



REGULATION OF NATURAL GAS PIPELINES v. HAZARDOUS LIQUID PIPELINES: Key Differences

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A Rose is a Rose is a Rose....

but pipelines are not all the same...



Differences in types of pipelines determine:

Which regulator is in charge?

What types of siting process applies?

Whether eminent domain will attach?

Terms of easements.

Natural Gas Pipelines - FERC

Federal Energy Regulatory Commission has jurisdiction over siting of INTERSTATE NATURAL GAS pipelines under the Natural Gas Act, 15 U.S.C. §717f.

INTERSTATE means either crossing state lines, or if solely within a state, part of stream of interstate commerce (e.g., compressor station or possibly a lateral line)

NATURAL GAS does NOT include hazardous liquids – e.g., petroleum products, propane, ammonia, carbon dioxide.

FERC – Siting versus Rates

FERC has jurisdiction over INTERSTATE rates for transportation of natural gas and hazardous liquids.

Interstate ratemaking authority IS NOT THE SAME as siting authority – FERC can only regulate rates for hazardous liquids and NOT siting.

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Implications of FERC Jurisdiction

FERC has authority to issue a certificate to site the project.
Certificate preempts most local and state zoning requirements.

Natural Gas Act confers eminent domain to “certificate holders”

FERC certificate may limit eminent domain rights – and also certain aspects of easement (e.g., can’t negotiate for company to remove pipeline if abandoned since abandonment determined by FERC process)

Hazardous Liquids Pipelines

FERC regulates RATES for hazardous liquids pipelines but NOT siting. Siting varies by state – can be by state agency or even local authority

Eminent domain rights will be determined by state law

Easement agreement terms govern existing rights

Understanding Easement Agreement

- Is it valid (was it properly conveyed?)
- Does it allow company to add new pipe within the easement?
- What restrictions apply to landowners?
- Hold harmless/indemnification provisions?



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