

NEWS RELEASES

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Federal Court of Appeals Upholds FERC's Approval of 39-Mile Marc I Pipeline

Husch Blackwell achieves victory on behalf of Central New York Oil And Gas Company

Yesterday, Husch Blackwell successfully defended a decision by the Federal Energy Regulatory Commission before the U.S. Court of Appeals against a challenge from environmental groups claiming that the Commission's environmental review processes were deficient and inadequate. The law firm's victory is on behalf of Central New York Oil And Gas Company which FERC had authorized to build a 39-mile-long natural gas pipeline in northeast Pennsylvania, over environmental objections.

"Throughout the administrative process and the appeal, we showed that CNYOG and its environmental consultants presented information to the Commission that supported the Commission's environmental assessment of the project," said William F. Demarest, a Partner at Husch Blackwell and leader of the energy regulatory team in the firm's Washington, D.C., office, "and the Court of Appeals agreed."

Known as the Marc I pipeline, CNYOG is working to develop the project as part of an integrated natural gas transportation and storage hub for the Northeast. The pipeline is located atop the Marcellus Shale geological formation, which research shows contains an estimated 500 trillion cubic feet of natural gas.

In its decision, the Second Circuit stated that "FERC's analysis of the development of the Marcellus Shale natural gas reserves was sufficient," and "Its 296-page environmental assessment thoroughly considered the issues." In

addition, the Marcellus Shale Coalition, the leading industry group in the five-state region, supports the ruling.

Demarest added that this decision has two main potential implications. “The court’s ruling, affirming FERC’s approach to assessment of cumulative impacts from resource development activities that are not within the agency’s regulatory purview, should enhance the confidence of the Commission’s staff in applying the Commission’s policy in future certificate proceedings; and that in turn should lead to more expeditious action by FERC on future proposals to construct new pipelines to serve the Marcellus Shale region,” he said.

Robert Alessi of DLA Piper, formerly with Dewey LeBoeuf, served as co-counsel with Demarest in representing CNYOG before the Second Circuit.

Husch Blackwell’s Energy Regulation practice, headquartered in Washington D.C., has the proven experience and resources to handle regulatory, litigation and business issues affecting the production, transmission and supply of electricity, natural gas, crude oil, petroleum products and renewable fuels. Its attorneys represent clients across the energy spectrum, serving their regulatory, transactional, commercial and litigation needs.