

## E&E Energywire

### Court urged to keep door shut on FERC delay tactic

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Environmental groups are asking a federal court to remain firm in its watershed decision to bar the Federal Energy Regulatory Commission from stalling challenges to pipeline projects, despite the agency's request for more time.

Last month, the U.S. Court of Appeals for the District of Columbia Circuit ruled that FERC could no longer use "tolling orders" to delay legal challenges to projects like natural gas pipelines, restoring a 30-day deadline for the agency to respond to landowners who object to its decisions ([Greenwire](#), June 30).

The court ordered FERC to comply with the ruling starting Tuesday. On Monday, the commission requested an extra 90 days to use tolling orders, saying it needs time to assess how best to implement the court's order.

"A ninety-day stay of issuance of the mandate ... is appropriate here: a stay is supported by good cause and is consistent with the public interest, and this case presents a substantial legal question," the commission wrote in its Monday [filing](#).

Now, the Allegheny Defense Project and other groups have asked the court to deny FERC's request.

"FERC presents no compelling reasons for staying the issuance of the mandate, thereby creating further delay and allowing FERC to continue its unfair and unlawful practice," the groups wrote in their Wednesday [filing](#).

FERC Chairman Neil Chatterjee (R) along with the commission's lone Democrat, Richard Glick, also asked Congress to amend the Natural Gas Act to provide the agency with a "reasonable amount of additional time to act on rehearing requests" ([Energywire](#), July 6).

The commissioners said that while they believe they need more time to consider landowner and other protests, they clarified that construction would not proceed during that time.

"We believe that any such legislation should make clear that, while rehearing requests are pending, the Commission should be prohibited from issuing a notice to proceed with construction and no entity should be able to begin eminent domain proceedings involving the projects addressed in the orders subject to those rehearing requests," they wrote.

FERC has faced mounting criticism over its use of tolling orders, which stalled landowners from launching legal challenges while pipeline construction was ongoing. According to its

records, FERC has issued a tolling order for every rehearing request filed over the past 12 years. Every case was then eventually denied. On average, 212 days — about seven months — passed between the time a landowner made a request for rehearing and when FERC ultimately denied it ([\*Energywire\*](#), May 27).

The commission had previously taken steps to address the issue, but the D.C. Circuit's order is likely to significantly change operations at the independent agency ([\*Energywire\*](#), July 1).