

# FERC Doesn't Work – Communities Need Protection

## Senate Education and Ask Sheet

### Senator, we request that you:

- ✓ Oppose restoration of a quorum at FERC – i.e. no new FERC Commissioners approved -- until Congress has held hearings into the abuses of power and law communities experience at the hands of FERC and institutes needed reforms.
- ✓ Use the FERC Commissioner nomination and hearing process to expose FERC's abuses of power and law.
- ✓ Champion needed reforms to the Natural Gas Act including (but not limited to) removing the power of eminent domain from the pipeline industry, mandating full compliance with all state and local environmental protection laws, mandating FERC respond to rehearing requests within 30 days, and clarifying that FERC may not issue any Certificates or allow construction prior to all permits and approvals being issued, including from the states and the US Army Corps of Engineers.

### Why do we make these requests?

#### 1. FERC is demonstrably biased in favor of the pipeline companies.

- In a 30 year period, FERC has denied only 1 interstate natural gas transmission pipeline brought before its commissioners.
- FERC has never, from what we can tell, issued a civil penalty against a pipeline company for violation of environmental laws during pipeline construction. It also fails to issue stop work orders to mandate that violations are remedied before violating projects are allowed to continue with construction.
- Press reports have documented significant conflicts of interest among FERC employees and Commissioners – including pursuing jobs with pipeline industry representatives while working at FERC and rendering decisions on projects for the companies where family members work.
- FERC hires consultants to assist with its review and approval of projects knowing that those consultants are, at the same time, working for pipeline companies currently under FERC review, sometimes on projects that are directly related – thereby raising significant conflicts of interest.

#### 2. Pipelines Damage Communities.

- Pipelines reduce the market value of homes by as much as 5 to 40%, while at the same time reducing the marketability of homes.
- Pipeline compressor stations reduce property values by as much as 25-50%.
- Property market value reductions result in reduced tax collection by communities.
  - e.g. → construction and operation of the PennEast Pipeline, would result in a loss of property value of \$159.7 to \$177.3 million resulting in a \$2.7 to \$3.0 million loss in property tax revenue annually.
  - construction and operation of the Mountain Valley Pipeline would result in losses of \$42.2 to \$53.3 million in property value resulting in losses of \$243,500 to \$308,400 tax revenue annually.
- Pipeline compressors harm community health. Research has shown that of those living within 2 miles of a compressor station or metering station 71% experience respiratory impacts, 58% experience sinus problems, 55% experiences throat irritation, 52% experience eye irritation, 48% experience nasal irritation, 42% experience breathing difficulties or vision impairment, 39% experience sleep disturbance, and 39% experience severe headaches. In addition, 90% experience odor events including sulfur smell, odorized natural gas odor, ozone odors or the smell of burnt butter.
- Every mile of interstate natural gas pipeline with the standard 100 foot right of way that cuts through forest results in 84 acres of damage – 12 acres is lost to the pipeline footprint; 72 acres is ecologically degraded to the point of adverse environmental impact.

- Streams and wetlands are cut using an open cut method of construction – meaning they are carved out in order to lay the pipeline through.
- Public parks and forests are routinely cut by pipeline projects – despite significant community effort and cost to preserve these areas for community protection, enjoyment and future generations.
- Accidents, incidents and explosions are not uncommon and inflict serious harm. In the period from 2010 thru 2016, PHMSA reports 503 significant natural gas transmission pipeline incidents, causing 20 fatalities, injuring 89, and inflicting \$1 billion in property damage/costs. According to the Pipeline Safety Trust, the safety record of pipelines is getting worse, not better. According to the Trust, the rate of accident, incidents and explosions of gas transmission lines installed in the 2010s have annual average incident rates that exceed those pipelines that were installed prior to 1940.
- FERC consideration of greenhouse gas (ghg) emissions in Environmental Assessments and Impact Statements is cursory at best. FERC fails to seriously consider methane leakage from pipelines, compressor stations, storage, import/export terminals, or from the drilling that will result. Despite calls for it, FERC has never done a cumulative analysis of the ghg leakage and venting impact in a particular state or region proliferating gas infrastructure and the fracking wells which produce gas for them.

### **3. FERC Routinely Abuses Its Authority and Breaks the Law.**

- In violation of the explicit mandates of the Clean Water Act, FERC routinely issues its Certificate of Public Convenience and Necessity before States have issued their Clean Water Act 401 Certification determinations. FERC goes so far as to allow pipeline companies to exercise the power of eminent domain and to begin construction despite not having all state 401 approvals. As a result, state authority over pipelines is deliberately undermined.
- FERC routinely uses a legal loophole to prevent communities from challenging pipeline projects in court before FERC allows them to go to construction. Before a pipeline can be challenged in court, a community/individual must first submit a rehearing request to FERC and FERC must grant or deny that request. Rather than grant or deny, FERC issues a “tolling order” that notifies the community it has received the request and is taking it under consideration. This places people in a legal limbo, unable to challenge the project. During this period – which has been known to last 15 months in some cases – FERC allows the pipeline to proceed with the power of eminent domain and construction. The result is that even a legal victory comes after the pipeline is fully constructed and hence there is no real remedy.
- Despite a court ruling that FERC engaged in illegal segmentation and failed to consider the cumulative impacts of pipeline projects – FERC continues both practices when reviewing and approving pipelines.
- FERC’s National Environmental Policy Act Reviews fail to take into consideration significant pipeline impacts – including health impacts, harms to businesses and farming, and environmental degradation.
- FERC allows pipelines companies to use as the required proof of need for a project contracts from the pipeline companies themselves asserting need, and assertions that pipeline construction will increase their competitive edge and project margins. In addition, FERC ignores evidence that the gas a pipeline will carry is not actually needed by U.S. communities.
- FERC acknowledges that increased drilling and fracking are a foreseeable outcome of a proposed pipeline, and yet fails, as required by NEPA, to consider the foreseeable consequences of that increased drilling and fracking.

#### **For more details, examples, and sources:**

- ✓ Peoples’ Dossier on FERC Abuses of Power and Law *available at* <http://bit.ly/DossierofFERCAbuse>
- ✓ Testimony from Peoples’ Hearing on FERC Abuses of Law and Power at [www.PeoplesHearing.org](http://www.PeoplesHearing.org)
- ✓ [www.StopThePipelines.org](http://www.StopThePipelines.org)

**To demonstrate the broad national opposition to FERC and Pipelines, and in support of this call for controls on FERC see:**

- ✓ Request for Congressional Hearings Regarding FERC & the Natural Gas Act - 182 Orgs from 35 States:  
<http://bit.ly/FERCHearingsDemandLetter>
- ✓ Statement of Opposition to FERC signed by 150 Organizations.  
[https://docs.google.com/forms/d/e/1FAIpQLScLFwOPKc3Qc85YrNVItTnK4n1FDhnPr\\_yex5PUqkFfeuRDwg/viewform](https://docs.google.com/forms/d/e/1FAIpQLScLFwOPKc3Qc85YrNVItTnK4n1FDhnPr_yex5PUqkFfeuRDwg/viewform)