



## **FERC REVERSES ALJ's INITIAL DECISION REGARDING SEAWAY COMMITTED RATES**

On February 28, 2014 the Federal Energy Regulatory Commission ("FERC") issued an order reversing an initial decision by an administrative law judge ("ALJ") finding that committed shipper rates negotiated between Seaway Crude Pipeline Company LLC and its committed shippers were "unjust" and "unreasonable." With the decision, FERC reaffirms its established policy of honoring committed rate agreements entered into as part of a fair open season process. In rejecting the initial decision, FERC stated that the ALJ's findings were "untenable" and "misconstrue long-held Commission policy," by requiring agreed-upon committed rates to be set on a cost-of-service basis.

"At bottom, the Initial Decision strains to find a cost-of-service requirement for Seaway's committed rates by grasping at any means necessary to support the argument that it was the Commission's mandate all along," reads the FERC order. "The Commission's well-established policies and precedent, however, made explicitly clear in the Order on PDO, call for a reversal of this ruling. The Initial Decision ignores this precedent, as well as the importance of contracts and contract stability in the oil pipeline industry without reasonable justification, and therefore cannot be upheld."

FERC has remanded the case back to the ALJ for issuance of a new initial decision; however, the committed shipper rates will no longer be subject to cost-of-service review. No time limit has been established for a new initial decision.