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EMINENT DOMAIN - PENNSYLVANIA

Columbia Gas Transmission, LLC v. 1.01 Acres, More or Less in Penn Tp., York County, Pa.

United States District Court, M.D. Pennsylvania - October 24, 2013 - Slip Copy - 2013 WL 5773414

Columbia Gas is an interstate natural gas company subject to the jurisdiction of the Federal Energy Regulatory Commission (FERC). Columbia Gas currently operates a natural gas pipeline that runs in and around York County, Pennsylvania. The pipeline has been designated "Line 1655."

Columbia Gas wanted to replace and reroute a portion of Line 1655 away from the Line's current location, which has become heavily populated. Columbia Gas envisions a new and improved Line 1655 that, at the widest point, diverts approximately a quarter-mile from the old one. This diversion in effect takes Line 1655 out from under the land where Columbia Gas currently has pipeline easements, and removes it some distance yonder to plots where Columbia Gas does not possess such easements.

Columbia Gas negotiated with distant landowners to obtain the easements necessary to construct the replacement Line 1655, but no satisfactory arrangement could be struck with respect to the property of at least four landowning couples (the "landowners"). Columbia Gas filed suit in this Court, naming the land of the four couples and the couples themselves as defendants and asserting the right to take the easements by power of eminent domain.

Eager to commence and complete construction of the replacement pipeline, Columbia Gas filed a motion for partial summary judgment and for immediate possession of the necessary easements.

However, the Court disagreed with Columbia Gas's position that replacement Line 1655 can be relocated approximately a quarter-mile away from the old Line 1655 to circumvent a population center and still be considered a "replacement" of an "eligible facility" pursuant to 18 C.F.R. §§ 157.202(b)(2)(i) & 157.208(a).

"For that reason alone, Columbia Gas's motion for partial summary judgment must be denied, and because Columbia Gas has not established the right to condemn the necessary easements at this time, its motion for immediate possession must also be denied."