

# 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?