

FERC meeting: Pipelines, blackouts and ‘fearmongering’

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Federal Energy Regulatory Commission Chair Richard Glick on Capitol Hill. Francis Chung/E&E News

ENERGYWIRE | A Midwestern natural gas pipeline jeopardized by a recent court order is poised to remain in operation this winter, but the developer behind the project should stop trying to scare the public, Federal Energy Regulatory Commission Chair Richard Glick said yesterday.

The comments about "fearmongering" from Glick, a Democrat, regarding the Spire STL pipeline, a 65-mile project that supplies natural gas for 650,000 Missourians, came during FERC's monthly meeting, where the agency fired debate on everything from whether it is to blame for inadequate gas supplies to eminent domain for fossil fuel projects. It also released a report announcing an uptick in investigations to protect consumers and started an inquiry into "reactive power," a move that could have implications for electric reliability.

Initially approved by FERC in 2018, the Spire pipeline is currently operating with a temporary certificate that expires Dec. 13., raising questions over its long-term future ([Energywire](#), November 12). In June, an appeals court canceled the original permit, finding that FERC overlooked evidence showing that the pipeline wasn't needed.

Spire has asked FERC to keep the pipeline in operation through the winter heating season without conditions while the commission determines a response to the unanimous court ruling. Earlier this month, the company warned customers of potential disruptions and outages this winter if FERC does not grant the request.

Although FERC did not take action yesterday to extend the company's temporary certificate, Glick said it was his "intent" for the commission to act on Spire's application before Dec. 13. At the same time, he said Spire should "turn down the rhetoric," echoing concerns raised by some elected officials in Missouri about the company's alleged "fear campaign."

"Scaring people that they're going to be freezing to death this winter is beyond the scope of what companies should be able to do in their advocacy efforts," Glick said during a call with reporters after the meeting.

Spire STL Pipeline LLC, the developer of the pipeline, said it was "encouraged" by statements made by the commissioners, but remains concerned about the lack of an official order confirming that the pipeline can operate throughout the winter.

"In the face of ongoing regulatory uncertainty, Spire Missouri had — and still has — a responsibility to communicate with its customers about the potential for any potential service disruptions, including if the Spire STL Pipeline were to be taken out of service," Spire said in a statement.

In an order denying several requests for rehearing on the temporary certificate, FERC rejected calls to halt the company's use of eminent domain following the court's vacatur of the original permit. That decision is a blow to landowners affected by the pipeline, who had asked FERC to clarify that a temporary certificate does not allow companies to forcefully take people's property.

When FERC issues a "certificate of public convenience and necessity" for a natural gas pipeline, it grants the developer the right to condemn private property located in the project's right of way. But temporary certificates do not "appear" to come with the same authority, said David Bookbinder, who is representing some of the affected landowners in neighboring Illinois.

The company is currently seeking to obtain title to the properties through which the pipeline operates. That would permanently transfer the property ownership to Spire, even if the project is eventually shut down, Bookbinder said. FERC could have taken action to stop the company from doing that since the project's certificate of public convenience and necessity was canceled, he said.

“This is more of FERC’s ‘We pay lip-service to landowners, but really, we don’t care,’” Bookbinder said.

FERC declined to act on the eminent domain proceedings because it lacks the authority to do so, Glick told reporters after the meeting. Under the Natural Gas Act, the courts, not the commission, are charged with enforcing developers’ rights to eminent domain, Glick said.

“We’re suggesting that if Spire wants to use additional eminent domain authority, it has to go to the courts,” he said.

Aside from the Spire pipeline case, FERC issued an order requesting information on another major natural gas project: the Pacific Connector pipeline, which is linked with the proposed Jordan Cove liquefied natural gas terminal in Oregon. FERC approved the project in 2020.

In April, Pembina, the developer behind the pipeline and LNG facility, announced it was suspending all work on the proposal. Earlier this month, a court ordered FERC to consider pausing authorization for the pipeline in light of Pembina’s action ([Energywire](#), Nov. 2).

In response, FERC’s order calls for information on whether there should be a “stay” on the project’s authorization, which granted it eminent domain power. Pembina did not respond to a request for comment.

Natural gas supplies and ‘the cop’

FERC also shared updates on its efforts to protect energy customers, including from price shocks in the aftermath of Winter Storm Uri. Additionally, Glick announced the commission would hold a conference in April to ensure the electric grid is better prepared for future winter events.

In fiscal year 2021, FERC’s office of enforcement took more actions than last year to enforce rules within energy markets and protect consumers, the agency said in a report. The office opened 12 new investigations and negotiated eight settlements, compared to six new investigations and three settlement agreements last year.

Staff focused on identifying and correcting fraud, market manipulation, anticompetitive activities and other wrongdoings. FERC also added a new priority to assess “threats to the nation’s energy infrastructure and associated impacts on the environment and surrounding communities,” according to a staff presentation.

This year’s assessment reflects the agency’s commitment to overseeing and safeguarding the markets and shows that “the cop is back on the street,” Glick said.

“I’m pleased to see that after a lull over the last couple of years, the commission is more aggressively pursuing market manipulators,” he said.

FERC’s ability to enforce market rules is one of its most important responsibilities, said Tyson Slocum, director of the energy program at Public Citizen. In the years prior to Glick becoming chair in January, enforcement “did appear to take a back seat,” Slocum said.

“I am encouraged by Glick’s public statements affirming his intention to be tough on market enforcement, and expect more enforcement actions in the months to come,” Slocum said in an email.

Among the issues examined were market activity associated with Winter Storm Uri in February, when natural gas prices skyrocketed across the south-central U.S. and in other parts of the country. Staff conducted 14 inquiries into natural gas and electric market behavior during the event and referred two matters to the division of enforcement for investigation, according to the report. Those investigations remain ongoing.

The technical conference to be held in April was recommended by a recent report from FERC and the North American Electric Reliability Corp. ([Energywire](#), Nov. 17). During Winter Storm Uri, many generators in Texas and other states were not properly winterized, which resulted in them being unable to perform as normal when the prolonged cold snap hit, according to the report.

Those findings also recommended further study as to whether the Electric Reliability Council of Texas, which manages most of the state’s grid, should be better connected to other regional grid systems, Glick noted. ERCOT experienced the most severe outages during Winter Storm Uri, in part because it could not draw power from neighboring regions to the extent that others could due its independent status.

“I urge our friends in Texas to reconsider whether it is worth islanding ERCOT off just to protect jurisdictional independence when the consequences have proved to be so drastic,” Glick said, reiterating previous calls to bring ERCOT under federal jurisdiction.

Still, Republican Commissioners James Danly and Mark Christie emphasized other aspects of FERC and NERC’s report that they said showed a need to ensure adequate natural gas supplies.

Other than “freezing issues,” the report found that problems with fuel supplies — especially natural gas — accounted for a large portion of the unplanned outages that occurred during the event. Those findings implicate FERC, which oversees natural gas infrastructure such as interstate pipelines and compressor stations, Christie said.

NERC has told the commission “repeatedly” that more natural gas resources may be necessary as additional renewable energy enters the electric resource mix, Christie said.

“If we don’t address gas supply and move forward toward a different resource mix with the need for more gas generation — not less — as we increase wind and solar, then the natural gas supply problems in Texas will be coming soon to an [regional transmission organization] near you,” he said.

Following the meeting, Glick told reporters that while more “flexible assets” may be needed as the grid adds more renewable energy resources, that doesn’t necessarily mean natural gas.

“I would think these facilities aren’t going to be operating as frequently as they do today as we move toward a cleaner generation mix. But they’re going to be needed, certainly, due to weather variations and dealing with intermittency,” Glick said.

New rules on 'reactive' power?

In a move lauded by all four commissioners, FERC also opened a notice of inquiry that could change how generators are compensated for their ability to provide certain services in energy markets.

The commission is seeking comments on current methodologies used to determine how to compensate generators for so-called reactive power. While it does not generate electricity in the way that “real power” does, reactive power helps move energy around the grid by supporting “the voltages that allow power to flow,” FERC staff said.

The force is critical for reliability; a lack of reactive power played a role in triggering a widespread blackout in 2003 that affected large swaths of the Northeast.

The commission has not updated its methodology for determining how resources can recover the costs of reactive power capabilities since 1999. Different regions of the country also use various systems for compensating generators for their reactive power abilities.

That lack of uniformity has resulted in hundreds of reactive power proceedings being processed before the commission over the last six years. Meanwhile, the electric resource mix has changed significantly since 1999, staff said.

As the notice of inquiry kicks off, Commissioner Allison Clements said she was particularly interested in hearing perspectives from consumers groups who may not always have the time or resources to participate in FERC proceedings on the topic.

“This is an important way to find efficiencies in the trenches and to relieve time of staff to do other important work,” Clements, a Democrat, said.

Different types of generation have different reactive power capabilities, according to the Department of Energy. Distributed energy resources, such as rooftop solar power, are “especially useful sources” of the force because reactive power tends to be hard to transport long distances, according to DOE.

Gizelle Wray, director of regulatory affairs at the Solar Energy Industries Association, said it will be important for FERC to “get this right” as it considers modifying the compensation framework.

“We hope FERC enacts reforms that will compensate resources for their reactive capabilities, allows generators and FERC staff to avoid the time and money intensive FERC hearing and settlement process, and sends the right market signals to incent resources to provide this valuable service to the grid,” Wray said in a statement.