

FERC cracks down on pipelines

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The Federal Energy Regulatory Commission toughened its stance on alleged violations associated with natural gas pipelines yesterday, saying enforcement has been too lax in the past and that stricter policies may be needed.

"We are being more aggressive and ensuring that those conditions are actually being enforced," FERC Chair Richard Glick told reporters after the agency's open meeting yesterday. "Under previous leadership, the commission did not adequately enforce its conditions."

Yesterday's meeting showcased the sharp divisions among commissioners about the agency's oversight of natural gas projects. In contrast to Glick's get-tough rhetoric, Republican members of the panel warned that putting up obstacles to pipeline development can lead to problems, such as potential gas outages this winter in the Northeast.

"We're going to have to face the reality that the need for gas-fired generation is not going to go away next month, next year, in the short term. It is not," said Republican Commissioner Mark Christie. "We're going to have to deal with that and be willing to build the transportation facilities to get the gas to the generators so we can keep the lights on."

Commissioner Allison Clements, a Democrat on the panel, said the agency's moves "illustrate the profound challenges" facing natural gas projects and signal the need for broader policy changes. She and fellow Democrat Glick reiterated their support for changing how the agency assesses proposed new natural gas pipelines, a process outlined in its certificate policy statement.

"To address the challenges ahead, we need to stop debating whether change is necessary and take the forward-looking steps required to meet our statutory obligations," Clements said.

The meeting was the first with Willie Phillips, a fellow Democrat who was sworn in this month as FERC's fifth commissioner. Phillips could give Glick and Clements the votes they need to revise the pipeline policy statement and add "greater emphasis on environmental impacts" into FERC's review processes, ClearView Energy Partners said in a note Dec. 3.

Phillips, for his part, did not vote on any of the items yesterday, but he said he looked forward to getting up to speed while prioritizing electric reliability and affordability.

"This small but very critical agency can have a big effect on public welfare," Phillips said.

The other commissioners approved moving forward with enforcement actions seeking a \$40 million fine against Energy Transfer LP on allegations that it leaked toxic diesel fuel while building its Rover pipeline in Ohio, and alleging that Cheniere Energy's Midship pipeline in Oklahoma is violating its permit for leaving construction debris on the private land it condemned for construction. In the case of the Rover pipeline, the company will need to explain why it should not pay the penalty proposed by agency staff.

The commission also revoked the permits of two other projects that were canceled amid staunch opposition, the PennEast pipeline — a project proposed by a consortium of energy companies that would have run through New Jersey and Pennsylvania — and the Pacific Connector project, which was to carry gas to the Jordan Cove liquefied natural gas terminal in Oregon. Developers of Jordan Cove told FERC this month that they were not moving forward with the project because of challenges in obtaining state permits ([Energywire](#), Dec. 2).

Casey Hollers, director of regulatory affairs at the Natural Gas Supply Association, said the group was still reviewing the commission's orders. She emphasized the group's support for maintaining the current certificate policy statement, which was last updated in 1999.

"The policy statement remains effective and provides the Commission with the flexibility to balance the public benefits of a proposed project against any adverse impacts on a case-by-case basis to determine if the project is in the public interest," Hollers said in a statement.

'Rogue employee'?

Energy Transfer, best known as the developer of the Dakota Access pipeline, acknowledged yesterday that diesel was leaked during Rover construction, but said it was introduced to the project by the "rogue employee" of a contractor who then tried to conceal his actions.

"Energy Transfer did not direct this action," company spokesperson Vicki Granado said.

It's not the first time FERC has alleged violations during construction of the \$4.2 billion, 711-mile Rover pipeline. Earlier this year, FERC said it was seeking a \$20 million fine against Energy Transfer for allegedly misleading the agency about the purchase and destruction of a historic house in Dennison, Ohio.

Around the country, landowners have complained that pipeline companies damaged their properties during construction. In some cases, FERC's approval of a pipeline granted eminent domain to the developers, but landowners have claimed the agency failed to enforce rules about land restoration.

Glick has said he wants to do more to protect landowners, spurring concerns from industry.

In central Oklahoma, farmers say Cheniere's contractors flooded their fields, washed away valuable topsoil and littered construction debris along the 200-mile Midship line. More than a year after it began shipping gas, they say their farms are still a mess.

Cheniere, whose primary business is exporting natural gas, has said it has been doing the best it can to deal with weather-related problems and difficult demands from landowners.

"Midship has dedicated and will continue to dedicate tremendous resources to its restoration efforts," the company said in a statement. "Midship welcomes continued engagement with FERC and all stakeholders in order to build on the significant restoration progress achieved to date."

Landowners say FERC has been slow to act, but applauded the agency's moves yesterday.

"I think FERC is making clear that it intends to enforce the terms of the certificates that it issues, and also that it is not going to take companies at their word that they complied, but will instead investigate and take seriously allegations of non-compliance," said Carolyn Elefant, attorney for many of the landowners fighting with the company.

The commission sent Cheniere's handling of restoration on Midship to its enforcement office, and instructed the company to "show cause" why it had not violated its permit by leaving rock and construction debris in the trench where it laid the pipeline. It sent one of the most heated controversies along the line, allegations of damage to Sandy Creek Farms near Bradley, to an administrative law judge. And it found the company "in non-compliance" for leaving rock and debris in a farm.

"If the company itself is to comply with certificate conditions, it is imperative that the commission makes clear there are serious consequences, including significant financial penalties, and if all else fails, revocation of the certificate itself," Glick said.