

Bond Case Briefs

Municipal Finance Law Since 1971

EMINENT DOMAIN - OKLAHOMA

Natural Gas Pipeline Company of America LLC v. Foster OK Resources LP

Supreme Court of Oklahoma - May 5, 2020 - P.3d - 2020 WL 2124418 - 2020 OK 29

Operator of interstate natural gas pipelines filed condemnation action seeking additional easements over landowner's property to have consistent access to operate and maintain pipelines and to clear title issues involving pipelines.

The District Court overruled landowner's exceptions to commissioners' report as to just compensation. Landowner appealed.

The Supreme Court held that:

- Existing easement agreements with landowner did not divest operator of its right to eminent domain under Natural Gas Act;
- Operator's taking of permanent easements to clear title issues was necessary for public use;
- Operator's taking of temporary workspace easement was necessary for public use;
- Operator's taking of permanent access road easement met necessity standard even if another means of access to pipelines was available; and
- Issue of necessity of surveying landowner's property to compute just compensation was premature.

Easement agreements between landowner and operator of interstate natural gas pipelines did not prevent operator from seeking additional easements, via operator's right of eminent domain under Natural Gas Act, to have consistent access to operate and maintain pipelines and to clear title issues involving pipelines, where easements that operator requested were outside of scope of existing easement agreements, even if parties contemplated similar rights in those agreements.

Interstate natural gas pipeline operator's taking of permanent easements to clear title issues as to pipeline easements met the legal standard of necessity for public use under Natural Gas Act, where original easement agreements did not describe or include portion of lands owned by landowner under a river and did not mention above-ground structural support and erosion control system on an exposed segment of a pipeline, and the parties' letter agreement executed many years earlier was not recorded in county land records.

Interstate natural gas pipeline operator's taking of temporary easement for work performed to install additional support, recoat, and ensure the integrity of a pipeline met the legal standard of necessity for public use under Natural Gas Act, and was not fraudulent, in bad faith, or an abuse of discretion.

Interstate natural gas pipeline operator's taking of permanent access road easement over landowner's existing private road met the legal standard of necessity for public use under Natural Gas Act and did not amount to fraud, bad faith, or an abuse of discretion merely because another means of access to pipelines was available to operator, where continuous erosion of property required operator to have better access over property to maintain pipelines, operator was required

to use private road to haul equipment to pipeline, and operator planned to use private road two to four times a year and also was responsible for maintaining road to restore any damage caused by its use of road.

Issue of necessity of surveying condemnee's property to compute just compensation for natural gas pipeline operator's taking of permanent and temporary easements pursuant to Natural Gas Act was premature and could not be determined upon Supreme Court's affirmance of order denying condemnee's exceptions to report of commissioners, where condemnee requested jury trial on issue of just compensation, jury trial regarding just compensation had not occurred, and record was devoid of any evidence that commissioners incorrectly calculated damages due to a lack of survey.