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Natural gas companies seek utility status to lay gas pipelines

BY DAVID FALCHEK (STAFF WRITER)
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When Laurie and Brian Kaszuba of Dickson City received a \$16,000 offer from a pipeline company to run a natural gas pipeline through their Great Bend property, they didn't see it as a windfall.

Having a natural gas line three feet below the surface with a right of way on the surface would have made it more difficult to build their retirement home or subdivide the land. So they turned it down.

If pipeline companies eyeing the Marcellus Shale region have their way, property owners likely won't have that option.

Laser Marcellus Gathering LLC of Houston has applied to the Public Utility Commission to be declared a utility in Pennsylvania, a designation that would give the company the power to condemn any property it needs and to use eminent

domain to obtain easements for pipelines.

The company is planning to build a 30-mile pipeline, costing about \$37 million, to connect gas wells in western Susquehanna County and New York with the interstate Millennium pipeline that runs across New York state's southern tier.

The outcome of the request before the PUC could change the way easements are negotiated. With the Marcellus gas rush well under way and millions of state acres leased by gas exploration companies, pipeline easements are the new wave of legalese to arrive in mailboxes throughout the Marcellus region. Susquehanna County, a hot-spot for shale gas, is destined to host an underground web of pipes from every wellhead.

Unlike natural gas exploration companies, so-called "midstream" companies that gather gas have the option of becoming utilities. Several midstream companies have filed motions supporting Laser's bid. While being treated as a utility exposes pipeline companies to a new layer of regulation, it also gives them a valuable tool that tilts negotiations with property owners in their direction, said Stephen W. Saunders, a Scranton environmental attorney.

"The company would be able to say 'negotiate with us or we'll just take your property through condemnation,'" Mr. Saunders said. "There's no requirement for a utility to negotiate at all. Eminent domain is a nice tool for a company to have in its back pocket."

Still, many utilities negotiate in good faith with property owners to acquire the property outright or obtain easements. If negotiations fail, the utility may condemn the land and the matter goes to a board of view, a quasi-judicial panel of real estate experts who determine the fair market value of the property. Chip Berthelot, president of Laser Midstream, Laser Marcellus' parent company, said eminent domain is not the "overriding factor" in the company's pursuit of utility status. "We don't like to use condemnation and we do everything in our power to avoid that sort of confrontation with property owners," he said. The utility designation, he said, would require his company to serve any customer, rather than being tied to one.

Meanwhile, property owners are groping their way through another type of agreement related to the acquisition of easement rights.

At most well development sites in other states, there also is right-of-way leasing, said David Messersmith, part

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of Penn State Cooperative Extension's Marcellus Shale Team, which is providing information to the public about the industry.

Mr. Messersmith expressed a concern about that type of arrangement. "People aren't up to speed on the terms and the language of these things," Mr. Messersmith said.

A company may calculate their offer based on linear foot, by rod (16.5 feet), or by square footage, making it difficult for property owners to compare offers or determine a true market value. Rights of way could be anywhere from 8 to 30 feet off center. They limit landowners' activity on a significant swath of property for a lifetime or more, Mr. Messersmith said.

Some companies are blanketing the area with lease offers hoping to trade or sell rights of way in the future.

Laser is further along in its plans. While young, the company has an experienced management team and operates more than 80 gathering systems in Texas, Louisiana and Arkansas. "We are excited about participating in the development of the Marcellus region," Mr. Berthelot said.

The Kaszubas challenged Laser Marcellus' request before the PUC, but withdrew their objection when the pipeline path was rerouted around their property. They leased their mineral rights and they want to see the Marcellus region developed. But they don't trust the condemnation process.

"Under eminent domain, it doesn't matter what the property owner says or feels," Mr. Kaszuba said. "People shouldn't be forced to have something on their property they don't want - at any price."

Contact the writer: dfalchek@timeshamrock.com

Proposed line

The proposed Laser Marcellus pipeline would cost about \$37 million to construct and would run about 30 miles, connecting current and future wells in western Susquehanna County and New York state with the interstate Millennium pipeline that runs east-to-west across southern New York state.

The line would run through parts of Great Bend, Liberty, Franklin, Silver Lake and Forest Lake Twp. in Pennsylvania before crossing the border into New York.

The pipeline would be a "backbone-style" gathering system with the steel main line between 12 and 16 inches in diameter and 10-inch laterals reaching out to wells generally within six miles of the main.

The entire system will include 111,000 feet of main and 70,000 feet of laterals.

Initially, the line will connect to six existing wells in Susquehanna County but Laser Marcellus anticipates serving as many as 40 additional wells in Pennsylvania and 80 to 100 wells in New York, where drilling has been halted because of a moratorium.

The line's capacity will be 70,000 mcf/day.

ON THE WEB: Natural-gas gather lines: <http://bit.ly/91DBYI+>

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Sure, come through the Susquehanna River Basin because the DEP has been bought and paid for by the gas companies. Delaware River Basin says "no - too dangerous, they need to know how to do this better." NYS says "no-too dangerous, they need to know how to do this better." DEP says, "well, not too many smart folks up in Susquehanna...go ahead, let's see what happens. Oops."

GoAwayGas!, 05/10/10 1:28

Report

Someone can't spell and it's right in the headline.

T.A., 05/08/10 11:15

Report

I cant wait to see the headlines up here when these companies try to roll their dozers onto these properties. They will be having a FED season up here instead of a deer season.

ME, 05/08/10 8:08

Report

In some parts of the country eminent domain is being use to give property to commercial concerns like Malls and commercial housing developments. That has also been affirmed by the USSC. Now that's something to get pissed off about.

wayne michael, 05/08/10 3:37

Report

Eminent Domain is in the US Constitution! It cannot be outlawed. Eminent domain has been part of America since 1779. Progress cannot be stopped. That's how we got the railroads and highways.

law professor, 05/08/10 1:47

Report

Eminent domain should be outlawed in its entirety. You work hard to obtain and pay for your property, pay taxes on it, fix it to your liking and then it can be taken away from you - Welcome to America. Is there a candidate out there willing to fight eminent domain and abolish it? They'd have my vote.

Gas - The Not So Clean Energy, 05/08/10 9:41

Report

It just keeps getting better and better don't it? where are all these politico's that are here for you, until election is over

mo gas, 05/08/10 9:26

Report

Try to use eminent domain around those parts. Those farmers won't have that nonsense. Ain't no pushover city folk there. They are a bunch of hunters.

ryan, 05/08/10 8:47

Report

Find a candidate who supports your cause and vote, vote, vote in November and each subsequent election. This abuse of landowner rights can be stopped.

JQP, 05/08/10 7:32

Report

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