MPSC Topics

• Laws
  – Act 9
  – Act 16

• Process
  – Ex Parte Cases
  – Intervention
  – Contested Cases
  – Staff Review of Application

• Public Participation

• Effective Public Participation
Laws

• 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
Laws

• 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
Process

• 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
Process

• 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
Process

• 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?