Securities Regulation Daily Wrap Up, ESG NEWS—8th Cir.: SEC asks court to rule on climate-rule challenge, (Jul. 23, 2025)

Securities Regulation Daily Wrap Up

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By Anne Sherry, J.D.

The Commission said it does not intend to review or reconsider the climate rules adopted under the prior administration.

In a status report, the SEC urged the Eighth Circuit to rule on the consolidated petitions challenging the climate disclosure rule. The agency said that it does not intend to review or reconsider the rule, but also that it cannot prejudge what it will do if the court denies the petitioners' challenges. "An important, live controversy of national policy with critical economic and policy ramifications also remains," the SEC wrote, and a decision of the court would not be advisory (*Iowa v. SEC*, No. 24-1522 (8th Cir. filed July 23, 2025)).

On April 24, the Eighth Circuit granted a motion by 18 intervenor states to hold the case in abeyance indefinitely. The court asked the SEC to report within 90 days on whether it planned to review or reconsider the rules, given its withdrawal of support for them. "If the Commission has determined to take no action, then the status report should address whether the Commission will adhere to the rules if the petitions for review are denied," the court instructed, "and, if not, why the Commission will not review or reconsider the rules at this time."

In its status report, the SEC asked the court to terminate the abeyance, continue considering the parties' arguments, and exercise its jurisdiction to decide the case. The court should not be impeded by the potential for future SEC action, which the Commission cannot prejudge because it would be subject to deliberation and a vote of the commissioners. However, a decision from the court would inform the scope and need for future action by the agency, including by providing insights on the Commission's jurisdiction and authority—a major issue in the case.

The SEC wrote that while it has withdrawn its defense of the rules, the issues have been fully briefed and the adversary process—with states having stepped in as intervenors to defend the rules—remains intact.

If the SEC were to undertake a new rulemaking, it would likely land in the courts of appeals, and many of the same legal arguments would come up. Deciding the case now would conserve judicial, agency, and public resources.

Given that a majority of the current Commissioners believe the SEC lacked statutory authority for the rules, the agency wrote, "it is possible the Commission would engage in further action relating to the Rules. That could include a direction from the Chairman to the staff to develop recommendations to present to the Commission to replace, rescind, or modify the Rules, but the outcome of the litigation and the reasoning of the Court will bear heavily on the Commission's next steps with the Rules."

The case is No. 24-1522 and all consolidated cases.

Attorneys: Patrick Cannon Valencia, Attorney General's Office, for State of Iowa. Vanessa Countryman for the SEC.

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