

Tennessee Gas Pipeline Project Fact Sheet

In General

- Kinder Morgan is the parent company of Tennessee Gas Pipeline (TGP).
- TGP is proposing to develop the Northeast Expansion Project, a 250-mile pipeline that will run from Albany, NY to Dracut, MA. As proposed it will run through 45 cities and towns in Massachusetts. Kinder Morgan is proposing the expansion in order to increase the supply of gas and lower gas rates in the Northeast.
- In order to construct the pipeline, TGP must obtain authorization from the Federal Energy Regulatory Commission (FERC). The authorization comes in the form of a Certificate of Public Convenience and Necessity (Certificate).

Surveys

- While TGP has set up a general route for the proposed pipeline, it must present FERC a specific map of the route and submit extensive information regarding the land through which it proposes to build the pipeline. That is the reason TGP is seeking to conduct surveys of many properties.
- TGP is presently seeking permission from landowners to conduct such surveys. If TGP does not obtain such permission, it may petition the Massachusetts Department of Public Utilities (DPU) to obtain authorization to conduct the surveys.
- The DPU can authorize a gas pipeline company, such as TGP, to enter onto private or public property in order to survey properties.
- The DPU is not required to give a landowner notice that the gas company has requested authority to enter his/her property, or to give a landowner a hearing on the gas company's request.
- However, as a practice, DPU does notify landowners of a gas company's request to enter their property, and invites comments from the landowner that the DPU will consider. Thus, landowners who receive notice that TGP has petitioned DPU may send a written response to the DPU expressing any concerns they have regarding a survey of their property.
- DPU typically grants companies the authorization to conduct surveys.
- Once DPU has authorized a gas company to conduct a survey, it must notify the landowner that such authorization has been given at least five days prior to any entry.
- The company conducting the survey must pay for any damages it causes to the property while conducting the survey.

Environmental Review

- Either before TGP applies for its Certificate from FERC, or during the application process, TGP must conduct an extensive environmental review of its project, during which the company must consult with local agencies to identify all potential environmental impacts.
- Federal regulations require that TGP describe the likely environmental impact of the proposed facility, and identify all recreational or scenic areas crossed by the project.
- The regulations also require that pipeline projects be undertaken in a way that avoids or minimizes effects on scenic, historic, wildlife and recreational areas, and that landowner concerns be taken into account in deciding where to locate the facility.

FERC Proceedings

- FERC conducts a hearing on the application for a Certificate. Notice of the hearing will be published in the Federal Register, a daily newspaper issued by the Federal government. FERC also requires that the gas company mail notice of the hearing to affected landowners.
- Affected landowners have the opportunity to submit comments on the application. Interested parties can also “intervene” (i.e. participate) in the proceedings, by following the steps outlined in the FERC regulations.
- FERC issues the Certificate if it determines that the proposed pipeline is for the “public convenience and necessity.”
- FERC may impose conditions on a Certificate that will mitigate adverse impacts of the pipeline. FERC may also require that a gas company seek local approvals prior to constructing the pipeline; however, these local approvals cannot prohibit or unduly delay construction of the pipeline.

Eminent Domain

- A FERC Certificate grants the gas company the right to take property for construction of the pipeline – either outright or in the form of easements – by eminent domain.
- The gas company must attempt to negotiate with landowners for purchase of such rights.
- If an agreement cannot be reached, the company may sue in District Court for an order authorizing the taking.
- The District Court cannot overrule or even modify FERC’s order authorizing the taking; it only determines the appropriate amount of compensation for the landowner.

Challenging a FERC Certificate or Taking

- The only way to challenge FERC’s issuance of a Certificate – including the authorization to take property – is by filing a request with FERC for a rehearing.
- Such a request must be filed within 30 days of issuance of the Certificate.
- If FERC denies the request for a rehearing, or grants the rehearing but denies the requested relief, then a party may file an appeal with the First Circuit (Federal) Court of Appeals.
- An appeal to the First Circuit cannot be filed unless a rehearing with FERC has been requested.