

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 20-1161

September Term, 2021

FERC-CP17-494-001
FERC-CP17-495-001

Filed On: November 1, 2021

Deborah Evans, et al.,

Petitioners

v.

Federal Energy Regulatory Commission,

Respondent

Jordan Cove Energy Project L.P. and Pacific
Connector Gas Pipeline, LP,
Intervenors

Consolidated with 20-1171, 20-1172,
20-1180, 20-1198

BEFORE: Rogers, Wilkins, and Jackson, Circuit Judges

ORDER

This cause came to be heard on the petition for review of orders of the Federal Energy Regulatory Commission and was argued by counsel. On consideration of representations at oral argument made by Respondent-Intervenors that they are “reassessing” this project, representations by the parties in the merits briefing, and representations by the parties at oral argument; and it appearing that the circumstances have changed substantially since the last consideration of a stay by the Commission, see *Consol. Edison Co. of New York v. Fed. Power Comm'n*, 511 F.2d 372, 378 (D.C. Cir. 1974), it is

ORDERED that, pursuant to 15 U.S.C. §§ 717r(b)-(d), the record be remanded to the Federal Energy Regulatory Commission to consider whether the imposition of a stay of the pipeline certification authorization is appropriate. *Cf. Exelon Corp. v. FERC*, 911 F.3d 1236, 1238 (D.C. Cir. 2018). The record is remanded for a period not to exceed 90 days from the date of this order, and the parties shall submit a joint status

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report to the Court no later than 45 days from the date of this order. The panel retains jurisdiction of this matter and remands the record only, thereby relinquishing the Court's exclusive jurisdiction, see 15 U.S.C. § 717r(b) (after filing the petition for review and upon the filing of the record, jurisdiction is "exclusive" in the court of appeals), to grant the Commission concurrent jurisdiction to act on a stay. *Indiana & Michigan Elec. Co. v. Fed. Power Comm'n*, 530 F.2d 1060, 1062 (D.C. Cir. 1976). See also D.C. Cir. R. 41(b); *Am. Gas Ass'n v. F.E.R.C.*, 888 F.2d 136, 153 (D.C. Cir. 1989); *State of N.C. v. F.E.R.C.*, 730 F.2d 790, 794 (D.C. Cir. 1984).

The parties shall promptly notify the Court upon the Commission's action granting or denying a stay, and the parties shall file motions to govern further proceedings within 15 days of the Commission's action granting or denying a stay, or within 15 days of the expiration of the 90-day deadline should the Commission fail to take final action on a stay within that period.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Daniel J. Reidy
Deputy Clerk