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Biden seen potentially aiding social license to operate for midstream gas systems

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HIGHLIGHTS

Debate persists over election implications for infrastructure

Key court battles lie ahead if Trump prevails

New York — Despite the tighter controls on natural gas production and permitting likely if former Vice President Joe Biden is elected president, the gas sector could benefit from a continued social license to operate should the Democrat prevail, an energy consultant and former Obama Administration official said Oct. 20.

"The issues of social license to operate are really over whether or not there is a place in the economy where we're dealing with climate change emissions," said David Goldwyn, president of Goldwyn Global Strategies, speaking at the North American Gas Forum organized by Energy Dialogues.

If the Federal Energy Regulatory Commission requires calculation of direct, indirect and cumulative impacts of projects, and midstream companies are required to make their case about climate impacts, then "that's the only way the industry is going to continue," he said. Goldwyn was highlighting the pushback from states and others already pressuring midstream gas projects.

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At FERC and in the courts, there has been a battle over the scope of upstream and downstream emissions that must be considered in permitting decisions. While under the Trump administration, the scope of such considerations has been narrowed, Democrats have pushed for a more thorough examination.

Permitting woes

Speaking on the same panel, Michael Catanzaro, president of CGCN and a former special assistant to President Trump, emphasized his view that permitting could be a problem for the gas industry under a Biden administration.

"If you can't permit your projects, particularly in the midstream sector of oil and gas, and it's much more difficult to get pipelines constructed, then that is going to be a problem for the industry," he said. He pointed to activists who would like to transform FERC into an agency more focused on renewable energy development, and the opposition that has already helped sink projects such as the Atlantic Coast Pipeline and Constitution Pipeline.

Catanzaro also stressed that Biden's plans to block new production on federal lands could be significant for operators in New Mexico or parts of West Texas in the Permian Basin. On private land, he would expect to see more regulation, not only on methane emissions but also using other parts of the Clean Air Act and Clean Water Act.

Goldwyn agreed on the challenges, but said he was less worried, given that the large producers were already supportive of methane regulation and, "in terms of the amount of interstate pipelines that we have right now, it's not like we really need new ones" in the near term. Goldwyn also suggested the oil and gas sector could in fact see more stability under a Biden administration after being buffeted by trade disruptions and coronavirus pandemic demand destruction.

Role for the courts

Should Trump continue in a second term, Catanzaro anticipated the DC Circuit Court of Appeals would play a large role, through litigation challenging Trump initiatives on the National Environmental Policy Act, methane regulation, the Safe Affordable Fuel Efficient Vehicles rule, and Affordable Clean Energy Rule. Catanzaro also would expect to see new administration-wide reforms addressing how agencies do cost-benefit analysis. There will be continued focus on the permitting regime and "trying to perfect it as much as possible and make it as efficient as possible," he said.

Goldwyn for his part suggested the real challenge for natural gas under a Biden administration would be maintaining the share in the power grid, with renewable energy incentivized, and progress made by battery storage. But

he added that Biden's support for carbon capture, utilization and storage leaves room for natural gas in the mix, with price factors ultimately driving the outcome.

Neither consultant anticipated Biden would seek to block LNG exports, but Catanzaro worried more stringent analysis of downstream greenhouse gas emissions associated with exports would involve a complex analysis that could slow permitting and draw legal challenges for LNG-related projects. Eventually, he suggested, the US Supreme Court would examine the question of what climate change considerations are required.