

Securities Regulation Daily Wrap Up, PUBLIC COMPANY REPORTING AND DISCLOSURE—8th Cir.: Nineteen jurisdictions move court to hold in abeyance challenges to climate disclosure rules, (Apr. 7, 2025)

Securities Regulation Daily Wrap Up

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By Rebecca E. Hoffman, J.D.

The SEC's apparently flipped stance regarding the rules necessitates an abeyance to preserve judicial resources while the government evaluates its course of action, according to the intervenors' motion.

Eighteen states and the District of Columbia, intervening in the consolidated action challenging the SEC's climate disclosure rules, asked the Eighth Circuit on April 4 to hold the proceedings in abeyance, given that the SEC has ostensibly changed its position—having withdrawn its defense of said rules—but has not made clear what it will do next (*State of Iowa v. SEC*, No. 24-1624 (8th Cir. Apr. 4, 2025)).

The SEC's climate disclosure [rules](#), "The Enhancement and Standardization of Climate-Related Disclosures for Investors," adopted in March 2024, require registrants to disclose information about climate-related risks. The rules have been stayed pending these consolidated challenges.

Pendulum swings. When former SEC Chair Gensler and Commissioner Lizárraga, who voted to approve the rules, resigned, Acting-Chair Uyeda and Commissioners Peirce and Crenshaw remained. Uyeda and Peirce had voted against the rules, and in light of the shift from majority-for to majority-against, the SEC told the court on March 27 that "it wishes to withdraw its defense of the Rules' and that 'Commission counsel is no longer authorized to advance the arguments presented in the Commission's response brief.'"

An abeyance would provide an opportunity for the Commission to determine its course of action, the intervenors argued, since the Commission seems to have changed its position. They observed that "federal agencies routinely request, and routinely receive, abeyances to accommodate changes in policy due to a change in administration, even after cases have been fully briefed and argued." It would be a waste of the court's time and resources to hold oral argument and then decide to uphold the rules, only for the agency to rescind them.

Suspended animation. Granting this motion would not prejudice the petitioners, since the rules are stayed. Holding the matter in abeyance would simply "maintain the status quo," while preserving the courts and parties' resources. The movants also suggested that the court ask the SEC to report on the status of its decision-making process every 90 days.

The intervenors are Massachusetts, the District of Columbia, Arizona, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York, Oregon, Rhode Island, Vermont, Washington, and Wisconsin.

The case is [No. 24-1624](#).

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