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- Flags concern over FERC changes, EJ unknowns
- Lists array of regulatory shifts in the queue
- Notes methane fees in budget reconciliation

A US natural gas pipeline industry official detailed a litany of regulatory and legislative challenges emerging for the sector under the Biden administration, anticipating more hurdles ahead for pipeline certification.

“Overall, the speed and volume of proposed regulatory actions impacting our industry, all moving forward simultaneously, have almost been overwhelming as we face these different things,” said Tony Straquadine, executive director of the INGAA Foundation, Sept. 13. He was referring to actions under the Biden administration that began with early executive orders.

In Congress, he said leading concerns are a fee on methane emissions, which is under consideration in budget reconciliation legislation, and a clean electricity performance program, also under the House Democratic plan. He interpreted the latter as declining to count gas-fired generation as clean energy, if that generation lacked capture technology.

Straquadine’s presentation at the LDC Gas Forum’s Mid-Continent Forum was not without a positive view. He highlighted the industry’s past record in adapting to change and potential opportunities for the industry in the energy transition. Those avenues included transporting non-traditional fuels such as hydrogen and backing up the increased use of renewables, as well as continuing to enable grid stability and resilience.

His talk, offered as his own opinion, featured a lengthy recounting of regulatory “threats.”

Eye on FERC

This included changes in the makeup of the Federal Energy Regulatory Commission, potentially affecting the pipeline certification process; a departure from Trump administration streamlining efforts on National Environmental Policy Act regulations and new unknowns surrounding greater consideration of environmental justice in government decision making. Other regulatory “threats” included a turnback from Trump administration efforts to streamline Clean Water Act water quality certifications, potential battles ahead on US Army Corps of Engineers’ water crossing permits and recommendations from the Office of Management and Budget expected in September on the use of the social cost of carbon to estimate the impact of activities, among others.

At FERC, the addition of another Democrat, if confirmed, will provide Democratic Chairman Richard Glick with the “ability to weave more ambitious climate, renewable and environmental justice efforts into the regulators’ purview,” he said. President Joe Biden plans to nominate the District of Columbia Public Service Commission Chairman Willie Phillips to become FERC’s fifth commissioner, the White House announced Sept. 9.

As FERC weighs changes to its 1999 natural pipeline certificate policy statement, a “big concern” is potential changes to how environmental justice will be considered, beyond the current approach to mitigating impacts, Straquadine said.

“If there’s a change, we have to adapt. Does it become more onerous, more difficult, more challenging? The answer will probably be yes,” he said.

Pipeline companies have already urged FERC to avoid requiring the gas industry to right past wrongs associated with development unrelated to gas projects.

Reconciliation woes

On the legislative front, the House Energy and Commerce Committee recently marked up its piece of budget reconciliation. The Democrats’ proposal included a methane fee that would build on the US Environmental Protection Agency’s greenhouse gas reporting program, imposing a fee on reported emissions above a threshold percentage of natural gas sent to sale from a facility.

“We estimate that would be [an] approximately \$400 million annual fee or new cost to the natural gas transmission and storage industry,” Straquadine said.

“Essentially, it creates new fees or taxes on energy companies that will raise the prices to our customers, obviously, the operators, and create a burden that will fall most heavily on those lower income Americans ,” he said.

While the INGAA Foundation focuses on research activities and does not lobby directly, he said the methane fees are an area where “we encourage our members to utilize their voice and their bully pulpit.” There are many members that have operations and employees within some of the congressional districts of Democrats backing the new fee, he said.