

Chapter 11

The Federal Energy Regulatory Commission: Who Is It? What Does It Do? And How Does It Affect the Natural Gas Industry?

Fredric J. George
Columbia Gas Transmission, LLC
Charleston, West Virginia

Synopsis

§ 11.01.	Introduction.....	378
§ 11.02.	What Is the FERC?	378
§ 11.03.	What Is the FERC’s Mission?	379
§ 11.04.	What Does FERC Do?	380
§ 11.05.	Who Does FERC Regulate in the Natural Gas Industry?.....	382
§ 11.06.	Who Does FERC <i>Not</i> Regulate in the Natural Gas Industry?.....	383
	[1] — Natural Gas Policy Act of 1978	383
§ 11.07.	How Does an Interstate Pipeline Obtain FERC Authorization to Render a Particular Service?	384
	[1] — Tariff	384
	[2] — Certificate of Authority.....	386
§ 11.08.	How Does an Interstate Pipeline Obtain FERC Authorization to Construct, Acquire, Modify, Replace or Abandon Natural Gas Facilities?	386
	[1] — Blanket Construction/Abandonment Certificate	386
	[2] — Project Specific Certificate	388
	[a] — Notice and Protests	391
	[b] — FERC Review of an Application.....	392
	[c] — Final Action by FERC	394
§ 11.09.	How Does FERC’s Jurisdictional Reach Affect Development of New Supply Such as the Marcellus Shale?.....	397
	[1] — Distribution and Gathering	397
	[2] — FERC Determination of Gathering	398
§ 11.10.	Given the Frequent References in FERC Literature to “Compliance” and “Enforcement,” Is the FERC the Department of Energy’s Tiger in the Tank or Just Another Paper Tiger?.....	400

§ 11.01. Introduction.

Most Americans recognize the names of a few big federal agencies and have a general understanding of what they do — the Food and Drug Administration (FDA) approves new drugs, the Federal Aviation Administration (FAA) determines whether pilots will carry guns on planes and the Federal Communications Commission (FCC) determines if a costume malfunction during a televised football game merits an indecency penalty against the television network. But few recognize the name of the Federal Energy Regulatory Commission (FERC), and even fewer outside the energy industry have any idea what the agency does even though its impact is just as significant as the FDA, FAA or FCC, although perhaps less visible and direct.

§ 11.02. What Is the FERC?

“The Federal Energy Regulatory Commission (FERC) is an independent agency under the United States Department of Energy that regulates the interstate transmission of electricity, natural gas, and oil. The FERC also reviews proposals to build or abandon liquefied natural gas (LNG) terminals and interstate natural gas pipelines as well as licensing hydropower projects.”¹

Thus when we turn on the lights, raise the thermostat on our furnace or pay a monthly utility bill, the FERC’s fingerprints can be found if we were to look at where the energy came from, how it got to our homes or businesses and what components go into the rates we are paying.

The Federal Energy Regulatory Commission’s (and predecessor Federal Power Commission’s) roots are in the Federal Power Act of 1935² and Natural Gas Act of 1938 (NGA)³ — the latter being an act of Congress that defines FERC’s jurisdiction over the transportation and/or sale for resale of natural gas in interstate commerce, but excludes local distribution of gas for

¹ FERC, <http://www.ferc.gov/about/ferc-does.asp>.

² 16 U.S.C. §§ 791, *et seq.*

³ 15 U.S.C. §§ 717, *et seq.*