

United States House of Representatives Committee on Energy and Commerce  
Subcommittee on Energy, Climate, and Grid Security  
June 13, 2023 Hearing: *Oversight of the FERC: Adhering to a Mission of Affordable and  
Reliable Energy for America*

**Questions for the Record**  
**Responses of The Honorable Allison Clements, Commissioner**  
**Federal Energy Regulatory Commission**  
July 24, 2023

**Questions from The Honorable Bill Johnson**

**Question 1: It appears that all interstate pipelines other than water pipelines are subject to one of three federal laws. The (1) Natural Gas Act provides FERC jurisdiction over the interstate transportation of “natural gas,” 15 U.S.C. § 717, the (2) Interstate Commerce Act provides FERC jurisdiction over the interstate transportation of “oil,” 49 U.S.C. app. §§ 1, et seq. (1988), and the (3) Interstate Commerce Commission Termination Act provides the Surface Transportation Board with jurisdiction over the interstate transportation of “commodit[ies] other than water, gas, or oil.” 49 U.S.C. § 15301(a).**

**a. There is a substantial amount of precedent interpreting each of these statutory terms, both from the agencies and the courts. Which of these statutes do you believe applies to interstate hydrogen pipelines, and why?**

**b. Additionally, what is FERC’s jurisdiction for *intrastate* hydrogen pipelines today?**

Response: The Commission has not determined the scope of its potential jurisdiction over interstate hydrogen pipeline transportation under the Natural Gas Act (NGA), the Interstate Commerce Act, or the Interstate Commerce Commission Termination Act. The federal courts have not decided the precise question of whether the Commission has jurisdiction over pure hydrogen interstate pipelines under any of these three statutes.

However, I believe under the NGA, the Commission would maintain jurisdiction over an interstate natural gas pipeline if that pipeline were to blend a small amount of hydrogen into the gas stream because the pipeline would remain predominantly a natural gas pipeline. The Commission also would have authority over the introduction of hydrogen into a natural gas pipeline as part of the Commission’s regulation of pipeline tariff provisions setting gas quality requirements. The Commission has not examined at what percentage the blending of hydrogen in the natural gas stream could convert the pipeline into one primarily used for hydrogen transportation or what that would mean for the Commission’s jurisdiction over the pipeline under the NGA.

Finally, FERC does not have jurisdiction over intrastate hydrogen pipelines, which are predominantly located along the Gulf Coast and subject to the authority of state agencies.