

NELMCC Questions and Answers 2024
(as of October 23, 2023)

Q1. Issue 1(b) is "FERC found that the project benefits outweighed the adverse environmental and social harms under the NGA." It specifies that FERC's finding is to be evaluated under the arbitrary and capricious standard.

Issue 2 is "Was FERC's finding that the benefits from the AFP outweighed the environmental and social harms arbitrary and capricious?" The parties' positions on both issues are the same.

Could you please clarify if there is an error in how these two issues are phrased? We have not been able to distinguish them as written.

A1. The NELMCC Problem was amended for clarification.

Q2. One question reads: "Was FERC's finding of public convenience and necessity for the AFP arbitrary and capricious or not supported by substantial evidence insofar as:...FERC found that the project benefits outweighed the adverse environmental and social harms under the NGA." While the other appears to be almost identical "Was FERC's finding that the benefits from the AFP outweighed the environmental and social harms arbitrary and capricious?"

These two issues seem identical. Can you distinguish between the two?

A2. The NELMC Problem was amended for clarification.

Q3. Would you be able to provide information on the fact pattern? I am wondering what the capacity is for the Northway Pipeline. The fact pattern says it is not at full capacity but it does not state what the Northway Pipeline's full capacity is.

A3. The record will not be supplemented on this issue.

Q4. I know according to the record no cases may be used post-June 15, 2023. However, the records cites, *N. Carolina Coastal Fisheries Reform Grp. v. Capt. Gaston LLC*, 76 F.4th 291,296 (4th Cir. 2023), a case which is from August 15, 2023. My question is if we can use this cite since it is in the record considering the time constraints set out in the rules.

A4. Teams may cite anything that FERC expressly relied upon (even N. Carolina Coastal), but otherwise may not cite anything after June 15, 2023.

