

Supreme Court Opens Door to Increased Role for State Courts, Regulators in the Energy Sector

A U.S. Supreme Court ruling provides states a greater role in regulating the energy sector, reports Cozen O'Connor.

"In *ONEOK*, the Court held that states can regulate activities that affect both wholesale and retail transactions to the extent that the regulations do not conflict with Federal Energy Regulatory Commission (FERC) regulations. In so doing, wide swaths of conduct continue to be subject to both state energy regulations and generally applicable state laws," wrote Jonathan M. Grossman and Thomas Ingalls. "While the ruling ensures retail customers a remedy for business practices that are proscribed by state law, it may also subject conduct otherwise permitted by FERC to civil liability if that conduct affects retail transactions. This decision may also hold implications for similar regulatory regimes, such as the Federal Power Act (FPA)."

The decision upheld a lower court decision that allowed a greater role for state courts in regulating the energy sector finding that state laws may apply to conduct that affects both wholesale and retail transactions provided those laws do not conflict with FERC regulations. The Court rejected a bid by FERC and natural gas wholesalers to exempt from all state regulation activities that affect both types of sales, the report says.

Read the report.