

THE FERC PROCESS - CLIFF NOTES:

✓ 1992: ORDER 636 TO 1938 NATURAL GAS ACT: CHANGE FROM CONTROLLING INDUSTRY RATES TO COST EFFECTIVE SUPPLY OF FUEL



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Siting: Operator engineers map preferred location of *Interstate* pipelines

- ▶ Cost effective straight line
- ▶ No requirements to notify / consult with potentially affected local / state agencies or landowners

Prefiling: Operators ask FERC to review their project

- ▶ Voluntary (unless an LNG project)
- ▶ FERC approves pre-filing process: issues PF docket #
- ▶ Operator determines who receives notices of pre-filing
 - * Notices sent by direct mail, not certified mail
- ▶ Open House meetings



Motion to Intervene: Cost free to anyone with “good cause, clear and direct interest” in a project may apply. Allows landowners, citizens, municipalities, legislators, agencies, legislators, County Commissioners to protect their rights:

- ▶ Comment on a project considered by FERC
- ▶ Receive copies of filings
- ▶ Request rehearing of EA
- ▶ Appeal a decision in court

Filing: Docket # is established

- ▶ intervenors are notified

FERC Notice of Intent (NOI): to prepare Environmental Assessment (EA): determines need for NEPA (National Environmental Policy Act) required Environmental Impact Statement (EIS). EA defines environmental impacts/alternatives

(<http://ceq.hss.doe.gov/nepa/regs/40/40p3.htm>)

- ▶ intervenors are notified

FERC issues EA:

- ▶ intervenors are notified
- ▶ 30 day Public Comment period

FERC Reviews Public Comments:

- ▶ no strict deadline for FERC to act
- ▶ Other agencies that need to issue permits / other authorizations must weigh in within 90 days of the EA

Conditional Approval: approval with conditions to be met before final approval (ie: state permits)

- ▶ only intervenors have the right to seek rehearing

Approval: “certificate of public necessity and convenience” for construction and operation of natural gas pipelines used to transport gas across state line. Two year completion

- ▶ intervenors have the right to seek rehearing

Notice to Proceed: Construction may begin



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FERC Flaws & Citizen Action:



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Siting and Safety Disconnect: FERC reviews construction and operation of natural gas pipelines but has no jurisdiction over pipeline safety. PHMSA* regulates pipeline safety (*Pipeline and Hazardous Materials Administration)

Determine High Consequence Areas of projects

NGA: 1992 Order 636: changed from controlling industry rates to a review based on cost effective supply of fuel. "To meet the growing demand for natural gas, the Commission must continue to respond quickly when companies propose to expand and construct needed pipelines and related facilities. The Commission has expedited the certification of natural gas pipelines" FERC: <http://www.ferc.gov/industries/gas/indus-act/pipelines.asp>

Legislative / Congressional changes to NGA / FERC review

Citizen participation in the FERC Process

Become an intervener - protect your rights and community rights

FERC reviews are based on:

1) NEPA protocol: *How* FERC reviews a project; not based on findings

2) Operator information: often outdated / misleading / inaccurate / false:

Read all documents for accuracy

✓ Mapping: locations of homes, streams, schools...state

✓ Data & Permits

✓ Look for segmented projects, using multiple project names, reduce footprints, reduce permit requirements and mask cumulative impacts

✓ Vague terminology is common - demand clarification in writing

File questions with FERC in writing

Read the FERC order: Determine if you should seek rehearing



Landowner FYIs

Homes more than 50' of proposed construction are not required to be notified. Share what you know with a neighbor

Consider community hired attorney

Engage legislators, Commissioners and NGOs