



Pipeline Permitting Reform

The Role Natural Gas Plays to ensure Reliability of Electric Generation & Recent Supreme Court Rulings

September 13, 2021



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Opening Remarks

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The INGAA Foundation



My Agenda:

- Our Industry Associations
- Permitting Reform
 - Permitting Challenges
 - The “Inflation Reduction Act”
 - Proposed Reform Provisions
- The role natural gas plays to ensure reliability of electric generation:
 - Current NERC Assessments and other examples
 - The developing European energy crisis
- Recent Supreme Court ruling:
 - Addressing the “Major Question” Doctrine



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The INGAA Foundation Mission

We facilitate Safe, Efficient, Reliable, and Environmentally responsible Design, Construction, Operation and Maintenance of the North American natural gas transmission system to Advance the delivery of natural gas for the Benefit of the Consuming Public, the Economy, and the Environment.

INGAA's Priority

Ensure policymakers understand the essential role natural gas and natural gas infrastructure play in our nation's energy economy; and work to protect the statutory and regulatory framework that supports the development and operation of a robust and market-responsive interstate natural gas pipeline industry.



Permitting Challenges

The New York Times

Atlantic Coast Pipeline Canceled as Delays and Costs Mount

Bloomberg Law

Mountain Valley Pipeline's Up-And-Down Legal Journey



REUTERS

PennEast becomes the latest to scuttle a natural gas pipeline project



FILE PHOTO: Lengths of pipe wait to be laid in the ground along the under-construction Mountain Valley Pipeline near Elliston, Virginia, U.S. September 29, 2019. Picture taken September 29, 2019. REUTERS/Charles Mostoller

HOUSTON **CHRONICLE**

As pipeline projects cancel, future falls into question

Inflation Reduction Act of 2022



Schumer and Manchin reach deal on reconciliation bill

The Washington Post

What is reconciliation, and what can Democrats get done with it?



Energy & Environment — Manchin gets permit bill for reconciliation vote



Democrats open to Manchin's push for permitting reform

The New York Times

Democrats' Climate Deal Isn't Done Yet. Here Are the Remaining Hurdles.

Bloomberg Law

Post-Climate Bill Permit Plan Aims to Fix 'Hindering' Process

What to expect on permitting reform as Congress returns

By Jeremy Dillon, Nick Sobczyk | 09/06/2022 06:15 AM EDT



Permitting Legislation

- Designate and prioritize projects of strategic national importance.
- Set maximum timelines for permitting reviews, including two years for NEPA reviews for major projects and one year for lower-impact projects.
- Improve Section 401 of the Clean Water Act by incorporating improvements from both the Trump and Biden administrations.
- Address excessive litigation delays.
- Clarify FERC jurisdiction regarding the regulation of interstate hydrogen pipeline, storage, import, and export facilities.
- Enhance federal government permitting authority for interstate electric transmission facilities that have been determined by the Secretary of Energy to be in the national interest.
- Complete the Mountain Valley Pipeline.



The Reliability of the Bulk Electric System requires Natural Gas

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2021 Long-Term Reliability Assessment

December 2021

2022 State of Reliability

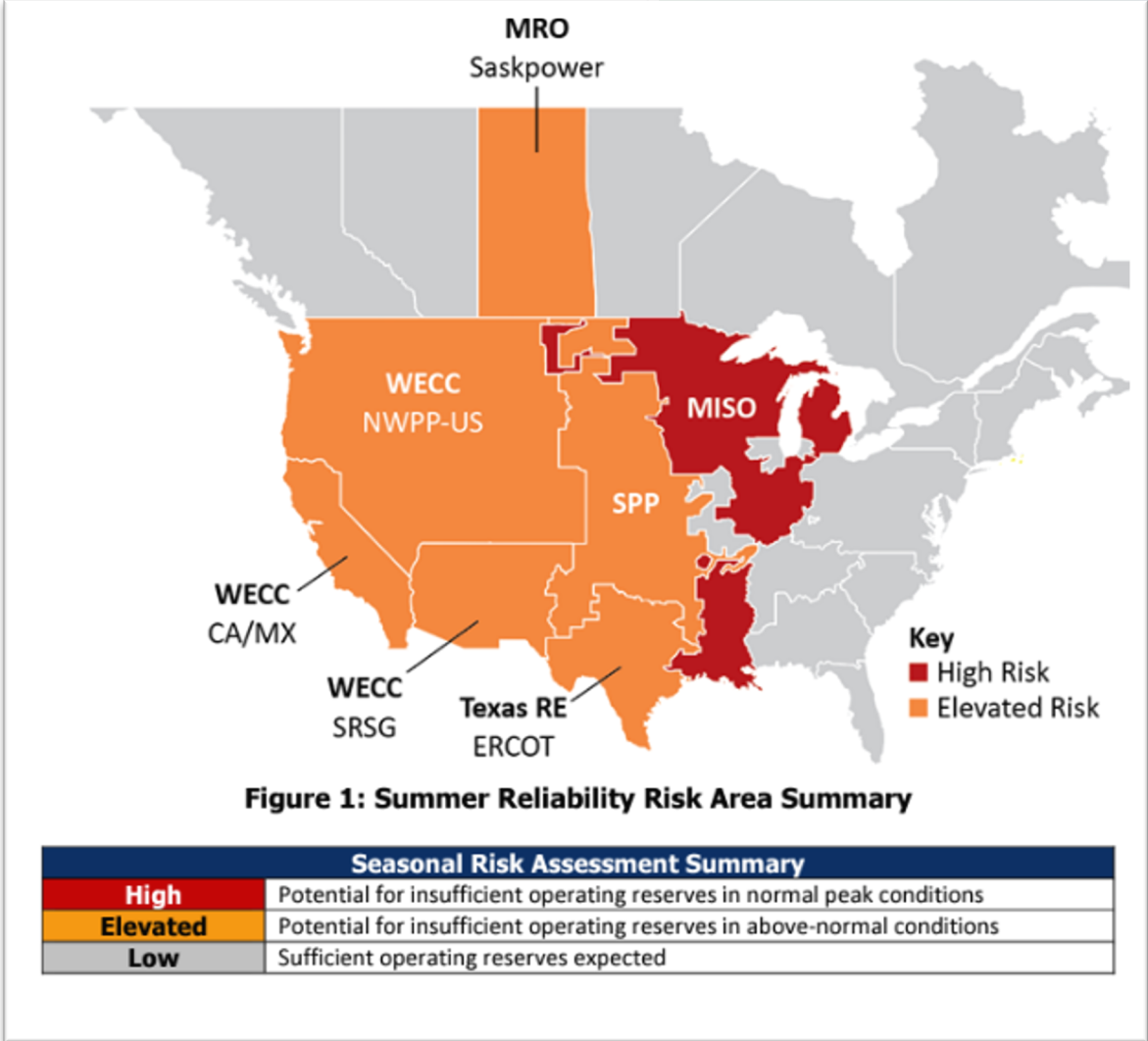
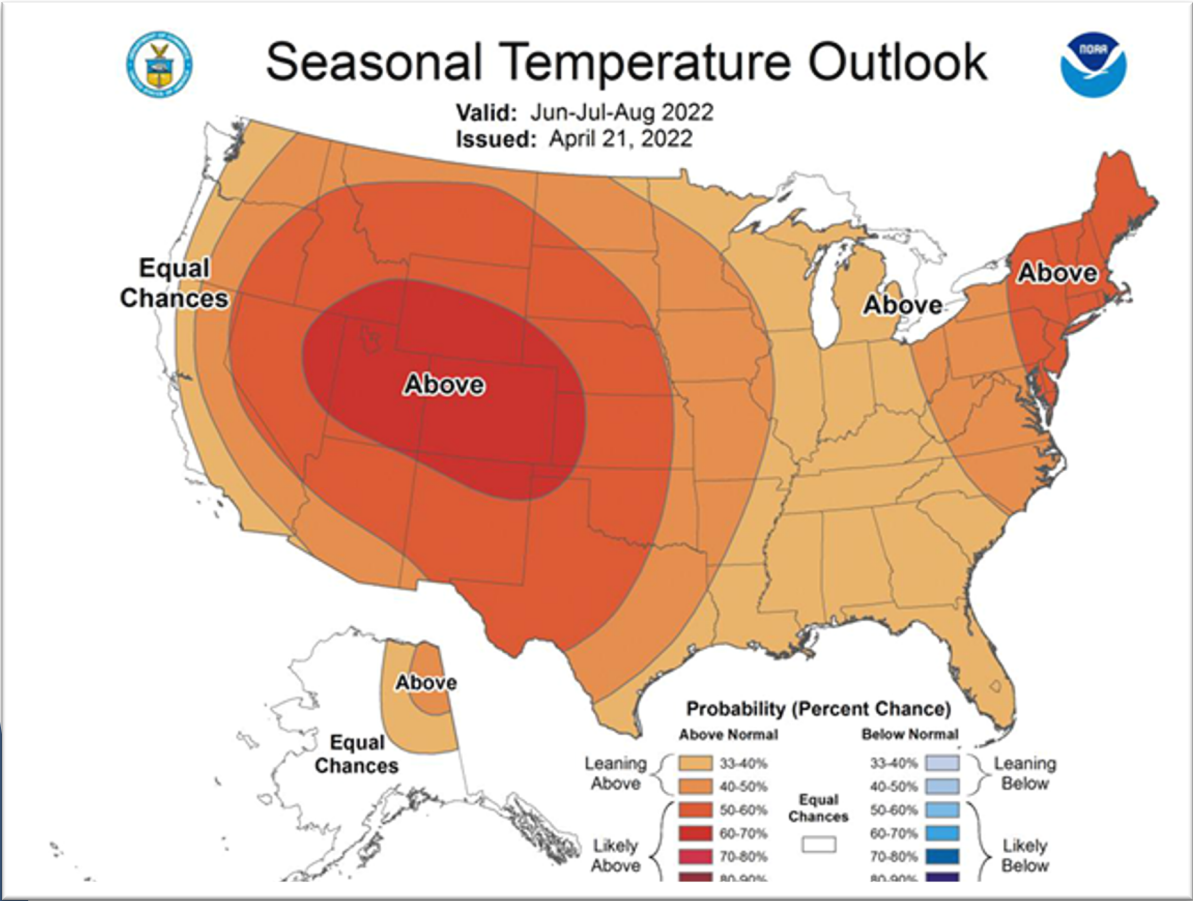
July 2022



An Assessment of 2021
Bulk Power System
Performance



Need for Reliability



The Reliability of the Bulk Electric System requires Natural Gas - additional examples

ENERGY

California Governor Gavin Newsom Proclaims Natural Gas To Be Zero-Carbon

James Conca Former Contributor ⓘ

I write about nuclear, energy and the environment

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Nov 3, 2021, 08:00am EDT

European Parliament says natural gas projects can be considered 'green' for investments

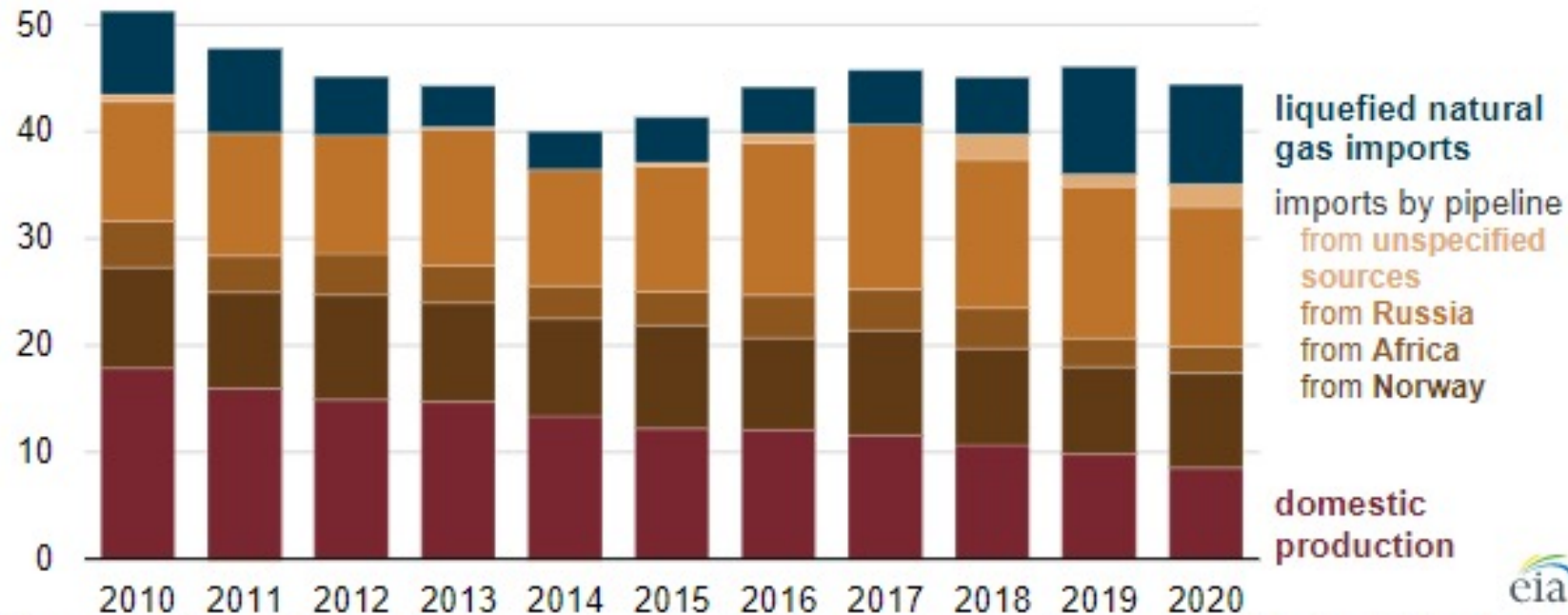
By **Hande Atay Alam**, **Ivana Kottasová**, **Angela Dewan** and **Rachel Ramirez**, CNN

🕒 Updated 1:37 PM ET, Wed July 6, 2022

Energy Crisis Abroad

Europe relies primarily on imports to meet its natural gas needs

Europe (EU-27) and the United Kingdom (UK) natural gas supply (2010–2020)
billion cubic feet per day



eia

Source: Graph created by the U.S. Energy Information Administration, based on data from Eurostat and the International Group of Liquefied Natural Gas Importers (GIIGNL) annual liquefied natural gas trade reports

Supreme Court reigns in federal agencies - *West Virginia v. EPA:*

Court called agency overreach a “particular and recurring problem.”

“Major Questions” Test:

Did Congress “in fact mean[]to confer the power the agency has asserted”?

Agency must “point to clear congressional authorization” for action.

Novel applications of law that implicate important policy questions or have significant effects warrant skepticism.

“Modest words,” “vague terms,” and “subtle devices” not enough.

Not a Silver Bullet: *West Virginia v. EPA* might not deter FERC and SEC

Decision strengthens arguments that aspects of FERC's and SEC's proposals exceed their authority (e.g., mitigation of indirect GHGs).

Agencies “discover[ed] in a long extant statute an unheralded power representing a transformative expansion in... authority.”

“Public interest” and “protecting investors” are “vague statutory grant[s]... not close to the sort of clear authorization required.”

There are “many vital considerations of national policy implicated in deciding how Americans will get their energy.”

Because legal challenges will take years to resolve, FERC and SEC might move forward without changes despite the legal risks.

In Summary:

- Look for Permitting Reform to continue as a topic of discussion in Washington, DC
 - Follow what is being proposed in Congress
 - Reach out to your Senator or Representative to ask for their support!
- Natural gas is integral to ensuring reliability of our Bulk Electric Power system:
 - Current reliability assessments call for natural gas
 - There is realistic solution for a reliable & affordable transition to a lower carbon economy without natural gas
 - Monitor the developing European energy crisis
- Look for additional actions related to the “Major Question” doctrine related to Federal Agency actions

Questions?

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