions made by TVA." The court reached the same place by its own route, citing the Federal Power Act: FERC "shall not have jurisdiction . . . over facilities used for the generation of electric energy". The court put the limit precisely: section 7 permits the Commission "to look into matters excluded from [its] direct regulatory jurisdiction" but not to "purport[] to regulate" them, and on that footing the agency "reasonably declined to leverage its § 7 power to reconsider the TVA's gas-for-coal decision." A Commission free to look and declining to look is an order that knows its limits.

One of the two orders has been tested in court and stood. Cumberland went to rehearing, where the Commission set aside its greenhouse gas accounting on the objectors' own showing and reaffirmed the need finding on a ground it had not previously stated, that the agreement "did not arise from an anticompetitive process", and then to the D.C. Circuit, which denied the petitions: "Because FERC reasonably discharged its NEPA and Natural Gas Act duties, we deny the Sierra Club's petitions." Ridgeline went to rehearing twice, and both need and affiliation were re-decided. The August 2025 order answers the no-state-oversight objection under a heading called Project Need: "TVA's structure as a federally owned electric utility corporation does not undermine the value of its precedent agreement with East Tennessee", and it adds a ground the certificate order had not stated in those terms, that "East Tennessee held an open season for the Project in which TVA contracted for 100% of the Project capacity and received no other interested bids or turnback of capacity." That order also set aside the certificate order's jurisdictional finding on the solar array and directed the cost out of rates; recovery was restored in January 2026. The environmental conditions are the standard set, including the state water quality certification incorporated as mandatory conditions, delegated stop-work authority, and same-day notification of any noncompliance a state agency identifies, and when a serious violation occurred at the Emory River the Compliance Monitor stopped the work, the Office of Energy Projects found the violation, and the Commission's letter recorded that the pipeline "has taken appropriate actions subsequent to the incident, including measures to avoid further impacts, and has

engaged in timely coordination with Commission staff and the FWS." That is the enforcement machinery operating.

And the cost falls on the party that wanted the capacity. In Cumberland the shipper pays under a twenty-year contract. No existing shipper subsidises either project, "no pipelines or their captive customers" objected to either, and both orders find "minimal economic impacts on the interests of landowners and surrounding communities". A Commissioner writing separately in Ridgeline relied on the same fact for a different question, the recovery of non-jurisdictional solar array costs in rate base, where TVA's sole subscription "eases concerns about foisting additional costs on unwilling parties".

4. What the orders do with the shipper

All of that is in the orders. So is what follows.

4.1 The question put

The objection was made in both dockets and the Commission recorded it in both. In Ridgeline: "Sierra Club and Appalachian Voices aver that the Commission must look beyond East Tennessee's precedent agreement and examine the need for the proposed power plant because TVA 'operates within an essentially captive market, with little oversight or accountability.'" In Cumberland, on rehearing: the precedent agreement "is not probative of market need for the Cumberland Project because TVA is an unregulated monopoly provider of electric power within its territory and that, as a result, normal market forces do not apply to TVA's decision to replace the coal-fired generation with the Cumberland Gas Plant or its decision to enter into a precedent agreement." And the sentence that names the forum the objectors say is missing: "Appalachian Voices asserts that the Commission cannot defer to TVA or its precedent agreement, particularly where the Commission cannot, as it has historically, rely on state commission oversight to find market need and public benefit for a project when a monopoly utility is a shipper under a precedent agreement."

4.2 The answer, in four moves

The Commission's answer has the same parts in both orders, and the parts must be kept separate because they carry different weight.

The first is a holding about the statute. Ridgeline: "State commission oversight of shippers is not a prerequisite for Commission approval under NGA section 7." Cumberland rehearing: "Despite Appalachian Voices' assertion, state commission oversight is not a prerequisite for Commission approval under NGA section 7."

The second is an alternative, and that reading is this paper's, resting on the word the Commission put in front of it. It is verbatim in both orders: "Regardless, Congress has oversight power over federal agencies, including TVA, and we find this sufficiently analogous to state commission oversight." The word "Regardless" matters. The paragraph in each order rests on the statutory holding and on the affiliation finding below, and the congressional sentence could be removed from either order without changing its result. Where the sentence occurs is not a matter of reading: across the nine Commission orders on disk, the phrases "state commission oversight", "sufficiently analogous", "Congress has oversight power" and "not a prerequisite for Commission approval" appear in the Cumberland rehearing order and the Ridgeline certificate order and in none of the other seven, which include two Virginia certificate orders and the Mississippi Crossing order of July 2026. The Commission has written the sentence twice. Both times the shipper was TVA. It is a formulation, and within the nine orders on disk the Commission reaches for it only where the shipper has no state regulator. Whether it, or an equivalent, appears elsewhere in the Commission's output is not established by this search.

The third is the affiliation finding, which is what makes the precedent agreement creditable and carries the need conclusion with it. Ridgeline: "Here, East Tennessee entered into a binding precedent agreement with TVA, an unaffiliated entity, for the project's full capacity and the record contains no evidence of self-dealing." Cumberland: "Here, Tennessee entered into a binding precedent agreement with TVA, an unaffiliated entity, for the project's full capacity and we have no evidence of self-dealing." The authority the objectors cited is distinguished on the same ground in both orders: "Environmental Defense Fund involved a precedent agreement with an affiliated entity and plausible record evidence of self-dealing." The need conclusion follows in one sentence, "Therefore, we conclude that the precedent agreement is significant evidence of need for the proposed project" in Ridgeline, and the same sentence with "this precedent agreement" in Cumberland. The D.C. Circuit, reviewing Cumberland, put the same point in its own words: "But the TVA and Tennessee Gas are not affiliated, and the Sierra Club has not alleged self-dealing."

The fourth answers the objectors' own argument about TVA's market position, and the Cumberland rehearing order makes it as a finding. Against the assertion that the agreement "did not arise from a competitive environment, and, therefore, there is no evidence of need", the Commission held: "We find that Tennessee's precedent agreement with TVA did not arise from an anticompetitive process and constitutes sufficient evidence of need for the project." Its grounds are the open season of 8 to 29 October 2021, that "[t]he Commission routinely finds precedent agreements for 100% of the project's capacity, particularly those with non-affiliates, to demonstrate significant evidence of need for a project", and that "Because Tennessee entered into an arms-length precedent agreement with TVA, a non-affiliate, we do not find

evidence of self-dealing or anticompetitive behavior." Any account of what these orders did with the shipper that stops at three moves leaves out the one written to answer the objection that the shipper's market position makes its commitment unrevealing.

4.3 What is held out of the proceeding

The orders decline to re-decide what the capacity is for, and they say why. They do not say they ignored it: the Cumberland rehearing order finds that "the Commission appropriately considered all factors bearing on the public interest, including the end use of the gas to be transported, as required under the NGA", and both certificate orders rest the need finding on TVA's record of decision, its final environmental impact statement and its 2019 plan. What is held out is the re-decision. Both certificate orders: "Under the Tennessee Valley Authority Act (TVA Act), the TVA Board has the exclusive authority to evaluate the need for generation facilities within TVA's service territory." Ridgeline adds the jurisdictional ground and widens the exclusion to timing: "Aside from nonfederal hydroelectric projects, the Commission does not have jurisdiction over facilities used for the generation of electricity or over decisions made by TVA", and "Issues related to TVA's plan to replace coal-fired generation with natural-gas-fired generation, including issues regarding the need for the new natural-gas-fired generation and the timing of TVA's decision to subscribe to firm transportation service to support such generation, are outside the scope of this proceeding". The Commission's statement of its role, in the Cumberland rehearing order, is to decide "whether to adopt an applicant's proposal and, if so, to what degree, not to engage in resource planning for energy end-users." The objections about TVA's market power and its contracts with local power companies "relate to TVA's processes and actions and are not relevant to the question of need under the NGA." The objections about TVA's authority "are outside of the Commission's jurisdiction and are best addressed by Congress." The arguments that TVA's decision to build the plant "was made on the basis of inaccurate or incomplete economic considerations, or through an incomplete NEPA process" were dismissed "as out of scope". And the general rule: "The Certificate Policy Statement allows but does not require the Commission to assess a project's benefits by looking beyond the market need reflected by the applicant's precedent agreements with shippers." The phrase "outside the scope of this proceeding" occurs six times across three orders, the Cumberland certificate and rehearing orders and the Ridgeline certificate order, and in none of the other six on disk.

The reviewing court affirmed on this ground in words the orders do not use. The opinion says FERC "does not have veto power over the TVA's natural-gas turbine"; "veto" returns zero across all five TVA orders on disk, searched 20 September 2026. It says FERC was entitled to pass over evidence about Inflation Reduction Act subsidies "absent self-dealing", where the orders treat that point as a scope ruling in a footnote, "These issues are not subject to this proceeding and more appropriately

addressed through TVA's approval process for the Cumberland Gas Plant". And it reasons that without the pipeline "the TVA might instead upgrade and operate the coal-fired unit well into the future"; "upgrade" returns zero across both Cumberland orders, the ones this opinion reviews, searched 20 September 2026, and the orders' stated basis for crediting emissions across twenty years is an assumption, "the [p]roject would begin service in 2025 and that the [p]roject's emissions would be at a constant rate throughout the life of the 20-year contract." Three of the divergences are set out above and the register's row 14 carries all seven, with both texts quoted; each rests on the wording the two documents use, which is what a reader can check. The orders are the source for what the Commission found.

4.4 Whose plan the need runs through

Both orders record the shipper's own planning document as the source of its decision. Ridgeline: "TVA explains that this decision is consistent with its 2019 Integrated Resource Plan, which identified the various energy resource options for TVA to pursue 'to meet the energy needs of the Tennessee Valley region over a 20-year planning period,' and TVA has entered into a precedent agreement with East Tennessee for 100% of the project's capacity." Cumberland: "TVA explains this decision is consistent with its 2019 Integrated Resource Plan." No state instrument in either docket reviewed the shipper's need or the project's cost, and TVA's own environmental record for both plants names no Tennessee forum that could. Each of those findings is bounded to the documents searched, the terms used and the date.

The cost constraint on that plan, as TVA states it, is TVA's own: "the Act requires that TVA plan for generation resources at the least system cost, a statutory mandate that TVA satisfies through its IRP process." That is TVA answering a comment in its Kingston final EIS, not a Commission finding. The Commission cites the statute four times across three orders: once in the Cumberland certificate order, twice in the Cumberland rehearing order, and once in the Ridgeline certificate order, where the citation is the footnote to the congressional-oversight paragraph itself and marshals § 831m-1 with § 831c, § 831i and Sixth Circuit authority on TVA's statutory design. The rehearing-order instance reads "It is Congress that imposed limitations on competition within TVA's service territory. See 16 U.S.C. § 831m-1 (TVA is required to conduct a least-cost planning program when evaluating and selecting new energy resources)", and the same order declines the least-cost merits. The court rendered this as a list, "The TVA must follow a statutorily prescribed 'least-cost planning' framework in making investment decisions; it is subject to congressional oversight and must annually notify Congress of any 'major new energy resource'; and its investment decisions are subject to public notice and comment"; the second item is the orders' one sentence, the first is the footnote, and the third returns zero across all five TVA orders on disk, on searches of "annually notify" and "major new energy resource" run 20 September 2026.

4.5 Where the shipper's status did decide something

On need, the Commission held TVA's regulatory position beside the point. On rates, in the same docket, it held the same position material and said so in terms.

The Ridgeline project includes an eight megawatt solar array built to power the Hartsville compressor station. The certificate order of April 2025 called the array a jurisdictional facility under section 7(c) and put its estimated cost, \$23,973,994, into a rate base of \$1,105,000,000. The rehearing order of August 2025 reversed the jurisdictional finding and then directed the pipeline to "remove the solar array cost from its cost of service for the Project and to recalculate its incremental recourse rates", without prejudice to a future filing. The pipeline sought rehearing of that, telling the Commission it "has no plans to connect the solar array to the grid" and that the array exists for "the sole purpose of providing power to the Hartsville Compressor Station to provide jurisdictional transportation service to ... TVA".

In January 2026 the Commission set its own rehearing order aside in part and let the cost back into rate base. Four facts carried it, and the fourth is the shipper's federal status:

This intermediary cost recovery step is unnecessary under the specific and unusual facts of this case, including the fact that: Project rates are incremental; the non-jurisdictional solar array will directly affect the service and/or cost of operating jurisdictional facilities; and TVA is the sole Project shipper, meaning that existing system shippers will not bear the costs of the non-jurisdictional facilities or receive the corresponding benefits of the electric production. In addition, TVA is not a "public utility" subject to the Commission's rate review authority under the Federal Power Act, which makes this project configuration unique compared to other regions of the country.

A Commissioner concurred to mark the departure: the order "departs from the Commission's more common methods in applying" the statute, and gave the reason for the usual rule: "Declining to allocate non-incidental, non-jurisdictional costs in rate base for a section 7 recourse rate protects consumers from subsidizing costs unnecessary to providing the jurisdictional service". The same statement gives the sole-shipper reason its own gloss: TVA "is the sole project shipper, which eases concerns about foisting additional costs on unwilling parties."

Two things follow, and the second is why this subsection exists.

The first is about who pays. TVA takes service under a negotiated rate in both dockets: in Cumberland, "Tennessee will provide the transportation service on the lateral under a negotiated rate"; in Ridgeline, "East Tennessee proposes to provide firm transportation service to TVA under a negotiated rate agreement". The incremental recourse rate the orders compute is the ceiling and the fallback, not the

price. What TVA pays is in an agreement no document on disk states, which is where the cost question in section 6 actually sits.

The second is about the shipper's status. In the two orders that answered the objection the Commission declined to let TVA's absence of a state regulator bear on need, holding state commission oversight not a prerequisite and offering Congress as sufficiently analogous. In this one it let TVA's absence of Federal Power Act rate regulation bear on a rate outcome, by name, as one of the reasons a configuration is "unique compared to other regions of the country." The same attribute is immaterial to the question the objectors asked and material to a question they did not.

4.6 What the review produced

The register tested the record these orders rest on. Three of its findings belong here, each once, as facts about what this public record contains. Each is a disclosure, a drafting choice or a judicial wording, and each stands on its own document.

The Ridgeline term. No public document in the docket states the term of the precedent agreement in years, on a search of the twenty-nine CP23-516 documents on disk, re-run 20 September 2026. Precedent agreements reach the Commission through Exhibit I and the public version withholds the term, as a redacted Exhibit I filed in another docket in this register shows, so this is a fact about the public record rather than about what the Commission held. The pre-construction condition is the standard form in all five certificate orders on disk, four of them word for word and the fifth in equivalent terms, and the Cumberland order calls it that: "As typical in our certificate orders". It required that the pipeline "file a written statement affirming that it has executed firm contracts for the capacity levels and terms of service represented in its signed precedent agreements", and the filing that discharged it is one sentence: "Pursuant to Ordering Paragraph (C) of the April 2 Order, East Tennessee hereby affirms that it has executed a firm contract for the capacity level and terms of service represented in its signed precedent agreements." It names no counterparty, states no capacity, states no term and gives no execution date. The finding is about the condition, not the filing: the filing did what the condition asked.

The Ridgeline crossing condition. The final EIS recommended two things at the Obed Wild and Scenic River tributary crossings: an affirmative Section 7(a) Determination from the National Park Service, and consultation with the Service on a Section 7(d) Determination's "Required Measures". The Service filed its 7(a) Determination on 16 January 2025, "including required measures associated with project compliance, project coordination, third-party environmental inspectors, and mussel mitigation", and the order drops one half of the recommendation as satisfied while keeping the other: "Because the Commission has satisfied its requirements under section 7 of the Wild and Scenic Rivers Act, we do not include the recommendation in the final EIS requiring a Section 7(a) Determination or consultation with NPS, but still include the

other requirements in the appendix to this order as environmental condition 16." What survives still gates construction on the pipeline identifying "the Section 7(d) Determination's 'Required Measures' it commits to implement". The order nowhere states that a 7(d) Determination was filed, no party raised the difference, and no compliance filing cites condition 16, on the twenty-nine Ridgeline docket documents on disk, searched 19 September 2026. The determination itself is not on disk, so whether the measures the Service attached are the ones the condition means is not settled here. Condition 17, beside it, incorporates the state water quality certification wholesale in a form that appears in every certificate order on disk; the "commits to implement" form appears in this order alone.

The court's account of the orders. Three divergences are set out above and the register's row 14 carries seven. A reader who cites the opinion for what the Commission found about this shipper will be wrong in those places.

That is what the public record contains after a need finding that held the shipper's plan out of scope and named Congress as the forum that reviews it.

5. The comparison case: Mississippi Crossing

Fifteen months after Ridgeline the Commission certificated a Tennessee Gas Pipeline project on which TVA is one shipper among seven. The benches differ by docket and not by much at the end: no Commissioner who decided either Cumberland order sat on Mississippi Crossing, the Ridgeline certificate order of April 2025 shares three members with it, and the Ridgeline order of January 2026 was decided by the same five. The record of that proceeding is the paper's comparison case. The instrument is the same, the applicant's parent is the same, and TVA is present. Shipper mix, subscription, affiliation, scale, the evidence filed, the legal formulations and the procedural posture all differ, so it is read here for what the same Commission did with contested need evidence and not as a matched control.

The shipper set. The Mississippi Crossing order of 31 July 2026 is a combined order in two dockets, and any citation must say which project it is about. On the MSX side, "Tennessee Gas entered into 10- to 20-year term precedent agreements with seven shippers for 1.925 MMDth per day of firm transportation service on the MSX Project (approximately 93% of the project's capacity)". The table names six: Colonial Energy 2,500; Oglethorpe Power Corporation 256,189; Oglethorpe/Atlanta Gas Light 119,000; Oglethorpe/Municipal Gas Authority of Georgia 25,000; Southern 1,272,000; Tennessee Valley Authority 250,000. Southern is the applicant's affiliate and holds 66.1 percent of the subscribed quantity; TVA's 250,000 appears once in the order, in that table, with no destination stated. The affiliation objection was made and answered on the ground the TVA orders used: "In the absence of evidence of self-dealing, we find no occasion to look behind the precedent agreements." Between the

objection and that answer sits a figure the order does not derive: "four of the seven project shippers are unaffiliated with either Tennessee Gas, Southern, or Elba Express and have long term contracts for approximately 42% of the MSX Project capacity." The intervenors put the arithmetic to the Commission on rehearing and it is theirs: the direct subscriptions other than Southern's "total 652,689 Dth/d. That equals approximately 33.9% of the 1,924,689 Dth/d of subscribed capacity and 31.1% of MSX's 2.1 MMDth/d design capacity, not 42%." Recomputed here against the 2.06 MMDth per day the order states, the figure is 31.7 percent, and 42 percent of that capacity would be about 865,000 Dth/d. The order does not show its working, and its own footnote supplies part of what is missing: Southern's block is contracted out in turn to four named companies, "Dominion Energy South Carolina, Inc. (Dominion), Southern Company Services, Inc. (Southern Company Services), Atlanta Gas, and South Carolina Public Service Authority (Santee Cooper)". Two of the six table rows are joint, so rows are not shippers and no enumeration of rows exhausts the shipper groupings.

What the Commission did with contested evidence. Here the objectors' evidence was about pipeline need, and the Commission took it in. "We grant the motion to lodge the two reports filed on January 15, 2026, in both dockets, as the reports contained information that has assisted the Commission in its decision-making", and then answered them on method across four paragraphs, in its own voice: "Both the July LEI Report and the Greenlink Report place substantial emphasis on projected data center load growth even though Applicants state that the proposed capacity is intended to serve broader regional needs, including electric generation and local distribution services. Because data center load represents only a portion of expected future demand, a narrow focus on this sector provides an incomplete basis for evaluating project need." Two later reports were refused as late, one of them "approximately 10 months late without justification", and then characterised anyway, in a footnote that gives them "no weight" and then says of one that it "inappropriately discounts the utilities' load forecasts". The evidentiary hearing was denied on two grounds. The first is that "sufficient evidence exists in the written record to resolve all genuine issues of material fact, including issues related to project need". The second is timing: the movants "were aware that this order was scheduled to be issued July 31, 2026, and we find their eleventh-hour filing constitutes an inappropriate attempt to delay our action." Ridgeline denied an evidentiary hearing on the first ground too, so the hearing rulings are not what separates the dockets. The TVA orders engage nothing at that length or on that method. The objections in those dockets were not of one kind. The Cumberland objectors contested the precedent agreement's probative value for market need, and the Commission answered that on affiliation; what it held out of scope were the arguments about TVA's generation decision and, in Ridgeline, the timing of TVA's commitment. What the three records differ in is which question the Commission

treated as its own. Vintage, shipper mix, subscription and the evidence filed all differ with it.

On vintage. The doctrinal vocabulary is largely shared. The phrase "significant evidence of need" is the standing formulation and appears in seven of the nine orders on disk, including both 2026 orders and both TVA orders, and the Ridgeline order carries the best-evidence proposition too, quoting City of Oberlin that "precedent agreements were the best evidence of project need". What is particular to this order across the nine is its scrutiny vocabulary: "heightened scrutiny", "no occasion to look behind" and "does not outweigh precedent agreements" appear in it alone. The difference the comparison rests on is not the words but the four paragraphs of merits engagement with the objectors' reports, which the TVA orders have no counterpart to.

What a contested record carries that the TVA records do not. Three things sit in the Mississippi Crossing record that have no counterpart in the TVA dockets. First, a state regulator's staff review of one shipper's plan is in the record, filed as an intervenor's exhibit: Georgia Public Service Commission staff testimony that "new large loads are materializing slower than the Company forecasted" and that staff "is concerned that there are natural gas FT risks as pipelines would need to be constructed or modified by interstate pipeline companies on the timeline necessary to be able to supply the proposed CC resources", together with Georgia Power's own projection that service to Plant McIntosh under the companion docket begins "November 1, 2029", three months after the completion deadline the order imposes. The order carries no responsive discussion of that testimony on a reading of it for the subject, and "McIntosh" returns zero in it. Second, the applicants and the objectors agree on something the order does not say: the Final EIS's air quality tables carry 2021-2023 design values, sourced to the applicant's own application, where the order states that staff "used the best data available during the development of the final EIS, which were the 2022-2024 EPA design values for PM2.5"; the phrase "2022-2024" appears nowhere in the six files of the Final EIS. The order's statement about the data staff used is not corroborated by the text of its own EIS. Third, the record is live: two requests for rehearing and a motion for stay were filed in August 2026, the applicants answered on 15 September, and no Commission order on rehearing had issued as at 18 September 2026, on an eLibrary search of the docket bounded to that date.

What the comparison shows. Where the shipper has a state regulator, that regulator's review of the shipper's plan reaches the FERC record as an exhibit and the order does not engage it. Where the objectors contest pipeline need, the Commission admits the evidence and answers it on method. Where the objectors contest generation need by a shipper with no state regulator, the Commission holds the question out of scope and names Congress. The instrument is the same in all

three cases. What differs is the question the objector is permitted to ask, and for TVA that question is the one the Commission says belongs to TVA.

6. What Tennessee does hold, which forum may yet reach it, and what would settle it

What Tennessee does hold. The State of Tennessee is in both records, and in both its instruments are water quality and historic preservation. In Cumberland the order names three state instruments: the Clean Water Act section 401 certification "issued by Tennessee DEC on July 21, 2023", incorporated as a condition; the Aquatic Resource Alteration Permit that "authorizes the Cumberland Project's temporary and permanent impacts on wetland and waterbodies in the state of Tennessee"; and the State Historic Preservation Office letter finding "no historic properties eligible for listing in the National Register of Historic Places will be affected by this undertaking." In Ridgeline the Department of Environment and Conservation issued its section 401 certification and Aquatic Resource Alteration Permit as one instrument, effective 15 August 2025, and the Commission had made the certification's conditions mandatory in advance: "All conditions attached to the water quality certification constitute mandatory conditions of the Certificate Order." The State Historic Preservation Office executed a Memorandum of Agreement on 3 September 2025.

The Department said what its review was and was not, in its own words, in answer to commenters who asked it to consider alternatives to gas: "TVA's selection of energy alternatives is beyond the scope of this permitting and certification decision, which concerns water quality. Please note that the decision to issue, deny, or modify the permit is based solely on whether the proposed activities comply with the Water Quality Control Act of 1977 and the rules promulgated thereunder as regulated by the permit." And to a list of concerns that ran from property values to eminent domain to TVA's NEPA analysis, it said where they belonged: "This permit governs only the impacts to jurisdictional aquatic resources associated with the construction of the pipeline. These other issues are beyond the scope of this permit and are more appropriately addressed to ETNG, TVA, FERC, and other agencies." The one test in these instruments that turns on economic justification was found not to apply, and it asks whether the degradation is necessary rather than whether the capacity is: "Because the permit authorizes no more than de minimis degradation, ETNG is not required to demonstrate that degradation is necessary to accommodate important economic or social necessity in the area." No response in the certification's comment-and-response set reviews project need or project cost. Where the subject arises the Department rules it out of its own scope and names other agencies. That finding covers the twenty-five responses, searched 19 September 2026, and is stated by sense rather than by string: the word "need" occurs twice in the set, both times about vegetation and flumes. In Ridgeline the state instrument took effect four and a

half months after the federal certificate. The certificate order anticipates it rather than reciting it: "water quality certification" occurs three times and "Tennessee Department of Environment" twice, while "401" and "Aquatic Resource" return zero.

That is the State's part. The Department routed what it would not reach to "ETNG, TVA, FERC, and other agencies". FERC routed it to TVA and to Congress. TVA addressed it in its own environmental review under its own statute, which is where the least-system-cost recital appears. No record of decision or board resolution for either plant is on disk.

Which forum may yet reach it. Cumberland has been decided twice. The Sixth Circuit denied the petition against Tennessee's water quality certification and Aquatic Resource Alteration Permit NRS 22.192 on 4 April 2025, holding that the Department "did not violate the APA by issuing TGP a § 401 water quality certification", on the five water questions section 1 lists. The D.C. Circuit denied the petitions against the certificate on 30 September 2025. One Cumberland proceeding is still open, and its subject is the agreement rather than the certificate. Appalachian Voices v. TVA pleads predetermination on the agreement itself: "By entering into a long-term contract with Tennessee Gas Pipeline Company more than 16 months before issuing its Record of Decision, TVA irreversibly and irretrievably committed itself to the Cumberland Gas Plant, slanting its NEPA review towards a predetermined outcome and limiting its choice of alternatives in the Final EIS." That is the proposition TVA's own final environmental impact statement denies in the passage section 3 quotes. The claim is about the agency's process under the National Environmental Policy Act and asks that the statement and the record of decision be set aside; it does not ask whether the pipeline capacity was needed or what it costs. It was pending on the latest filing reached, 17 November 2025. Ridgeline is in the Fifth Circuit at Nos. 25-60312 and 25-60681, on petitions the Commission's docket describes as the pipeline's own; the petitions have not been read, and what they seek is stated in no document on disk. The forum the Commission named, Congress, has no proceeding on either docket that any document in the register records, on a search of the register re-run 20 September 2026.

What would settle it. Three named things, none of them settled by the public record as at 20 September 2026. The term of the Ridgeline precedent agreement, in years: no document in the docket states it, and the only pre-construction condition that touched the contract asked for an affirmation that it existed. What the Kingston supply costs TVA's customers: no document on disk in the Ridgeline docket states it. The question was put in TVA's own Cumberland record, where a commenter objected that the agreement "does not disclose costs or the terms of the agreements or how the pricing compares to what was assumed in the IRP", and that objection is Cumberland's rather than Kingston's. Whether the Fifth Circuit petitions are the pipeline's, and what they seek: the docket descriptions say the first; the petitions would say the second. A fourth item sits outside the FERC record: one source reports

that TVA's board approved continued operation of the Cumberland plant by resolution on 11 February 2026, which postdates the retirement sequence the certificate order recites, "TVA intends to retire one coal-fired unit by the end of 2026 and the other by the end of 2028"; the resolution itself is not on disk and no FERC document records it, and it is a single unretrieved source.

7. What this shows, and what it does not

It shows that when the shipper is TVA, the market-need evidence the Commission credits is a precedent agreement with an unaffiliated shipper for the full capacity, with the rest of the section 7 analysis proceeding as section 3 sets it out, and that the Commission, asked who reviews that shipper's decision, held that no state review is required and offered congressional oversight as "sufficiently analogous". It shows that the Commission wrote that sentence twice, both times for TVA, and in none of the other seven orders on disk. It shows that the Commission held the shipper's generation decision, and in Ridgeline the timing of the shipper's commitment, outside the proceeding on jurisdictional grounds it stated in terms, and that the reviewing court affirmed on those grounds while supplying premises the orders do not contain. It shows what that leaves on the public record: a term stated in one docket and in none of the other's documents, a pre-construction condition satisfied by one sentence, a crossing condition that names a determination the order never says was filed, and a state review confined by the State's own words to water. And it shows, from the comparison case, that the Commission engages contested evidence on the same instrument when the question is pipeline need and the objector is permitted to ask it.

Four things the record does not contain, and no one should read into it. Whether either certificate should have issued: the case for both is section 3, and it is made in the Commission's words and the court's. Whether TVA's plants are needed, whether the gas will be used, or what the capacity costs TVA's customers: each subject is recited in one docket or the other, and neither docket decides any of the three. Whether the congressional-oversight sentence decided anything: it is an alternative, and each order stands on the statutory holding, the affiliation finding and the anticompetitive-process finding without it. Whether Mississippi Crossing's engagement with contested need evidence is what the Commission would have done for TVA in 2024 or 2025: the formulations are 2026 formulations and the TVA orders predate them.

One limit is structural and belongs with the findings. The contested readings here were found by testing each party's construction of an order against the order's own text, which is how the seven divergences, the Ridgeline crossing condition and the design-value mismatch surfaced. That reach ends where the parties' arguments end, and where this paper went past it, at the Ridgeline term, at the crossing condition

and at the design-value phrase, it says so at each point and grades the claim accordingly.

The other two states, at the narrowest width the deposited work supports. In Virginia, the state commission spent nine months deciding whether a 944 megawatt plant was needed while its owner's affiliate contracted for twenty years of pipeline capacity in a federal docket the state proceeding did not examine; that paper's finding is "Neither examined what the other did", and it is deposited at 10.5281/zenodo.22754150. In Georgia, the State does review the cost of firm transportation, through the generating certificate a certificated utility brings to it, and that review reaches what the utility brings and nothing on the pipeline docket itself; that paper is deposited at 10.5281/zenodo.22754180, and the Mississippi Crossing record in section 5 shows the same mechanism from the FERC side, a state staff review present as an exhibit and not engaged. In Tennessee, for TVA, there is no state forum to reach it, and the Commission named Congress. The Virginia and Georgia findings are those papers', carried here at their deposited width. Three states, one federal instrument, and in none of the three FERC records does a state's own review of the need for the capacity decide anything. Where such review exists at all it runs through the utility's generation rather than the pipeline, it is the utility's to bring, and where it reached a FERC record it arrived as an exhibit, as section 5 shows. For the one shipper that has no state, the Commission's answer is the whole of the review.

Claim and source, section 4

[P] primary on disk. [I] this paper's reading of one. A bounded negative names the set searched, at 19 September 2026 unless stated. Rows are register rows.

Claim · Source · Grade · Row

The prerequisite holding, §4.2 · Both orders, near-identical · [P] · 13, 14

The congressional sentence, §4.2 · Both orders, verbatim · [P] · 13, 14

The four phrases in those two orders, none in the other seven · Nine orders on disk · Bounded negative · 13, 14

The formulation only where the shipper has no state regulator · Same nine; wider output unsearched · Bounded negative · 13, 14

The congressional sentence is an alternative · Both orders; the reading is this paper's · [I] · 13, 14

The affiliation finding carries the need conclusion; the linkage is this paper's · Both orders, "Therefore, we conclude..." · [I] · 13, 14

The fourth move is the anticompetitive-process finding · Cumberland rehearing · [P] · 14

The orders decline the re-decision and say why · Both certificates; Cumberland rehearing on end use · [P] · 13, 14

"outside the scope" six times across three orders, none in the other six · Nine orders on disk · Derived arithmetic · 13, 14

"veto" returns zero in the orders the opinion reviews and in the rest · All five TVA orders on disk, 20 Sept 2026 · Bounded negative · 13, 14

"upgrade" returns zero in the orders the opinion reviews · Both Cumberland orders, 20 Sept 2026; it occurs once in the Ridgeline rehearing order · Bounded negative · 14

Seven divergences, three shown at §4.3 · Row 14 carries all seven · [I] · 14

Both orders record TVA's 2019 plan as its decision's source · Both orders · [P] · 13, 14

§ 831m-1 cited four times across three orders · Cumberland certificate 1, rehearing 2, Ridgeline 1 · Derived arithmetic · 13, 14

The solar array cost sequence, April 2025 to January 2026 · Certificate; 14 Aug 2025; 194 FERC 61,058 · [P] · 13

TVA's non-public-utility status is a ground for the January 2026 rate outcome · 194 FERC ¶ 61,058, §4.5 · [P] · 13

TVA takes service at a negotiated rate in both dockets · Both certificates; 194 FERC ¶ 61,058 · [P] · 13, 14

No public document states the Ridgeline term in years · Twenty-nine CP23-516 documents on disk, re-run 20 Sept 2026 · Bounded negative · 13

The affirmation condition is standard form in all five certificate orders, four verbatim, one equivalent · "As typical in our certificate orders" · [I] · 13

No 7(d) Determination stated; none raised; condition 16 uncited · Twenty-nine CP23-516 documents on disk, 19 Sept 2026 · Bounded negative · 13

Open at the date of this table

As at 20 September 2026. The Ridgeline precedent agreement's term, which reaches the public record through the negotiated-rate tariff record and the Index of Customers. What TVA pays under either negotiated rate. The National Park Service determination of 16 January 2025. The Fifth Circuit petitions at Nos. 25-60312 and 25-60681, behind a paywall this work does not cross. TVA's records of decision and board resolutions, including the Cumberland resolution of 11 February 2026, which rests on one unretrieved source. The Cumberland section 401 certification and permit NRS 22.192. The 1999 Certificate Policy Statement, reached here through the orders and opinions that quote it. Whether the Commission acts on the Mississippi Crossing rehearing requests, which had not issued as at 18 September 2026. The two commentary articles in section 1, read as fetched renderings. The applications in both dockets and their exhibits. Which of the two dates the record gives for the Cumberland precedent agreement is right. Whether the congressional formulation, or an equivalent, appears elsewhere in the Commission's output. Whether any congressional proceeding on either docket exists outside the register. The status of Appalachian Voices v. TVA after 17 November 2025.

Methods

The evidence is a register of fifteen FERC certificate dockets with a second-coder sheet of 543 claims for the three Tennessee rows, each graded and each pointer resolving to a file on disk or stating why none exists. Register, source document and sheet are deposited separately and carry the audit, at concept DOI 10.5281/zenodo.22757119.

Every quotation was matched by script against the document it is attributed to, after Unicode normalisation, quote and dash folding, whitespace collapse and hyphenation rejoin. Counts were recomputed rather than carried.

Language-model agents ran review, recomputation and source verification cold against the raw files: a collision pass over 186 propositions from the adversarial filings; audits of every bounded negative and every grade; a pointer-resolution round; a consistency pass on four narrow tests, being a contradiction sweep, a scope audit, a quantifier audit and an attribution check; a read as counsel for the certificate holders; and a read as a section 7 practitioner testing every claim of distinctiveness against the other orders on disk. A cross-model review ran on a different vendor's model. Each worked from the documents and was told nothing about the argument, and every finding was verified against primary text before it changed a sentence.

Adversarial filings test readings that are contested. Where the Commission, the applicants and the intervenors read a passage the same way and all read it wrong, nothing in this corpus dissents. Section 7 states what follows from that for the findings.

Companion papers and corpus

Virginia: *What the Record Does Not Say*, 10.5281/zenodo.22754150. Georgia: *What the Certificate Points At*, 10.5281/zenodo.22754180. The register: concept DOI 10.5281/zenodo.22757119.

The primary documents are not redistributed. They sit under Generation/primary/: 65 FERC files, four court, six TVA, sixteen statutory, eight SEC and three market monitor reports, with sha256 digests in the register's source_report cells.

About the author

Tommy N. Turner is an independent policy researcher who writes on data center fiscal and environmental policy, energy regulation, and institutional accountability. He works through Turner Advisory Group, LLC, and holds an MBA from the Goizueta Business School at Emory University and a teaching certificate from Harvard's Derek Bok Center. ORCID 0009-0005-7422-9881.

He serves on the advisory board of a Sloan Foundation-funded study of data centers at Emory University and receives a token honorarium for that role. The study is funded for 2026 through 2029 and covers Georgia, Tennessee and Virginia. It had no role in this paper, in the selection of its question, or in its sources or its conclusions. No utility, pipeline, county, agency or trade association commissioned, funded, reviewed or commented on the work. The research, the retrieval, the errors and the conclusions are his own.