



rethink energy Investments

Exploring Investment Risks of Fossil Fuel Infrastructure

Examining the risks of new pipeline proposals in New Jersey, a battleground state for companies seeking to market gas from the Marcellus Shale in Pennsylvania.

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Federal Court Upholds Denial of Constitution Permits

Decision Spells Further Risk for the Pipeline Sector as States Move to Protect Their Waters

In mid-August, the U.S. Second Circuit Court of Appeals upheld a [decision](#) by the New York State Department of Environmental Conservation (NYSDEC), which denied a key water permit for the proposed Constitution gas pipeline.

³We hope this sends a loud message that New York will not rubber stamp any project that fails to protect public health and our environment,² said [DEC Commissioner Basil Seggos](#).

The Clean Water Act requires that state agencies like NYSDEC review projects that could harm the state's water resources. This federal court decision confirmed states' important role in protecting their waterways and drinking water.

Jennifer Danis, senior attorney, Eastern Environmental Law Center, said, ³Even though Constitution was approved by FERC, it is the states that are the ultimate arbiters of environmental protections."

³For projects like the unneeded PennEast pipeline,² Danis said, ³we would expect to see state review that is easily as critical as Constitution faced.² The New Jersey Department of Environmental Protection denied PennEast's initial application for a water quality certificate and wetlands permit in June due to major deficiencies.

New York isn't the only state where pipelines are facing trouble obtaining water permits, either. This month, [West Virginia's DEP revoked](#) its decision to grant Clean Water Act certification for the Mountain Valley pipeline, giving it the opportunity to more thoroughly review the project's impacts, rather than defend its approval in citizen groups' federal court challenge, which was based on DEP's failure to properly review the project's potential impacts on streams.

PennEast Claims of Cost Savings Debunked by Fed Data

False Claims Further Damage PennEast's Credibility

PennEast's false claims will likely further damage the company's credibility with investors, regulators and public policy makers. New U.S. Energy Information Administration (EIA) [data](#) show that newly-built pipelines in the Marcellus Shale region have increased gas prices. These findings directly contradict PennEast's claims that its proposed gas pipeline would reduce the cost of gas for consumers.

A [letter](#) filed on August 31 by New Jersey Conservation Foundation (NJ Conservation) on the PennEast application docket before the Federal Energy Regulatory Commission (FERC) details how these new data confirm analyses from the New Jersey Division of Rate Counsel and energy experts [Skipping Stone](#). They show that PennEast cannot deliver its speculative cost benefit promises to consumers and that the pipeline would actually raise ratepayers' costs.

"These data merely confirm what is well understood, that when pipelines are built into a market with no growth and no genuine need, the pipeline does not deliver cost savings to consumers,"² said Barbara Blumenthal, Ph.D., research consultant, NJ Conservation.

Pipeline Sector Concerned U.S. Court Ruling on Sabal May Delay FERC Pipeline Certifications

As reported in [Engineering News-Record](#) on August 30, 2017, "Pipeline-sector observers are watching whether a U.S. appellate court ruling, which last month canceled federal [FERC] approval of a \$3.2-billion Florida natural-gas line [Sabal Trail Pipeline] and two others for not adequately considering the projects' contribution to greenhouse-gas emissions, could affect approvals of other planned projects."

The Court's opinion: ³We conclude that the EIS for the Southeast Market Pipelines Project should have either given a quantitative estimate of the downstream greenhouse emissions that will result from burning the natural gas that the pipelines will transport or explained more specifically why it could not have done so."

Ruling Could Have a Broader Impact

³Trump's pipeline agenda takes a hit with court ruling,² an article in the [Washington Examiner](#) (September 5, 2017), suggested pipelines could be facing yet another requirement to gaining FERC approval for pending and future projects.. The Examiner reported, ³...the ruling could have a broader impact, providing a precedent to block pipelines based on improper climate change analysis, a possibility that counteracts Trump's effort to streamline the approval of infrastructure projects.² Tony Clark, a former FERC commissioner, told the Examiner, ³This is one more hurdle the developer has to go through, one more set of data you can litigate and further delay projects...²

Evaluation of Upstream Impacts on the Environment

Former FERC analyst Tom Russo told the Examiner, ³The real issue is not so much the downstream climate change effects, but whether the next logical step in a legal judgment is OK, don't you also need to evaluate upstream impacts, meaning reviewing the emissions from the drilling and fracking of the natural gas that goes into the pipeline...²

About

ReThink Energy Investments is a publication of ReThink Energy NJ. The newsletter looks at the risks facing new pipeline proposals in New Jersey, a battleground state for companies seeking to bring to market natural gas from the Marcellus Shale.

ReThink Energy NJ empowers New Jersey citizens by informing them about the need for reduced use of fossil fuels and pipelines that threaten our state's preserved lands, water, environment, public health, and communities. Our goal is a swift transition to efficient, clean and renewable energy.

ReThink Energy NJ is supported by New Jersey Conservation Foundation, Stony Brook-Millstone Watershed Association and Pinelands Preservation Alliance.

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