
Will Prior Decisions On Natural Gas Pipelines Come Back To Haunt The Governors Of New York And Pennsylvania?

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Two Northeast Governors face reckonings over decisions made by their administrations on natural gas pipelines. These decisions could not have been more different, but the fallout from pipeline politics now threatens both of them.

In Pennsylvania, word recently leaked out that the FBI is investigating the permitting by Governor Tom Wolf's administration of the Mariner East 2 pipeline. This is the troubled project that will expand greatly the amount of natural gas which can be sent from the Marcellus Shale gas fields of Western Pennsylvania to the refineries in Marcus Hook on the Delaware River in the East. As mentioned here previously, this is not the first investigation of Mariner East 2. Indeed, even before word spread of an FBI investigation, the pipeline already was being reviewed by the District Attorneys of both Delaware and Chester County and by Pennsylvania State Attorney General Josh Shapiro. Meanwhile, Mariner East 2 suffered another setback last week when yet another sinkhole formed along its route. The pipeline, which is partially functioning, is not expected to be fully operational until 2020, years behind schedule.

There is great irony in the possibility that the Wolf Administration may have to defend its record in permitting natural gas pipelines, for the Governor never has been seen as a friend to the industry. Indeed, it was his stance demanding higher taxes on the gas industry that first caused him to rise to prominence in 2014 when he initially ran for Governor. Previously, he had been a little known Secretary of the Pennsylvania Department of Revenue and a successful private businessman.

While Governor Wolf never has been considered a friend of the gas industry, he has taken a realistic view of its importance and potential in Pennsylvania. In just a decade, Pennsylvania has risen from being a non-factor in energy production to an international force in its own right, and Wolf's tenure has been marked more by pragmatism than idealism.

The same cannot be said about New York Governor Andrew Cuomo. Despite coming into office in 2011 speaking positively about hydraulic fracturing and the shale industry, he has stopped the industry dead in its tracks in his state. Indeed, Governor Cuomo has gone further than just issuing a moratorium against fracking. He pioneered using the Section 401 Certification process under the Federal Clean Water Act to prevent natural gas pipelines even being built in New York State.

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In response to Governor Cuomo's actions, some of New York's public utilities have placed moratoria on new natural gas hookups. This has caused havoc with New York businesses and construction projects. Cuomo retaliated against one utility, National Grid, by going to court to force the company to end its moratorium. The Governor has even gone further, threatening to end National Grid's license to operate in New York State if the company does not present a plan by November 26 to start connecting new customers. National Grid, which services 1.8 million homes and businesses in Brooklyn, Queens and Long Island, says it has no more pipeline capacity to do so. The reason for that is claimed to be Governor Cuomo's own actions in blocking pipelines from coming into the state.

Should National Grid not provide such a plan by November 26, it will be Mr. Cuomo's move. Will he really seek to revoke National Grid's license and bring in another utility? That would be fascinating to watch, and also extremely disconcerting for all involved. Likely, it would take at least a year to implement, and who knows what guarantees and assurances any new utility would insist upon before entering the volatile New York market?

Cuomo has other options, such as just opening a case before the New York State Public Service Commission. However, having aligned himself so vigorously and vociferously with the environmental movement in his state, doing anything so limited runs its own political risk. Indeed, the Governor has maneuvered himself into an unfortunate position. He must do something substantial to National Grid to please his political base, but doing so as winter approaches would be a risky maneuver.

The Governor would be betting that his roiling of the state energy market will not come back to haunt him in the upcoming winter, such as forcing him yet again to turn to Russian natural gas imports. Such an unfortunate scenario could have unknown long term consequences both to his state and his own political fortunes. Would businesses be willing to expand and relocate to New York with such an uncertain energy supply?

For both Governors Wolf and Cuomo, the next few months will be fraught with peril. Governor Wolf at least knows that he can concentrate on the matter at hand. He need not worry that a bad winter or events beyond his control will force him to make uncomfortable decisions just to provide heat to his citizens. Governor Cuomo has no such luxury. For him, the immediate future may be quite unsettling.