

Ian Peck on BNN Toronto: Fears Over Sabine Ruling Overblown

March 16, 2016 Ian Peck

PRACTICES Energy, Power and Natural Resources, Midstream, Restructuring

Haynes Boone Partner [Ian Peck](#), leader of the firm's Bankruptcy and Business Restructuring section, was featured on Business News Network (BNN) in Toronto as a bankruptcy industry expert on the possible implications of the recent Sabine Energy ruling on midstream service providers.

Noting that rejection of contracts is a common occurrence in bankruptcy cases, Peck stated, "What is a little bit of a surprise is these particular contracts contained covenants running with the land that some midstream providers thought could not be rejected in bankruptcy or otherwise not dealt with through a sale of assets. Judge Chapman said they could be rejected, that they are not, in fact, covenants running with the land because they don't meet the requirements under Texas law..."

Peck noted that the implications from the ruling may not amount to the doomsday for midstream companies that many are predicting. As he explained, "First, the portion of the opinion that said the covenant running with the land is non-binding. After a full evidentiary hearing, the judge could theoretically decide something else. More importantly, on a practical basis, the E&P companies really need midstream service providers. There's an incredible infrastructure that goes along with these services - gathering lines, pipelines, storage and treatment facilities; it's not very easy to just reject a contract, flip the switch and have a new provider."

Peck anticipated that based on the limitations of the opinion, there is no apparent reason to overreact. "This is a ruling from a New York court based on Texas law. These contracts run the gamut of all 50 states, so the answer in Texas may not be the same answer in North Dakota or other states. This ruling is interesting because it's significant, it's interesting because it's new, but it's not going to apply equally to all situations or to all companies."

Ultimately, Peck predicts that this ruling could be used as a tactic for renegotiation. "What you may see is the threat of rejection being used as a tool to renegotiate the contracts with the midstream providers. It still will be painful, but I don't think you'll see a huge volume of midstream failures based on the rejection by the E&P companies in bankruptcy."

To watch the full interview, please [click here](#).