

## E&E Energywire

### FERC eminent domain pipeline battle heats up

Arianna Skibell, E&E News reporter

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Rep. Jamie Raskin (D-Md.) sent a letter to the Federal Energy Regulatory Commission on Friday seeking documents about procedures for resolving conflicts between landowners and gas pipeline companies. Francis Chung/E&E News

Rep. Jamie Raskin (D-Md.) asked the Federal Energy Regulatory Commission last week to provide documents on how it handles landowner complaints about natural gas pipelines, reviving a debate about the federal role in eminent domain.

In the [letter](#), the chairman of the House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties requested FERC produce information about a number of agency practices, including certificate extensions for pipelines and the status of FERC's dispute resolution service, which is intended to assist landowners in conflict with pipeline companies.

When FERC determines that a pipeline is required for "public convenience and necessity," an energy developer is permitted to take private land under existing rules through eminent domain. If companies are running behind schedule, they can apply for a certificate extension. Raskin said these extensions prolong landowners' "suffering and lack of access to their full property."

He cited the delayed Mountain Valley pipeline, which is under construction to run through Virginia and West Virginia. FERC recently granted the pipeline a two-year extension to complete the project.

Raskin also pressed FERC on the disposition of property for canceled projects. With the recent termination of the Atlantic Coast pipeline, he said he is concerned about what happens to land taken through eminent domain for a pipeline that will no longer be built.

"There appears to be no process to ensure that this land reverts back to the property owner, or that the land is not used for an entirely different purpose than the one approved by FERC and accepted by the courts in eminent domain proceedings," he said.

Raskin further asked for FERC information on land restoration tied to the Midship pipeline in Oklahoma. The National Environmental Policy Act requires FERC and companies to develop plans to mitigate environmental impacts of pipeline development and to restore disturbed land after work is completed.

"Midship promised to complete restoration by June 30. Four months later, landowners are still waiting for their property to be restored, while Midship has begun operating the pipeline," Raskin wrote in the letter.

FERC did not respond to requests for comment in time for publication. But Commissioner Neil Chatterjee, the panel's former chairman, has consistently maintained that landowners are a top priority for the agency.

"The Commission recognizes and is sympathetic to landowner concerns, and we are committed to improving our process," Chatterjee said in a statement this summer.

For example, last June, FERC released a rule to stop companies from beginning construction on FERC-approved pipeline and infrastructure projects until the commission addresses objections, although critics said it didn't go far enough ([Energywire](#), June 15).

Democratic members of the subcommittee completed an investigation earlier this year, finding that FERC's process for approving natural gas pipelines unfairly boxes out landowners in favor of developers ([Greenwire](#), April 28).

The lawmakers' [report](#) looked at a 20-year span, finding that FERC granted 1,021 pipeline certificates to developers while rejecting six — more than a 99% approval rate. Of the 480 certificates, the agency said it issued 271 to projects that had yet to gain the necessary federal and state permits.

Affected landowners have the right to ask FERC to reconsider pipeline approvals. The agency is supposed to respond to the request within 30 days. Often, however, the agency issued a tolling order. The order indefinitely extended the deadline for FERC to respond, effectively freezing the landowner's challenge while allowing pipeline construction to proceed.

A federal court then overturned FERC's use of tolling orders, restoring a 30-day deadline for the agency to respond to landowners who object to its decisions ([Greenwire](#), June 30).

In a bipartisan push, FERC commissioners urged Congress this summer to allow for additional time to act on rehearing requests ([Energywire](#), July 6).

The subcommittee requested that FERC produce the requested documents by Dec. 4.

Twitter: [@AriannaSkibell](#) Email: [askibell@eenews.net](mailto:askibell@eenews.net)