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# FEDERAL ENERGY REGULATORY COMMISSION



WASHINGTON, D.C. 20426

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## NEWS RELEASE

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**FOR IMMEDIATE RELEASE**

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Docket No. RM06-1-000

### **COMMISSION ACTS TO IMPLEMENT ENERGY POLICY ACT MANDATE FOR CONSOLIDATED RECORD IN NATURAL GAS PROCEEDINGS**

The Federal Energy Regulatory Commission is seeking public comment on proposed rules to implement Energy Policy Act of 2005 provisions that granted FERC authority to coordinate the processing of interstate natural gas infrastructure proposals among federal and state authorities and to maintain a consolidated record of decisions for judicial review.

“One of the central policy goals of the Energy Policy Act was to strengthen our energy infrastructure. The provision we act on today is intended to do just that. But this sound and reasonable legislation was widely misconstrued as Congress debated the matter,” observed Commission Chairman Joseph T. Kelliher.

“State and federal agencies with authority under various federal laws appropriately maintain that authority,” Chairman Kelliher noted. “The Energy Policy Act in no way undermined the responsibilities of these other agencies. They would continue to review project applications in the same manner, applying the same standards. The only change is that now the Commission has authority to establish reasonable timeframes for the exercise of that authority, in order to ensure timely completion of proceedings on applications for authorization of new gas infrastructure,” he noted.

“Implementation of these provisions should help strengthen our energy infrastructure while assuring the due process rights of stakeholders,” said Chairman Kelliher.

The Commission holds primary authority for the siting and operation of interstate natural gas infrastructure under the Natural Gas Act. The Energy Policy Act did not change that, but designated the Commission as “lead agency for purposes of coordinating all applicable Federal authorizations and for the purposes of complying with the National Environmental Policy Act of 1969 ...”

Even if the Commission has approved an interstate gas infrastructure proposal, it usually cannot move forward unless several other agencies have made favorable findings regarding other aspects of the project.

In some cases, state agencies are delegated federal authority under the Coastal Zone Management Act, administered by the U.S. Department of Commerce; the Clean Air Act, administered by the U.S. Environmental Protection Administration; and the Clean Water Act, administered by the U.S. Army Corps of Engineers. Appeals of state rulings under federally delegated authorities are often reviewed by the administering agencies.

To better coordinate the activities of these various agencies, the Commission today proposed rules that would include the adoption of a default schedule that all agencies, including those that hold delegated authority under federal statutes, would follow if the Commission elects not to issue a notice specifying a schedule for a particular project proposal.

The timeframes set by the Commission only apply to agencies that do not already have deadlines established by federal law.

In cases where the Commission does not establish a schedule, the proposed rule would request the delegated agencies to act on proposals within 90 days of the issuance of the Commission's final environmental impact document. If no such document is separately issued, the Commission would ask the agencies to act no later than 90 days after the issuance of the Commission's final order.

If an agency seeks additional data from an applicant, the Commission proposes that the agency file a copy of its data request with the Commission. This will help keep the Commission informed of the status of the agency's proceedings and any issues that may arise.

In addition to mandating that the Commission coordinate among other agencies, the Energy Policy Act also made the Commission responsible for maintaining a consolidated record for appeals or reviews of the Coastal Zone Management Act and for judicial review under the Natural Gas Act of decisions or an alleged failure to act of federal and state administrative agencies and officials, other than the Commission.

To this end, the Commission proposes requiring each agency to file electronically with the Commission a copy or summary of the agency's decision and an index of documents and materials included in the agency's proceeding. The Commission proposes that the filing be submitted within three days of the effective date of the agency's final decision on the federal authorization necessary for the proposed natural

gas project.

If an agency doesn't reach a decision by the deadline established by the Commission or by federal law, the Commission proposes the agency (1) inform the Commission within three days of the expiration of the time allotted and (2) file an index to the documents and materials in the agency's inconclusive proceeding.

Upon a filing for review of a decision or an alleged failure to act of a federal or state administrative agency or official, the Commission would transmit the relevant decisions and indices to the reviewing authority or court. The Commission proposes the agencies transmit to the reviewing authority or court the underlying documents and materials stipulated by the parties and specified by the reviewing agency.

The Commission does not expect the reviewing authority or court to seek submission of the entire contents of the consolidated record in conjunction with the appeal of an individual agency action.

Comments on the proposed rule, including any related or alternative proposals, must cite Docket No. R06-1-000 and must be submitted to FERC within 60 days after publication in the *Federal Register*. While paper copies may be mailed to FERC, Office of the Secretary; Washington, DC 20426, the Commission encourages emailed submissions to its website, [www.ferc.gov](http://www.ferc.gov). Procedures for electronically submitted comments may be obtained via the eFiling link on the Commission's web homepage.

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