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Dominion cancels gas pipeline, blames FERC

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Dominion Energy Inc. on Friday abandoned a pipeline project to bring Marcellus Shale natural gas to market, faulting the Federal Energy Regulatory Commission for its failure to act on the application.

"The project has been adversely impacted" by FERC's inaction, Dominion said in a statement, informing the commission that customers for the project had pulled out.

FERC's processing of pipeline applications has been bumpy since the agency in May of last year ended its practice of considering the upstream and downstream greenhouse gas impacts of gas projects under the National Environmental Policy Act (NEPA).

Dominion's cancellation of the Sweden Valley Project comes days after FERC Chairman Neil Chatterjee said after an agency meeting that the gas industry is "largely satisfied" with the way the agency is moving to advance projects.

The \$48 million project in Ohio and Pennsylvania called for less than 5 miles of pipeline, modifications to an existing compressor station and construction of two measuring stations. It would have delivered 120 million cubic feet per day into the Tennessee Gas pipeline in eastern Ohio.

Dominion proposed the project in January 2018. The company said in a [letter](#) to FERC that the environmental assessment issued last August concluded "if Dominion constructs and operates the proposed facilities in accordance with its application and supplements, and the staff's recommended mitigation measures below, approval of the Project would not constitute a major federal action significantly affecting the quality of the human environment."

As a result of that evaluation, Dominion said it had "reasonably expected to receive a Certificate of Public Convenience and Necessity no later than November 10, 2018." Approval by that date would have allowed construction for a planned in-service date of Nov. 1, 2019, to satisfy the contract for the gas, the company said.

In the past, the Interstate Natural Gas Association of America (INGAA) has commended Chatterjee's role in leading commission approvals of interstate natural gas pipelines and liquefied natural gas export facilities.

But "it is important that FERC maintain this momentum," said Don Santa, INGAA president and CEO.

Santa, a former FERC commissioner, said in an email that "in many cases, pipeline applicants request decision dates in order to be able to meet construction schedules and fulfill contractual obligations to the shippers who will transport natural gas using the newly constructed pipeline capacity."

A no-gas agenda

Chatterjee reacted to the news on Twitter on Friday afternoon, saying he was "deeply disappointed that the unique circumstances of this case prevented the Commission from approving the project as quickly as the applicant had hoped, and that, as a result they are withdrawing the application."

Eight days earlier, the chairman presided over the monthly FERC meeting that for the first time ever did not have a gas item on the docket, according to FERC records, former agency staff and natural gas industry attorneys.

"People have been making light of the fact that we don't have any gas items on the agenda today," Chatterjee told reporters after the meeting.

He ventured that "we frequently have meetings where we don't have gas items on the agenda," but added that only the commission's secretary would know if the absence of a gas item was historic.

Last month, several pipeline builders — including Williams Cos. Inc. and Tallgrass Energy — wrote to the commission urging action on projects. They said that environmental assessments were completed months ago and that construction schedules were at risk.

"If you look at our track record the last couple of years in pipeline approvals, I think that demonstrates that we're capable of doing this work on a timely basis, and we will continue to do so," Chatterjee told reporters.

So far this year, FERC has approved nine pipeline projects.

In 2018, the commission approved 31 projects, 13 of them by July 1. Thirty-five pipelines were approved in 2017 and 36 in 2016.

A total of 21 pipeline projects are pending at FERC dating from 2016, with 17 having been filed in 2018 and 2019.

The commission also has approved construction of four liquefied natural gas export terminals and related pipelines in 2019, but 10 are awaiting consideration.

The four were approved with the support of Commissioner Cheryl LaFleur after Chatterjee agreed to disclose in the orders the direct greenhouse gas emissions from the projects but not to require mitigation of the emissions.

"All I've heard from industry is a lot of appreciation for the work we did on LNG and the compromise that we struck to get those LNG projects approved in a timely manner. I've thus far not heard any consternation. I think people are largely satisfied," Chatterjee said.

On June 4, in a ruling rejecting a challenge to a Kinder Morgan pipeline project, the U.S. Court of Appeals for the District of Columbia Circuit criticized FERC for its "decidedly less-than-dogged efforts" in assessing downstream greenhouse gas emissions.

It was the second such admonition by the D.C. Circuit to FERC. In 2017, the court found that NEPA required the commission to consider climate impacts from downstream uses of fuel delivered by the Sabal Trail pipeline and related projects in the Southeast.

'That is what people expect'

FERC has so far not responded to the court.

The commission has just four members — two Republicans and two Democrats — since the death in January of Commissioner Kevin McIntyre.

A split over climate impacts from greenhouse gases has been apparent among the commissioners, said Monique Watson, an attorney in the Washington office of Steptoe & Johnson who spent 14 years at FERC including a stint as legal adviser to former Commissioner Marc Spitzer.

Most of the gas project applications pending at FERC "were filed or in process well before these differing opinions became apparent," she said.

Companies are "trying to determine how they meet their NEPA obligations with different beliefs among the commissioners," Watson said, as they are unsure if the agency is following its past practices.

"Pipelines companies want regulatory certainty. To the extent that there's been a practice of them processing applications in a certain manner, that is what people expect," she said.

For his part, Chatterjee said he believes he and the other commissioners are capable of reaching agreement on projects.

"I get frustrated when people talk about polarization, politicization or gridlock at the commission. I simply don't see it, and I think the record demonstrates that," he said.