

Federal Energy Policy and Regulation Update – Natural Gas

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FERC's Natural Gas Act (NGA) Jurisdiction



FERC jurisdiction under the NGA includes:

- Certificates of public convenience and necessity for constructing and operating interstate natural gas pipelines and storage facilities
- Approval of the siting, construction and operation of LNG terminals and pipeline facilities at U.S. points of entry for the import or export of natural gas
- Regulation of natural gas sales for resale and transportation by pipeline in interstate commerce
- Regulation of facility abandonment
- Establishment of rates for transportation and storage services

A Quick Look in the Rear View Mirror



Norman Bay, FERC Chairman (2015-2017)

- **Prosecutor by trade (even as Chairman)**
 - *U.S. Attorney New Mexico*
 - *FERC Director of Enforcement*
- Harvard's Kennedy School of Government, Professor of Global Energy Policy, William Hogan said that under Bay, ***enforcement actions by FERC on alleged market manipulation were "alarming" and set a dangerous precedent***

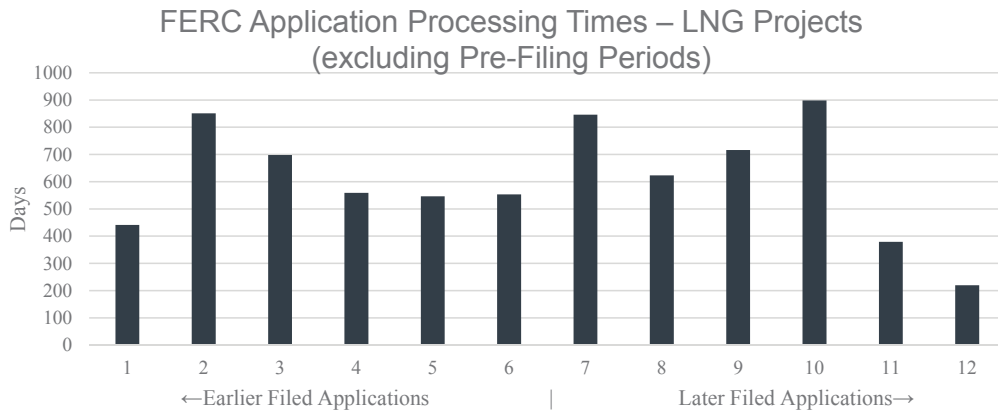


FERC under Chairman Bay



- Significant focus on enforcement proceedings – frequent complaints of overstepping by subjects of FERC enforcement investigations
- While very few applications denied outright, approvals of natural gas infrastructure – interstate pipelines, natural gas liquefaction facilities/export terminals – **not a priority**
- Orders approving LNG terminals and interstate pipelines consistently challenged by Sierra Club (practice of filing late interventions)
- Rehearing process lengthy
 - six to nine months

Average “Processing Time” about Two Years



Judicial Branch Activity



- Many challenges by Sierra Club to FERC approvals of LNG export projects and interstate pipelines
- Sierra Club asserted that FERC must examine upstream environmental impacts associated with increased natural gas production and nationwide cumulative impacts of multiple LNG terminals
- On June 28, 2016, the U.S. Court of Appeals for the D.C. Circuit (D.C. Circuit) issued opinions in *Sierra Club v. FERC (Sabine Pass)* and *Sierra Club v. FERC (Freeport)*, upholding FERC’s approvals of (a) an increase in production capacity at the Sabine Pass LNG Export Terminal, and (b) the proposed development of the Freeport LNG Terminal as an export facility

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