

PERMITTING & APPROVAL PROCESS FOR INTERSTATE NATURAL GAS PIPELINES

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Natural gas pipelines are the indispensable link allowing abundant domestic supplies to reach consumers. The process for reviewing and approving new and expanded interstate natural gas pipelines is robust and transparent. The process is defined in the Natural Gas Act, and is delegated to the Federal Energy Regulatory Commission, or FERC.

In order to approve a new or expanded interstate natural gas pipeline under the Natural Gas Act, FERC must find that the proposed pipeline meets “the public convenience and necessity.”

There are five main stages in the permitting and approval process before actual pipeline construction begins:

1) ASSESSMENT OF MARKET NEED

The pipeline expansion process starts well before submitting a FERC application. The project sponsor’s first step is to gauge market support for a proposed new pipeline or capacity expansion. A project developer will host an “open season” to see who would be willing to commit to a firm contract to use the new or expanded pipeline once it is built. This is a key point. Projects sponsors do not build pipelines on speculation. Adequate market support must be demonstrated, most typically in the form of firm contracts, to support both project financing and FERC approval. During this period, the pipeline sponsor may begin preliminary discussions with the local community and officials along the prospective route.

2) PRE-FILING

If there is sufficient market support, the next step for larger projects is typically the FERC pre-filing process. The goal is to start discussions over route options, permitting concerns, and the best ways to mitigate any adverse impacts on landowners, communities and the environment. A developer will continue working with various federal and state permitting agencies to obtain necessary land-use and environmental permits. This process can take a while – often more than a year. The goal is to identify and resolve as many issues as possible before filing a formal application with FERC.

3) FORMAL APPLICATION

Once a developer files a formal FERC application, FERC must undertake a National Environmental Policy Act, or NEPA, analysis of the proposed project, and issue either an environmental assessment or an environmental impact statement, as appropriate to the scale of the project. As this process moves forward, various permitting agencies – both federal and state – remain a part of the review. The formal application process typically takes 10 to 14 months to complete.

4) APPROVAL OF FERC CERTIFICATE

Once the NEPA environmental document is complete, FERC may issue a certificate of public convenience and necessity, allowing the project to proceed. However, almost all FERC certificates contain numerous conditions that must be met. These conditions usually reflect the findings of the NEPA document, include mitigation efforts to avoid environmentally or culturally sensitive areas, and may require route changes. FERC may limit construction to only certain times of the year to mitigate effects on endangered or threatened species.

5) APPROVAL OF ANY REMAINING PERMITS

If a FERC certificate is granted, outstanding federal and state permits must be issued. These permits can include those required by the Corps of Engineers or a state department of environmental quality. This is a complex process. In many cases, permitting agencies have different environmental responsibilities. Getting all agencies to issue permits in a timely manner is a challenge. Ten years ago, the permitting process may have averaged three years in length. Average times for a major project are now around four years, and creeping upwards.

6) CONSTRUCTION CAN BEGIN

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