
EMINENT DOMAIN - FEDERAL

PennEast Pipeline Company, LLC v. New Jersey

Supreme Court of the United States - June 29, 2021 - 141 S.Ct. 2244 - 21 Cal. Daily Op. Serv. 6471

Natural gas company filed actions under Natural Gas Act (NGA) to condemn properties owned by State of New Jersey for construction of interstate gas pipeline.

The United States District Court for the District of New Jersey denied State's motion to dismiss and granted company's requests for orders of condemnation and preliminary injunctive relief for immediate access to the properties. State appealed. The United States Court of Appeals for the Third Circuit vacated and remanded. Certiorari was granted.

The Supreme Court held that:

- Court of Appeals below had jurisdiction over State's appeal, and
- Actions brought by natural gas companies pursuant to the NGA to condemn rights-of-way in which a State has an interest do not offend state sovereignty.

State of New Jersey's appeal of district court's grant of natural gas company's requests for orders condemning state-owned land, pursuant to Natural Gas Act (NGA), to construct interstate gas pipeline was not collateral attack on certificates of public convenience and necessity issued to company by Federal Energy Regulatory Commission (FERC) to build the pipeline, and thus, State's appeal did not have to be filed in Court of Appeals hearing challenges to FERC's certificate order, which had exclusive jurisdiction to affirm, modify, or set aside that order; State's argument on appeal that NGA did not delegate the right to file condemnation actions against nonconsenting States did not seek to modify FERC's order, but instead asserted a defense against company's condemnation proceedings.

Natural Gas Act (NGA) provision authorizing natural gas companies that hold certificates of public convenience and necessity from Federal Energy Regulatory Commission (FERC) to acquire, through eminent domain, any right-of-way needed to build natural gas pipeline was passed specifically to solve the problem of States impeding interstate pipeline development by withholding access to their own eminent domain procedures.

Condemnation actions brought under the Natural Gas Act (NGA) provision authorizing natural gas companies, which hold certificates of public convenience and necessity from the Federal Energy Regulatory Commission (FERC) to build an interstate pipeline, to condemn all necessary rights-o--way, including land in which a State holds an interest, do not offend state sovereignty, because the States consented at the founding to the exercise of the federal eminent domain power, whether by public officials or private delegatees.

Copyright © 2026 Bond Case Briefs | bondcasebriefs.com