

Michigan Public Service Commission Siting Authority for Pipelines

Pipeline Permitting in Michigan
September 16, 2019

MPSC Topics

- Laws
 - Act 9
 - Act 16
- Process
 - Ex Parte Cases
 - Intervention
 - Contested Cases
 - Staff Review of Application
- Public Participation
- Effective Public Participation

- Public Act 9 of 1929, MCL 483.101 *et seq.*
 - Grants siting authority to the MPSC for intrastate natural gas pipelines.
 - Condemnation to acquire rights-of-way, use of highways; limitation to intrastate transportation
 - Sale and purchase contract; filing
 - Prevention of waste
 - Penalties; civil liability

- Public Act 16 of 1929, MCL 483.1 *et seq.*
 - Grants siting authority to the MPSC for intrastate and interstate crude oil and petroleum product pipelines, and pipelines carrying certain substances consisting primarily of carbon dioxide
 - Condemnation for acquisition of right-of-ways; proceedings
 - “Pipeline” defined; notice to property owners; offer of easement
 - Minimizing physical impact and economic damage; good faith effort by pipeline company
 - Penalties; civil liability

Process

- Ex Parte Cases
 - Does not result in increased rates
 - Does not need the right of eminent domain to secure right-of-way
 - Saves time and expense for all parties
 - MPSC Staff works directly with the applicant

- Petitions for Intervention
 - Two-Prong Test; intervenor must show:
 - That it has or will suffer an injury in fact
 - That it's affected interests fall within the zone of interest to be protected or regulated by statute or the constitutional guarantee in question
 - A claimed future injury is insufficient to fulfill the injury in fact requirement as an injury must be real, immediate, and not conjectural
 - Mere interest in a proceeding's outcome is insufficient to support intervention
 - Any interested parties may file a petition to intervene in the case within the time frame designated in the notice of hearing, which by rule is at least seven days before the prehearing

- Contested Cases
 - Requires new right-of-way acquisition, proposes increases to rates, involves highly developed or environmentally sensitive areas
 - Publication of Notice of Hearing in daily newspapers in the counties that the proposed pipeline would traverse
 - Prehearing conference
 - Petitions to intervene reviewed, public comments heard, schedule set
 - Evidentiary process
 - Filing and review of testimony and exhibits, response to audit/discovery requests, and an opportunity for cross-examination
 - Proposal for Decision
 - Commission order

- Staff Review of Application
 - Review includes:
 - Application
 - Testimony & Exhibits
 - Audit and Discovery responses
 - Review focuses on:
 - Proposed route
 - Project necessity
 - Engineering specifications
 - Environmental impact
 - Staff input through testimony:
 - Additional construction requirements
 - Alternative pipeline routes
 - Recommendations to the Commission

Public Participation

- All interested parties to a case may attend and participate in the prehearing conference
- Persons wishing to appear at the hearing to make a statement of position without becoming a party to the case may participate after disclosing their identity and interest in the case
- Any interested party may comment on the proposed pipeline application without petitioning for intervention

Effective Public Participation

- The effectiveness of public comments will depend upon how relevant they are to the criteria the Commission has to consider
- There are primarily two questions for the public to evaluate:
 - (1) Is there a public need for the proposed pipeline?
 - (2) Is the proposed pipeline designed and routed in a reasonable manner?