



NORTHWEST PROPERTY RIGHTS COALITION

January 30, 2008

Chairman Joseph T. Kelliher
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Chair Kelliher,
Recently you published, "Myths Regarding Federal Electric Transmission Siting" (attached). We wish to convey why your assertions in busting myth 1, the use of eminent domain, gives us such little comfort.

First, reporting data exclusively from the certificate holders is akin to asking only prison guards if the prisoners are feeling mistreated.

Second, the results themselves are cold comfort. What other outcome is to be expected when a giant corporation with a team of lawyers, who do this every day, holding virtually all the cards, is pitted against a single landowner? It is reasonable to assume that the landowner, worn down from years of battling the project and faced with daunting odds and high costs, capitulates. It's like trying to measure police brutality by looking at the number of confessions.

If FERC were truly interested in maintaining at least the appearance of an arm's length relationship with the industry it is supposed to regulate on behalf of citizens, it would commission an independent survey of landowner experiences instead of parroting industry propaganda.

Indeed, we call on FERC to commission such a survey.

Sincerely

Marc Auerbach
Chair

cc: FERC Board, Senator Ron Wyden, Governor Ted Kulongoski

MYTHS REGARDING FEDERAL ELECTRIC TRANSMISSION SITING

Congress established a new federal transmission siting process in the Energy Policy Act of 2005. There is a great deal of misunderstanding about how the process will work. This paper addresses the areas of greatest misunderstanding about the new federal electric transmission siting process.

Myth #1 – Eminent domain will be widely used to acquire rights of way

FERC has a long history with the siting of natural gas facilities under section 7 of the Natural Gas Act. This authority involves the right of eminent domain being conveyed to the project sponsor with FERC approval of its project. While eminent domain authority exists; its exercise has been limited. It is expected that the exercise of eminent domain authority with respect to siting of electric transmission facilities will also be limited (eminent domain will not apply to federal and state-owned lands). Some recent examples of the use (or non-use) of eminent domain authority in pipeline siting include:

Rex West (CP06-354) – under construction

(approximately 700 miles of 42 inch pipeline in Wyoming, Nebraska, Kansas and Missouri)

- Rex West reported that only 18 eminent domain actions were taken out of 1746 parcels required – only ~1 percent.

Gulf South’s Southeast Expansion Project (CP07-32) – under construction

(110 miles of 36-inch pipeline in Alabama and Mississippi)

- Gulf South states that for 110 miles of pipeline and for 336 affected landowners, there were no contested eminent domain proceedings.

Gulf South’s East Texas to Mississippi Expansion Project (CP06-446) – under construction

(250 miles of 42/36-inch pipe in Texas, Louisiana and Mississippi)

- Gulf South states that for 250 miles of pipeline and for 532 affected landowners, there were seven contested eminent domain proceedings.