

US shift on pipeline emissions avoids court review

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Washington, 9 May (Argus) – Pipeline developers and activists will have to wait longer for the courts to weigh in on the US Federal Energy Regulatory Commission's (FERC) decision to stop analyzing most of the carbon emissions from natural gas pipelines it approves.

A federal court today dismissed the first case challenging the policy, which FERC announced a year ago when it declined to reconsider its approval of a relatively obscure pipeline project in New York. The DC Circuit Court of Appeals said it could not consider the merits of the case, which went through [arguments](#) last month, because the organization behind the lawsuit, Otsego 2000, did not have standing to sue.

The ruling could mean months of additional uncertainty about a policy that has driven a wedge among FERC's members, slowing decisions on major pipelines, and fueled criticism that the agency is ignoring how pipelines affect the climate. Democratic FERC member Cheryl LaFleur blamed the climate split for making it harder for the agency to "meet in the middle" on orders it is considering.

"Even some less prominent orders without obvious climate aspects have been stalled at times because individual commissioners are too dug in on an issue to agree on language," LaFleur said on 7 May during a conference the Energy Bar Association held in Washington, DC.

FERC until last May had been providing a rough upper-bound estimate of the indirect greenhouse gas emissions from the natural gas pipelines it was approving. The estimate assumed that new pipelines would run at full capacity every year and that all of the natural gas it transported would be burned.

But FERC's Republican majority, in a rehearing order related to a 108mn cf/d expansion to Dominion Energy's pipeline system named the New Market Project, [said](#) it would stop providing those estimates in nearly all cases. FERC said the estimates were "speculative" and would not meaningfully inform the agency's decisions under the National Environmental Policy Act.

The policy shift frustrated environmental activists who had been urging FERC to conduct more comprehensive reviews to understand if building a specific pipeline would exacerbate climate change or curb emissions. FERC's Democratic members said the policy sought to simply "ignore" downstream emissions and also disregarded an earlier court [ruling](#) requiring more robust climate reviews.

Otsego 2000, a small non-profit environmental group, was the only group involved in the case when FERC announced the sweeping new policy. But because the group had no members that could claim harm from the pipeline, it was unable to show it had standing to challenge approval of the pipeline.

The new policy is likely to be challenged in other pipeline cases moving through the courts. US senator Ed Markey (D-Massachusetts) today accused the agency of drastically shifting its policies and "shrugging [its] shoulders and saying there is no way of knowing how fossil fuels affect the climate."

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