

To: Dravis, Samantha[dravis.samantha@epa.gov]
From: POLITICO Pro Energy Whiteboard
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Subject: Appeals court cancels arguments on second LNG challenge

By Darius Dixon

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A three-judge federal appeals panel today canceled oral arguments on a lawsuit from the Sierra Club challenging the Energy Department's approval of the Cove Point liquefied natural gas export application.

"The court concludes, on its own motion, that oral argument will not assist the court in this case," according to an order agreed to by D.C. Circuit Court of Appeals judges David Tatel, Harry Edwards and David Sentelle.

The oral arguments had been scheduled for Oct. 18.

Environmentalists said that the agency didn't properly estimate how the gas shipments might increase prices domestically, potentially boost coal use in the power system or increase greenhouse emissions. DOE had defended itself by arguing that producing the numbers Sierra Club is seeking would be so speculative as to be meaningless.

The cancellation isn't a big surprise after the Sierra Club lost a similar lawsuit against the agency over its approval Freeport's LNG export application in August, *Sierra Club v. DOE*, 15-1489. The group did not appeal the decision, unanimously opted to defer to DOE's "reasoned explanation as to why it believed the indirect effects pertaining to increased gas production were not reasonably foreseeable."

Sentelle, a senior circuit judge, is on both cases.

WHAT'S NEXT: Now that the judges intend to make a decision on the case, *Sierra Club v. DOE*, 16-1186, without having oral arguments, a decision may be released in the next few weeks.

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