

**PIPELINES OVER PEOPLE: HOW FERC
TRAMPLES LANDOWNER RIGHTS IN
NATURAL GAS PROJECTS**

HEARING

BEFORE THE
SUBCOMMITTEE ON CIVIL RIGHTS AND CIVIL
LIBERTIES

OF THE
COMMITTEE ON OVERSIGHT AND
REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTEENTH CONGRESS

SECOND SESSION

DECEMBER 9, 2020

Serial No. 116-128

Printed for the use of the Committee on Oversight and Reform



Available on: *govinfo.gov*,
oversight.house.gov or
docs.house.gov

U.S. GOVERNMENT PUBLISHING OFFICE

42-595 PDF

WASHINGTON : 2021

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Wednesday, December 9, 2020

HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON CIVIL RIGHTS AND CIVIL LIBERTIES
COMMITTEE ON OVERSIGHT AND REFORM
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:06 a.m., via Webex, Hon. Jamie Raskin (chairman of the subcommittee) presiding.

Present: Representatives Raskin, Wasserman Schultz, Kelly, Gomez, Norton, Tlaib, Maloney (ex officio), Roy, Massie, Cloud, Miller, and Comer (ex officio).

Also present: Representatives Lynch, and Armstrong.

Mr. RASKIN. Good morning. The committee will come to order. Without objection, the chair is authorized to declare a recess at any time. Without objection, Mr. Lynch, the gentleman from Massachusetts, and Ms. Porter, the gentlelady from California, and Mr. Armstrong, the gentleman from North Dakota, shall be permitted to join our subcommittee and to be recognized for the purpose of questioning witnesses. I now recognize myself for an opening statement.

Good morning, and thank you to all of our witnesses for being here with us virtually today, and thanks to everyone else who is tuning in to this very important hearing. The New Deal Congress passed the Natural Gas Act in 1938 to break up energy monopolies and to ensure the Federal Government put the public interest front and center in energy construction projects. As the Supreme Court put it, the Natural Gas Act was quote “Plainly designed to protect the consumer interest against exploitation at the hands of private natural gas companies.”

In 1977, Congress created the Federal Energy Regulatory Commission, FERC, to ensure robust and independent implementation of the Natural Gas Act’s regulation of energy markets. Just a year later, Congress went a step further in order to establish an office of public participation to give the people a direct voice in the workings of FERC. FERC is there to protect the people of the United States. It is there to protect us, the people of the country.

But our subcommittee’s investigation has determined that rather than acting as a champion of the public interest, and as a check on the limitless, or seemingly limitless wealth and power and ambitions of energy companies, FERC has become a rubber stamp for

the energy companies that want to build pipelines on other people's land. In every way that we have examined so far, FERC turns out to be biased, severely, against individual property owners, against the citizens of the country. Here is an example:

In the last 20 years, FERC has received 1,021 applications to build natural gas projects by energy companies. It has only denied six of more than 1,000. That is higher than a 99.9 percent approval rate for the energy companies. Now, think about this for a second. If you flip a coin, your chances of winning are 50/50. If you do rock, paper, scissors, your chances of winning are 50/50. In a casino where we know the odds favor the house, in Blackjack, it's something like 51 to 49, for the house. In craps, which I think is your most unfavorable bet, it's something like 60/40 for the house.

But if you are a citizen landowner going before FERC, your chances are 1 in 1,000. If you are an energy company, you've got more than 99 percent chance of winning. FERC has a similarly lopsided approval rate when it comes to certificate extensions, which pipeline companies request when their projects go beyond the agreed upon schedule.

Over the last dozen years, FERC received 92 extension requests, and it won 89 of 92. That's a 96.7 percent win rate for the energy companies. On average, pipeline companies asked for a 21-month extension on average, they got 20 months. In other words, when pipeline companies ask FERC for something, they get it. You can bet your bottom dollar the company almost never loses when the house is FERC.

In contrast, over the same period, FERC did not approve a single landowner appeal. A system where corporations win nearly 100 percent of the time, and people win nearly zero percent of the time is not a fair, unbiased, and balanced system. It is rigged. That is not a system of justice or administrative process that anyone can recognize for a democratic society.

But there's more evidence of FERC's bias against landowners. FERC never actually created the Office of Public Participation that Congress established in 1978. That's a 40-year record of doing the wrong thing. That same year, Congress also ordered FERC to establish a landowner compensation program to help people afford to defend their rights against the pipeline companies. But FERC never set up the program. It never gets around to helping the citizen landowners of the United States.

The Yeoman farmers that Thomas Jefferson thought would be the backbone of America—well, the results of this loaded deck are obvious. Landowners suffer at the hands of the big pipeline companies, even amazingly, when the pipeline projects never even get built.

This year, two projects, the Constitution Pipeline, and the Atlantic Coast Pipeline, were simply canceled. Both companies had already secured easements to take up other people's land through eminent domain. They tore up other people's land. They destroyed their businesses. But the projects themselves were canceled. And even though the projects were canceled, there is no process in place to ensure that the damage to the property is rectified and repaired by the companies, and that the people actually get the use of their land back.

Now, tell me what has that got to do with the private property rights that I thought were sacrosanct under our Constitution? What does that have to do with due process? What does it even have to do with the free market? It's just a giveaway of unlimited rights to big corporations against the people of the country.

FERC claims it has no authority in these matters leaving it solely to landowners to try to negotiate themselves with the pipeline companies. What a fraud that is. Pipeline companies get FERC certificates of convenience to exercise eminent domain power over other people's land. They need FERC's authority and approval to cut down their trees and, to trample their property rights. So, FERC is the necessary precondition for all of this to take place.

Consider the Hollerans, who run a family maple syrup business in Susquehanna County, Pennsylvania, not far from where I live in Maryland. The Constitution Pipeline company got an easement over the Hollerans' property through the awesome power of eminent domain. They tore down 90 percent of the maple syrup producing trees on the Hollerans' property, and then, they completely abandoned the project. They deserted it. It's over.

And to add insult to injury, the company that trampled their property calls itself the Constitution Pipeline Company. But to FERC, the destruction of the Hollerans' maple business is just collateral damage. They're just roadkill for their real job, which is facilitating whatever the pipeline companies want to do.

FERC is an accomplice to the destruction of the Hollerans' family maple syrup business. None of what happened to them would have been possible without FERC and their various regulatory fixes and approvals. Don't point the finger at state court judges who follow in the wake of the certificates of easement adopted by FERC.

The Hollerans are not unique. You can find stories of family businesses being ravaged like this all over the United States of America—from farmers in Oklahoma whose land has been destroyed, to a 73-year-old retiree in Virginia, unable to build a home on land his family has owned for five generations where he was going to retire. These are Republicans, these are Democrats, these are American citizens whose rights are being trampled by a combination of big business and a compliant big government working for big business. These are Americans who have a right to their property and their rights are being demolished. FERC just clears the way for pipeline companies to trample the property rights of the people.

Now, make no mistake, I believe and the law envisions that pipeline companies should sometimes win, and can provide a public good, but there must be a real legal process that considers the merits on all sides. There must be a real legal process that takes place, not a stacked deck. The process of regulating the construction of gas pipelines needs to be balanced and fair for everyone. This is the way that Congress tried to design it. It's time that FERC restores fairness and transparency and balance to the process.

Thank you, and now I recognize my distinguished colleague, Mr. Roy, for his opening statement.

Mr. ROY. Do you guys hear me?

Mr. RASKIN. Yes, we got you, Mr. Roy.

Mr. ROY. Thanks, Chairman Raskin. Thanks for holding this hearing. I also want to appreciate all the witnesses, the witnesses from FERC, and for their willingness to appear before the subcommittee to talk about FERC's role here and make sure we're balancing our energy needs in this country and property rights, as we all want to do. Obviously, as we know, under the leadership of this administration, my former boss, full disclosure, Rick Perry, for whom I worked in Texas, as the Secretary of Energy, the United States achieved unprecedented energy independence.

In the past 15 years alone, we've seen a transformation across our national energy portfolio, driven heavily by abundant natural gas.

In 2017, we became an exporter of natural gas for the first time in 60 years. Private sector innovation led to a combination of fracking and horizontal drilling, allowing us to tap large lines of gas previously uneconomical to produce. In North America, there's an estimated 4.2 quadrillion cubic feet of recoverable natural gas reserves, enough gas to power the United States for 175 years at current rates of consumption. Between 2008 and 2018, fracked natural gas added 17 times more energy to the United States than all solar panels and wind turbines combined.

And were the example this hearing room—or the hearing room that we would be operating in were we not doing this virtually—is kept warm in the middle of December by the natural gas powered Capitol Power Plant down the street. Unfortunately, that's not the case across America. According to the EIA, 25 million United States households say they have gone without food or medicine to pay for energy bills; 12 million say they have kept their home at unsafe temperatures.

Abundant, affordable, natural gas is key to driving down those energy poverty statistics. The United States cannot only benefit from this resource domestically, but we can export fuel across the world to developed nations—developing nations and allies who do not want to depend on Russia, China, or Iran for their energy needs.

The strategic development of energy resources require infrastructure for public use. And that brings us to our subject earlier today—our subject matter today. I would note that when we're talking about the availability of natural gas, what that has meant, we're driving down CO2 levels around the world and in the United States. If we continue to export clean-burning natural gas, we drive down CO2 levels.

That's just a matter of fact. And we don't want to turn this over to China. We don't want to let India and other countries continue to be putting massive amounts of CO2 in the air, when we can export clean burning natural gas to drive those numbers down. We return our levels of CO2 down to 1990 levels. So, we got to understand what we're talking about here.

Look, the United States cannot only benefit from this resource domestically, as I said, we can export it. The strategic development of energy resources requires infrastructure. Pipelines are critical to ensure that everyone has access to natural gas in a safe and efficient manner.

I have experience dealing with eminent domain concerns in my district in the Texas hill country. The 430-mile Permian Highway Pipeline was approved before my first term in Congress. This was an intrastate pipeline, so it did not involve the FERC certification process. But I understand some of the very real concerns landowners have when approached with this situation. I have had numerous meetings with homeowners, landowners, who are very concerned about pipelines going in their backyard, how the process unfolded.

I made sure that the Texas legislature and statewide elected officials that deal with these issues, the Railroad Commission in Texas, are aware of my concerns about ensuring that property owners have due process and have the ability to have a say before pipelines are put on their property, or put near their homes.

We need to improve that process at the state level and surely look at it and review it at the Federal level as well. I've asked state legislators to review the processes in place within the state to protect private property rights.

It's important to note that FERC is an independent regulatory agency. And, you know, FERC has continued to improve its processes and procedures to ensure the landowners' rights are protected, while simultaneously approving central pipeline projects that will help Americans access affordable natural gas. The Natural Gas Act was amended in '47 to provide eminent domain authority to interstate natural gas pipelines with FERC-approved certificates of public convenience and necessity. The authority to use Federal eminent domain for pipeline projects is one that is only used by pipeline companies as a last resort, typically.

A survey by the Interstate Natural Gas Association of America concluded that from 2008 to 2018, only 1.67 percent of individual tracts needed to construct the survey projects were acquired after a judicial determination of just compensation and an eminent domain proceeding.

On June 9, FERC issued Order No. 871, which revises regulations to provide that it will not issue notices to proceed with construction of facilities authorized under the NGA until the Commission acts on any rehearing requests related to FERC's authorization of the facility. This ensures that a pipeline will not begin construction, and a landowner's property will not be disturbed unless and until FERC has addressed the rehearing request.

This action highlights that FERC is striving to protect landowners' rights, and I am confident we will learn more about additional measures today.

But I do suspect that there's a little bit of ulterior motives surrounding natural gas pipelines, and what I am talking about in this committee, motivated not necessarily just by private property rights, and I believe the Chairman and I share a very strong agreement in protecting property rights throughout this process, and wanting to make sure that individual landowner property rights are respected and improve this process. One-hundred percent want to figure that out.

But I also know that there's a lot of energy on—for my colleagues on the left to try to kill pipelines. That's just the truth. We know that. We see it. We see it politically. We see it all the time. There's

a specific desire to do that. Democrats are not shy in their support of carbon taxes, fracking bans, leftist schemes, like the Green New Deal that would destroy millions of jobs, and force Americans into energy poverty.

My colleagues in this committee have repeatedly attacked efforts to build robust and competitive energy infrastructure. This April, with all due respect, Chairman Raskin and 29 Democrats led a letter to FERC calling for a moratorium on the approval and construction of new natural gas pipeline projects, and liquefied natural gas export facilities.

My colleagues, I think, we need to work together to make sure that we're ensuring to protect private property rights, but in no way should we be standing in front of the ability for the United States to be a leader in producing natural gas domestically, and to be able to export liquefied natural gas around the world, driving down CO2, increasing our energy independence, and making us a stronger and better country.

So, with that, I'll turn that back over to the Chairman.

Mr. RASKIN. Mr. Roy, thank you very much.

I now recognize the Chairwoman of the full committee, Mrs. Maloney, for her opening statement.

Mrs. MALONEY. Thank you so much, Chairman Raskin. Good morning. First, I would like to thank the Chairman for convening this hearing, and I'd like to thank all of the panelists that are here. And I commend the Chairman for all his work his subcommittee has done on this important issue, on this hearing, "Pipelines over People: How FERC Tramples Landowner Rights in Natural Gas Projects."

There is a growing consensus among landowner advocates and communities, courts, and even some FERC commissioners, that FERC's process is not fair. In 2017, the Center for Public Integrity and State Impact Pennsylvania undertook a comprehensive investigation into FERC. The investigation involved more than 100 interviews and reviews of FERC records for almost 500 pipelines. They found that, quote, "At every turn, the agency's process favors pipeline companies," end quote. The subcommittee's investigation supports this finding.

As Chairman Raskin mentioned, the investigation revealed that FERC has a near-100 percent approval rate for pipelines. At the same time, however, FERC denied every single landowner appeal over the last 12 years.

The FERC process could also be quite confusing for landowners, even governments, who have never dealt with this kind of matter before. FERC Commissioner Richard Glick has called on the Commission to quote, "Redouble its efforts to accommodate landowners as they try to navigate the sometimes Byzantine set of rules and regulations that can make up a FERC proceeding," end quote.

This issue presents an excellent opportunity for bipartisanship. Bill Gow, a landowner in Douglas County, Oregon, in the pathway of the Jordan Cove Project, describing his opposition to the big pipeline companies and the FERC process said, and I quote, "I have been a Republican for 45 years. I'm as conservative as they come. The Republican Party was built on private property rights. This is one of our core issues," end quote.

He called on the Republicans to stand up for the little guy, for the folks in rural and urban counties who may not have the resources to fight big pipelines.

Well we are answering that call today. And I hope my colleagues on both sides of the aisle will join Chairman Raskin in his fight to restore balance and fairness to the FERC pipeline process. I understand the Chairman is working on legislation to restore that balance. I offer my assistance and endorsement for these efforts. I find it particularly appalling that they are able to take a person's property from them, while there is an appeal pending.

Even before the appeal is even heard and a decision made, they are taking people's property. This is unfair and unjust. I am so proud of the Chairman for working on a solution should FERC not, through their own administrative process, make it fair, that by legislation, we make it fair to the American people.

I yield back, and I thank the Chairman for his dedication and hard work on this subject. Thank you.

Mr. RASKIN. Chairwoman Maloney, thank you for your very eloquent and thoughtful remarks, and counter-posing corporate power against the individual rights of the people. And when we've got to choose, are we going to stand up for the rights of the people or for the power of big corporations?

I am now happy to recognize the ranking member of the full committee, Mr. Comer—oh, wait, forgive me. Ah, Mr. Comer is not coming. OK.

In that event, I would like to introduce our witnesses today. We are very grateful to them for coming and for sharing their expertise. Our first witness today is David L. Morenoff, who is the acting general counsel of FERC, the Federal Energy Regulatory Commission. Then we will hear from Terry Turpin, who is the director of the Office of Energy Projects at FERC. The witnesses will be unmuted so we can swear them in.

Gentleman, please raise your hands, your right hands, if you would.

OK. Do you swear or affirm that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Thank you. Let the record show that both witnesses answered in the affirmative. Without objection, your written statements have been made part of the record.

Mr. RASKIN. With that, Mr. Morenoff, you are now recognized for five minutes for your testimony.

STATEMENT OF DAVID L. MORENOFF, ACTING GENERAL COUNSEL, FEDERAL ENERGY REGULATORY COMMISSION

Mr. MORENOFF. Chairman Raskin, Ranking Member Roy, and members of the subcommittee, my name is David Morenoff. I am the Acting General Counsel of the Federal Energy Regulatory Commission. I joined the Commission's staff in 2006, and I am honored to have served in senior roles in the Office of the General Counsel since 2010.

I appreciate the opportunity to appear before you today. The views I express are my own and are not necessarily those of the Commission or any individual commissioner.

The Commission takes seriously the responsibility assigned to it by Congress under the Natural Gas Act for determining whether a proposed natural gas pipeline or storage facility is in the public interest.

Fulfilling those responsibilities, the Commission accounts for and balances many factors, including the potential impact of that infrastructure on landowners. The Commission also has taken recent steps to ensure that affected landowners who wish to do so may seek relief in court in a timely manner.

Under the Natural Gas Act a prospective developer of natural gas infrastructure must obtain a certificate of public convenience and necessity from the Commission. The Commission's regulations provide for public notice and the opportunity to intervene in certificate proceedings, for commenting on or protesting an application, and for participation in the environmental review process.

In considering a certificate application, the Commission bases its decisions on an extensive written record that reflects information from the prospective developer, other parties to the proceeding, commenters, and an environmental analysis prepared by the Commission staff pursuant to the National Environmental Policy Act.

When the Commission grants a certificate of public convenience and necessity, the Natural Gas Act allows the certificate holder to initiate eminent domain proceedings. Thus, the Natural Gas Act assigns eminent domain authority solely to certificate holders. It confers no such authority upon the Commission, nor does the Commission have a role in the acquisition of property rights through private contracts resulting from easement negotiations between a prospective developer and a landowner.

Any legal disputes involving the timing and nature of those property rights, as well as compensation that the landowner may receive, must be resolved by an appropriate Federal or state court. Parties to a Commission proceeding have the right to seek rehearing of a Commission order, and they must do so before appealing to an appropriate Federal court.

The Natural Gas Act provides that if the Commission does not act on a rehearing request within 30 days, then the request may be deemed denied. Prior to the summer and consistent with long-standing court precedent, the Commission routinely acted on rehearing requests initially by issuing what was known as a tolling order. Tolling orders granted rehearing for the limited purpose of providing more time for the Commission to consider the merits of the hearing requests. This summer, however, the U.S. Court of Appeals for the D.C. Circuit held that tolling orders do not permit rehearing requests from being deemed denied after 30 days. The next day, the Commission began implementing changes to its rehearing practices. Most importantly, the Commission no longer issues tolling orders. Instead, where the Commission is not acting on the merits of a rehearing request by the 30-day deadline, the Commission generally now issues a notice acknowledging that because the 30-day deadline has passed, the hearing may be deemed denied. Therefore, a party may proceed to seek judicial review of the underlying Commission order.

The Commission also has made other changes over the past year to expedite consideration of landowners' hearing requests. For ex-

ample, in February of this year, Chairman Chatterjee announced the creation of a new rehearings section within the Office of the General Counsel, as well as a group within that section focused on landowners' hearing requests to help ensure that rehearing requests are considered as quickly as possible.

Thank you again for the opportunity to appear before you today. I look forward to answering any questions that you may have.

Mr. RASKIN. Mr. Morenoff, thank you very much for your testimony.

Mr. Turpin, you are now recognized for your five minutes.

STATEMENT OF TERRY TURPIN, DIRECTOR, OFFICE OF ENERGY PROJECTS, FEDERAL ENERGY REGULATORY COMMISSION

Mr. TURPIN. Thank you, Chairman Raskin, Ranking Member Roy, and members of the subcommittee. My name is Terry Turpin, and I am Director of the Office of Energy Projects at the Commission. I am an engineer by training and came to work at the Commission in 1998. Over the last two decades, I have worked as staff preparing technical analyses to advise the Commission and to implementing compliance programs during construction of approved projects. During the last five years, I have served as first deputy director, and then director of the Office of Energy Projects.

I appreciate the opportunity to appear before you today. The views that I express are my own and are not necessarily those of the Commission or of any individual commissioner.

As my colleague David mentioned, the Commission's consideration of a certificate application includes the environmental analyses prepared by the Office of Energy Projects. This is done to meet the National Environmental Policy Act. Just as in determining whether a proposal is in the public interest, the Commission takes seriously its responsibilities for environmental impacts, including the potential impact of that infrastructure on landowners.

The environmental review is carried out through a process that encourages collaboration, and provides input from agencies, landowners, and other interested stakeholders. There are several distinct phases in the Commission's process.

First, before a project sponsor has filed an application with the Commission, the Commission's staff will begin to engage with stakeholders affected by the projects, including landowners, with the goal of identifying issues that the project developer should consider addressing in the design of this intended project. The intent of this pre-filing period is to identify and enable resolution of as many issues as possible while the project is still in a conception stage, rather than waiting until after an application to do so. Through this process, project developers generally make many route adjustments in response to concerns raised by landowners, government officials, or other stakeholders.

Once a project developer has filed an application, Commission staff prepares an environmental review document, often issued for public comment, analyzing impacts of the developer's proposal, and identifying potential mitigation that can further be used to reduce impacts.

If a project is found to be in the public interest and approved by the Commission, this potential mitigation is included in the Commission's order as conditions that must be met by the project. Staff of the Office of Energy Projects works to ensure compliance with these conditions throughout both construction and restoration efforts.

Throughout project construction, FERC staff monitor the developer's progress and compliance through review of construction status reports and through infield inspections. For large, complex projects, staff uses compliance monitors stationed throughout the project construction areas to conduct daily fuel inspections, issue noncompliance notices, and direct corrective actions that the developer must take.

At any time throughout the construction and restoration process, landowners can notify the Commission if they believe their property was not properly restored, by contacting the Commission's landowner helpline, or by making a filing in the relevant Commission docket.

Staff from either of the Office of Energy Projects or the Commission's Dispute Resolution Service, will then followup with the landowner. If there are additional restoration activities the landowner believes are needed, staff will contact the landowner and the pipeline developer for information necessary to assess the issue. Staff or compliance monitors also perform inspection of the landowner's property where restoration concerns have been raised. Based on this information, staff determines if any further remediation by the project developer is required and directs the company to undertake it.

While staff oversight is most intense during construction, it continues after the project goes into service, for as long as it takes for the developer to complete restoration. Restoration is considered successful if the right-of-way surface condition is similar to adjacent, undisturbed lands, if construction debris has been removed, if revegetation is successful, and if proper drainage has been restored.

Thank you, again, for the opportunity to appear before you today. I would be happy to answer any questions that you may have.

Mr. RASKIN. Mr. Turpin, thank you very much for appearing today. I will now recognize myself for five minutes for my own questioning.

I want to start with you, Mr. Morenoff, I assume you're not bragging about the new policy on tolling orders adopted by FERC, because that was done, prompted by the D.C. Circuit Court's ruling which cited the work of our subcommittee investigating FERC. I just wanted to make sure that that was not something you were really—should at least try to take full credit for, for FERC.

Mr. MORENOFF. Mr. Chairman, thank you. I agree that the D.C. Circuit issued its decision, and I think that FERC appropriately responded immediately to implement that decision.

Mr. RASKIN. Well, would you agree with my assessment that the odds are overwhelmingly on the side of the energy companies at every step in the process?

Mr. MORENOFF. Chairman Raskin, I think that that is an overstatement of the situation. I think that the Commission takes very

seriously all of the comments from every party that is placed into the written record, and I am proud of the Commission's work in that respect.

Mr. RASKIN. Well, Mr. Turpin, let me ask you, would you rather be a pipeline company coming before FERC, or a landowner who is trying to stop a pipeline from being built on his land?

Mr. TURPIN. I think both parties have equal opportunity to address the Commission and raise their issues. So, I would be either.

Mr. RASKIN. Why do the pipeline companies win more than 99 percent of the time?

Mr. TURPIN. The process that the Commission uses to review the projects generally results that only viable projects reach up to the—their changed throughout the process. So that more or less, only viable projects really ever get to consideration by the Commission.

Mr. RASKIN. OK. The Atlantic Coast Pipeline, or ACP, had a planned route that would have stretched across Virginia, West Virginia, and North Carolina. And Donovan McLaurin, is 73 years old, he owns a plot of land in North Carolina, where he was planning to retire and build a small house. It's been in his family for five generations. It was right in the path of where the ACP wanted to build its pipeline. The company tried to convince him to sell his easement, but he said no. He said, "This is America. I don't want to sell."

Well, ACP took him to court and he—and the company got the easement from some conservative judges. You know, President Trump, of course, calls himself the king of eminent domain. So, we're seeing this massive abuse of eminent domain power across the country. But they took his property. So, he was supposed to get paid for the forcible taking, but he never got paid. They never gave any money.

This year, the project taking his property was canceled after ACP failed to do whatever it needed to do under state law. That cancellation has left a huge mess behind for Mr. McLaurin and lots of other people in the same situation. ACP got easements from 2,000 property owners, including 80 people who have lost their property rights through eminent domain actions based on the FERC certificate.

Now, Mr. Morenoff—in other words, ACP has—unless ACP agrees to forfeit its easement, it continues to own access to those 2,000 parcels of land in perpetuity. Isn't that correct? Am I understanding that right?

Mr. MORENOFF. Mr. Chairman, my understanding is that the property rights would be determined by the terms, either of the eminent domain proceeding in the court or by the individual contract negotiated on a private basis. So, the terms may differ depending on its terms.

Mr. RASKIN. OK. And there's nothing that FERC does that conditions the receipt of an easement on the return of the property in the event that the project never goes forward, is there? Is there anything that you do to make sure property owners get their property back if their property is taken but the project doesn't go forward?

Mr. MORENOFF. Mr. Chairman, traditionally, the Commission has viewed eminent domain and those private negotiations to be properly addressed, either in court or in those negotiations.

Mr. RASKIN. But you wash your hands of that. FERC basically washes its hand of that process. They say, well, that's at that point between the property owner and the company. Would you agree that an easement by—a pipeline easement generally reduces the value of somebody's property and makes it much harder to sell? Would you agree to that? Like take Mr. Roy's constituents in Texas, if they didn't want to sell but their land is taken by eminent domain, would you agree that it's much harder for them to sell their property to someone else?

Mr. MORENOFF. Mr. Chairman, that may be the case. I think it is built into the statute that that process is part of this consideration.

Mr. RASKIN. In fact, Mr. McLaurin had already agreed to sell part of his homestead to other buyers, and then the sales went south at the point at which the eminent domain power was exercised by the company. A U.S. district court was absolutely incredulous at what ACP had done. He said, and I'll quote just part of it here, "Here they are aggressively taking the bit in their teeth and running through several states, grabbing up land, and throwing money. And on a Sunday afternoon they decide, well, maybe we don't need all this anymore. Let's just fold up our tent."

Meantime, FERC has said that it, quote, "has no authority or involvement with respect to ensuring that landowners can end these easements on their land for pipelines that will never be built." So, there's a perpetual indefinite easement taken on their land for projects that will not be built.

Now, it seems to me there are things that FERC could do if it were concerned with actually treating landowners fairly in this process. And we understand that the pipeline companies are going to win 99 percent of the time. But couldn't you impose a prohibition at FERC—and I understand that you're just staff, and that you're speaking for yourself—but couldn't FERC include a provision in a pipeline certificate that requires it to return land back to the landowner if the pipeline gets canceled or the company changes its mind? Couldn't you put that in the certificate?

Mr. MORENOFF. Mr. Chairman, traditionally, the Commission has viewed eminent domain on property rights as beyond its authority. That said, I do not have a case to cite that would say the Commission could not use its conditioning authority in that respect. I think that's an open question.

Mr. RASKIN. There's nothing in the law that stops you from doing that. And if you were interested in preserving the rights of people, like Mr. McLaurin, you would say that if a company turns tail and does a U-turn, that the land should go back and they should have to restore it. Could FERC refuse to approve future certificate applications from the same company unless they return and restore land in abandoned projects?

Mr. MORENOFF. Mr. Chairman, my answer would be similar. I think there is an open question as to the breadth of the possible conditions that the condition could impose. I do think that those

conditions of authority is not boundless, and that is a type of condition has not been tested to date.

Mr. RASKIN. OK. After protests, I am aware that FERC has requested a plan from ACP about what it will do with hundreds of acres of land that were damaged in preconstruction activity. So, good for FERC for doing that. And I'm happy to learn about this. But I am not aware of any action, similar action taken for the Constitution Pipeline Project, which was also canceled this year. Do you think FERC will do the same thing with respect to the Constitution Pipeline Project?

Mr. TURPIN. Well, the Commission has overseen the restoration to the Commission's standards of the right-of-way that was engaged for the pipe—for the Constitution Pipeline. So, the Commission has done that look. That restoration—those activities ended last month with the restoration to the standards that the Commission had put forward.

Mr. RASKIN. OK. So, you do have the power, in other words, to compel the restoration of land to the status before it was taken for a project that never materialized?

Mr. TURPIN. No, no, sir. We have the authority—my understanding is we have the authority to direct the companies to restore the land to the standard the Commission had issued in its order.

Mr. RASKIN. But that standard could be a status quo answer, could it not?

Mr. TURPIN. I—that is outside of my expertise. I would—

Mr. RASKIN. I am now going over to the—I am now going to yield to the ranking member for five minutes. And we'll give him a comparable overage. Thank you both for appearing today and for your candid answers. Mr. Roy?

Mr. ROY. I appreciate that, Mr. Chairman, and your indulgence for any comparable time. Although, these are important issues, so I don't mind that you went over any more than a few of our folks go over.

And let me reiterate my general view on this, right? We have—differences of opinion in this body on the relative value use of natural gas. And moving oil and gas products, there's a lot of debate about that. And what I am trying to avoid is, I don't want pipelines and our debates over that to be used as, essentially, a ruse to basically jam up oil and gas. I think there's some in this body who would want to do that.

On this straight-up issue, on the merits of it, if there is a pipeline that's going to exist, and are property rights being respected, I don't know that there's going to be any disagreement between Chairman Raskin and I on that, that question.

And so, what I want to understand from Mr. Morenoff, you, or Mr. Turpin, explain to me quickly—because I have got five minutes. I have already burned a minute from my intro—is—explain to me the difference in how this process works in just basic layman terms, and, say, an intrastate, right? In other words, I want to understand how this works and whether FERC has more or less power if you are trying to—if a new interstate is rolling from Canada all the way to Mexico, and it goes to West Texas and impacts

some of my constituents or go through Oklahoma, how does that—how is that different?

Mr. Morenoff, you got any perspective on that? Again, just a quick comparison.

Mr. MORENOFF. Thank you. I can speak to the FERC process, not to the Texas-specific process. But when it is an interstate natural gas pipeline, a certificate of public convenience and necessity would be needed by the prospective developer. They would go through the pre-filing process that Terry described, and then file an application with an opportunity for public participation throughout.

Mr. ROY. Well, let me ask you this, because I can pull up a model or some sheet or something that walks me through all that. I'm trying to understand is anybody here expert enough or know—Mr. Turpin, do you know, is it—would you—could you stipulate whether it's easier or harder for FERC to get a pipeline than if we were to say, try to create a national interstate highway from Canada to Mexico and how this compares?

Mr. TURPIN. I have no ability to answer that. My entire professional career has been on the natural gas pipeline side with the agencies not been involved in infrastructure.

Mr. ROY. Mr. Raskin, I'd love for our staffs to have a side-by-side comparison. I'd like to know that better. The reason I ask is because I don't view them dramatically differently. There are environmental impact differences, and there are things that we could debate.

What I am trying to get to is, I don't want to see a citizen of the United States whose got property not be able to get the full hearing he or she needs to have for whatever the public use is, right? Whatever that question is, a road, a highway, a public utility, a pipeline, whatever. We are going to have some disagreements as a policy matter about the merits of having a pipeline. I don't want that to be the issue. I want to know, all right, we're going to have a pipeline because that's good for the United States. And it is a public use in my view, and there may be some disagreements by some on that. But I want to know that property rights are being respected.

And on the question of the valuation, on the eminent domain and what Chairman Raskin was going down—you know, I would be mortified if there's a—an American citizen in North Carolina or Texas or anywhere that have property, and they weren't made whole for whatever FERC was doing. And so, I'd like to know more about that and those questions. What I'd do is, I'd put in perspective what I said in my opening statement is about 1.97 percent, I think is the stat, 1.67 percent of all of the tracts, the property actually end up in eminent domain process.

So, what that means is, right, the other 98-point whatever percent are contractually sorted out. And so FERC comes in or—I mean, the pipeline comes in, an agreement is reached, and say, great, you are going to pay me X, and you can use my property, or take my property or run it over across the corner of my property. And to answer the question from Chairman Raskin about valuation, because your property values go down. Well, I would say that depends.

In my observation, some people's property gets absolutely ruined. Like live oak trees in my central district get ruined, or a pipeline runs right by your house. Well, that's a valuation question. Or some people have a 500-acre tract, and it goes over the corner of the property or their land, they got paid well for it. There's no real diminishment in the value of your dirt. It's going to be a property-by-property question.

What I want to do is make sure that we have gotten this more of a speech than questions, which I didn't mean it to be. I want to know the safeguards. And I'd like to have—and I might submit some written questions—but I'll just ask you Mr. Morenoff and Mr. Turpin: What are the safeguards to ensure that property owners are getting the valuation they deserve, and the ability to question the taking in the first place?

They should have that ability, and they should have it protected. If somebody is sitting on their property and one day FERC shows up, or the pipeline company shows up and says, "I'm taking your property for a pipeline," they ought to be able to say, "Hell, no" unless, you know, the public is going to make a decision that this is public use. And then we're going to go through a hearing. And I know my valuation is going to be done. Just like a highway, I might get mad about it, but we have those processes.

Can you all explain what safeguards are in place for that? And I have gone over five minutes, Chairman Raskin, so I'll leave it at those questions.

Mr. MORENOFF. Ranking Member Roy, I think there are many protections that are built into the FERC process. There is extensive public participation, including for affected landowners to participate, to express their grievances. I think the Commission, just from the past year, has built in additional protections, including with the issuance of the final rule that you had noted, which ensures that construction will not begin on the pipeline while a hearing is pending at the Commission, as well as the Commission's efforts to accelerate action on those rehearings. I think that combination ensures that the pipeline construction will not begin until the affected landowner has the opportunity to go to court, if that person wishes to do so.

As to the situation that you were referring to where compensation has not been provided in an eminent domain context, I share your and the chairman's concerns about that situation. That is a question that would have been resolved in an appropriate Federal or state court. And I would imagine that the court would be able to enforce its decision.

Mr. ROY. But isn't it true—Chairman Raskin indulge me just one more second—that sometimes people still get screwed. I mean, look, I have established where my biases are on some of this, about making sure that pipelines exist. But I do want to make sure that—I know we say during a hearing—I just want to know and that there it is—that the judge can make a determination and—but what can FERC do to ensure that, look, a pipeline was done and somebody's land was impacted and, just, you know, are there any other additional safeguards that might be put in place that we are at least observing to ensure that a property owner is not left wondering why their, you know, property they got from their par-

ents, or they bought and worked it, you know, made themselves got messed up, ruined, taken, or whatever, and they didn't get the valuation they thought they should get? Chairman Raskin, I'll stop.

Mr. RASKIN. No, please take your time, Mr. Roy. I like where you're going with that.

Mr. ROY. Well, if I start ranting about Democrats and pipelines, you're going to cut me off. Anyway. Go ahead.

Mr. MORENOFF. Ranking Member Roy, I think that the Commission has and continues to improve our processes to ensure that the landowner has the opportunity to be heard, has the opportunity to have the day in court, and to ensure that the land is put back to an appropriate condition, as Terry was describing earlier. Specifically out of its compensation, I don't believe that is within FERC's authority. I think that is an issue for the Federal or state courts.

Mr. ROY. Mr. Turpin, do you have anything to add to that?

Mr. TURPIN. Yes, I think the entire process—I mean, most projects are in a 1-to, 2-to, 3-year cycle of review. And in the pre-filing process at the beginning of it, we require the companies to reach out to all the landowners, so that landowners can give input as to the route selection and impacts it may have on their property. And it is a rare project, if there ever was a project, that wasn't altered by that, by those conversations.

And, so, I do think the landowners have an ability to provide input. Move to the company that's developing the project, as well as to FERC staff throughout the review. And in many cases, if the proposed design has changed before it comes to the Commission, that addresses the issues, and other staff look at alternatives. And, in some cases, the Commission orders reroutes to address issues.

But, in general, I mean, this is infrastructure that is crossing multiple areas, multiple jurisdictions. It is almost always on privately held land. So, moving to off-private land is—usually isn't feasible, and that's just the nature of long linear infrastructure.

Mr. ROY. I yield back, Mr. Chairman. I've taken too much time.

Mr. RASKIN. Thank you, Mr. Roy. I am now going to recognize Chairwoman Maloney for her five minutes of questions.

Mrs. MALONEY. Thank you, Mr. Chairman, and I thank the panelists. On July 2, 2020, former FERC Chairman Neil Chatterjee and Commissioner Richard Glick issued a joint statement about the D.C. Circuit opinion in Allegheny Defense Project v. FERC. The statement asked Congress to amend the Natural Gas Act, and I quote, "Consider providing FERC with a reasonable amount of additional time to act on rehearing requests," end quote.

For the purpose of simplicity, I am going to refer to rehearing requests as appeals. The subcommittee's investigation this year revealed that on average, FERC took 212 days, or about seven months, to issue a decision on landowners' appeals.

So, Mr. Turpin, how much time do you believe is reasonable for FERC to act on appeals?

Mr. TURPIN. Well, I think the statute—and it's clarified by the court—has stated that the Commission has 30 days or those appeals are denied, and folks can then seek appellate review. The issues typically raised in rehearing are technical and complex. The Commission spends a lot of time trying to sort those issues out and

provide reasoned decisions. I don't know if Mr. Morenoff would have an additional statement to add.

Mr. MORENOFF. Representative, thank you for the question. Well, both Chairman Chatterjee and Commissioner Glick have stated that they defer to Congress on whether and to what extent to extend that period. I think the legislation introduced by, I believe, Representative Malinowski, with respect to the Natural Gas Act, and Representative Casten, with respect to the Federal Power Act, establish what would strike a reasonable balance between additional time for the Commission, and continuing to ensure prompt action on rehearing.

Mrs. MALONEY. And what is that time that they suggest?

Mr. MORENOFF. Thank you. I believe for the Natural Gas Act, it is approximately 60 to 90 days. And I believe for the Federal Power Act, it is approximately 120 days, reflecting the varied complexity that is typical as to the rehearings under those statutes.

Mrs. MALONEY. In the same July statement, FERC stated that any legislation extending the time for appeals should ban companies from seeking eminent domain during the FERC appeal period. And I could not agree more. If you're in an appeal, you shouldn't be able to go in there and grab someone's property. So—but FERC doesn't need an act of Congress for that. I think you should be able to do that on your own.

So, Mr. Morenoff, does FERC have authority to suspend certificates of public necessity?

Mr. MORENOFF. Yes, Representative, the Commission could suspend—could issue a stay with respect to the order granting a certificate.

Mrs. MALONEY. So, in that case, Mr. Morenoff, does FERC even need Congress to pass a law prohibiting eminent domain while an appeal is pending? Why can't FERC suspend the certificate on its own accord?

Mr. MORENOFF. Representative, I think it is correct, the Commission could, as a matter of force, issue that type of stay. I think that is a very broad action if the Commission were to take. And as I had noted earlier, the Commission has traditionally viewed the eminent domain provision of the statute as providing that authority to the certificate holder. For that reason, I do agree with the request from Chairman Chatterjee and Commissioner Glick that Congress taking that action would be a cleaner way to ensure that if the Commission—what would be the cleanest way to ensure that that action is properly taken within statutory authority.

Mrs. MALONEY. Would you agree that eminent domain could not be granted on a suspended certificate?

Mr. MORENOFF. I think that is correct.

Mrs. MALONEY. And Commissioner Glick has, in fact, suggested that FERC should suspend certificates while an appeal is pending. And I strongly suggest that FERC adopt that practice, or that Chairman Raskin legislate that practice. It seems totally fair to me.

And I must admit, I'm a bit confused as to why FERC believes it needs Congress to act on this. FERC created a tolling order procedure out of whole cloth. Nothing in the statute provides FERC the explicit authority to issue tolling orders, which primarily ben-

efit pipelines. But FERC did it anyway. And yet, they don't seem to be willing to be as creative or supportive when it comes to measures that could benefit landowners. I find that troubling.

So, I urge FERC to leverage all tools at its disposal to restore the proper balance of power between big natural gas and big companies, and provide landowners, and if not, I hope that the Chair and the Ranking Member act legislatively to address this. And I yield back. And, again, I thank all the participants and the Chairman and Ranking Member for holding this important, really, balance of power issue for our communities. I yield back. Thank you.

Mr. RASKIN. Thank you for those very thoughtful points and questions.

I now yield to Mr. Armstrong of North Dakota for his five minutes of questions.

Mr. ARMSTRONG. Thank you, Chairman Raskin. And I just—I want to piggyback on a couple of things Congressman Roy said, and the first being that I have had an opportunity in North Dakota to deal with these issues, both in the private sector and the legislative sector, since the Bakken shale problem started occurring in 2007 and 2008. I had an opportunity to work through the state regulatory agencies to rewrite all of our intrastate pipeline regulations for the whole state of North Dakota.

We set up a program at the Department of Agriculture to actually have landowners who are dealing with easement problems. More often than not, six months after a pipeline was put in, we have hard winters, sometimes we have erosion issues in the spring, and allowing landowners, farmers, and different people to navigate those positions.

But I also think it's important to point out this isn't—that we have seen an absolute attack on the oil and gas industry in my two years. Whether it's this committee or Financial Services, we have heard members talk about starving energy companies of access to capital. We have had a vote on the floor of the U.S. House in which almost every Democrat in the U.S. House voted to ban the transport of liquefied natural gas by rail.

These issues are very important in North Dakota. We're the geographic center of North America. We produce a lot of things, oil and natural gas, that have to get to market in other places. And you can follow this through as it goes everywhere. The Williams pipeline abandoned a project that after New York had continued to [in]the cost from 600 to \$1 billion. Duke and Dominion abandoned the Atlanta Coast Pipeline after they secured a 7-to-2 Supreme Court victory, because of a ruling in my neighbor state on the Dakota Access Pipeline, which threw out the longstanding Corps—nationwide permit 12 Corps of Engineers Program.

So, to deal with these issues is—and being able to get our products to market is incredibly important, not just for the state of North Dakota, but for the United States energy independence.

That being said, I have also been in numerous fights with oil subsidiaries in my home state over private property rights. And so, I just start with an eminent domain should be used sparingly, if at all. If you are doing those things, there is a constitutional right.

So, I would start with Mr. Turpin. Would it be realistic to build this infrastructure without the use of eminent domain?

Mr. TURPIN. As I said in my earlier remarks, I mean, long linear infrastructure gets built on private land. I mean, it's just not possible without private land. And I think Congress recognized the weight and the seriousness of the need for eminent domain for certain types of infrastructure when it added it to the Natural Gas Act.

Mr. ARMSTRONG. And, Mr. Morenoff, then I'll go to you, and I will make it more specific. When you are dealing with a pipeline, particularly in troubling geographic areas, if you have 999 landowners say yes, and one says no without the use of eminent domain, do you have a pipeline?

Mr. MORENOFF. No, there may be situations where eminent domain is necessary.

Mr. ARMSTRONG. OK. And then, so now we're talking about that, and we know we need to continue it—and any realistic—by the way, this is realistic for any energy project. If some of my friends have their way and figure out a way to stave off and choke off all carbon fuels, oil, and natural gas, we are going to need eminent domain to put transmission lines. I can guarantee you that because the infrastructure—I served on the Select Committee on the Climate Crisis, and the infrastructure for those projects does not exist at all. And as far as I am aware, the eminent domain procedure for transmission line in a pipeline is not significantly different, is it?

Mr. MORENOFF. No, indeed there is not comparable siting authority for the Commission under the Federal Power Act, so that would be addressed on the state level.

Mr. ARMSTRONG. So, once we're dealing with these pipelines, one of the things I think that really is important—because we know this is going to continue, and it has to continue. Our energy independence and our economy depend on it. So, can you—and I ask you both this—can you discuss the steps that FERC takes to ensure that companies actually do properly restore the lands? Because oftentimes, one—I mean, these are contentious situations that occur one way or the other, but once they occur that, that is the next step in the process. So, do pipeline companies have to provide FERC with status reports throughout the process?

Mr. TURPIN. They do. The Commission requires the companies to have environmental inspectors that they employ to do monitoring and to file reports. We often employ compliance monitors to be in the field looking at restoration activities and construction activities, with the entire goal to ensure that the construction complies with the Commission standards with the plan and procedures that was put out, and that restoration is completed along those right-of-ways once the project goes into service.

Mr. ARMSTRONG. Does FERC have—I mean, do you have employees that do onsite screening inspections, or for ongoing pipeline projects?

Mr. TURPIN. Yes. Yes. They Office of Energy Projects that I work in, our staff will do field inspections. More often, we employ contractors and compliance monitors to be in the field, because they're there at the project for the entire duration of the construction on that specific project. But we have them there to monitor just those circumstances.

Mr. ARMSTRONG. And you guys have a helpline as well, right? Like we sent the—in North Dakota, we set it up in the A Department. Just because we're a rural state, most of the people we're dealing with had some knowledge base, or had some relationship with some agriculture program in the state. But you guys have a helpline as well?

Mr. TURPIN. Yes.

Mr. RASKIN. The gentleman's time has expired. But, please, Mr. Morenoff, answer his question.

Mr. MORENOFF. Yes, that's correct. We do have a landowner helpline that is part of our Dispute Resolution service based in our Office of the General Counsel that coordinates with other FERC staff as appropriate as Terry was describing.

Mr. ARMSTRONG. And then, thank you Mr. Chair—Chairman Raskin for letting me go over a bit. I would also just say, one game of paper, rock, scissors is actually 2 to 1 against.

Mr. RASKIN. See, I thought it's like if you have two rocks, it's a tie. But then the paper beats the rock, but the rock beats the scissors. But, we will figure it out later. I was trying to figure it out.

I am going to call now on Ms. Wasserman Schultz for her five minutes of questioning.

Ms. WASSERMAN SCHULTZ. I am just going to resist temptation to—to even get in that fight, though it's difficult. Thank you, Mr. Chairman. I'm really glad we're having this hearing today because this is an opportunity to highlight a lesser known harm caused by fossil fuel pipeline. We know that there is grave harm that building fossil fuel infrastructure causes, and it's certainly an obstacle to getting to clean energy as soon as possible.

But today, we have been talking about FERC certificates. And these start the pipeline approval process, but they don't authorize construction on their own. When the pipeline company is ready to build, it has to come back to FERC to get another approval. FERC policy prohibits a pipeline company from beginning construction until it has all the necessary permits from other non-FERC Federal and state agencies. For example, people are authorizing pipeline construction. Companies must comply with bedrock environmental statutes to ensure that its projects won't cause significant harm to natural resources or other interests or to ensure that any harm produced is mitigated. Mr. Turpin, do I have that right so far?

Mr. TURPIN. Yes, ma'am.

Ms. WASSERMAN SCHULTZ. OK. So, despite this, FERC has created a loophole to allow companies to begin action on the project under what FERC calls, quote, preconstruction activity.

And, Mr. Roy, I appreciate your comments about being careful about eminent domain and how we use it, but preconstruction activity is allowed even if the pipeline doesn't have all its permits.

Our investigation revealed that over the past 20 years, FERC has authorized preconstruction activity for 242 pipelines that have not yet received all necessary permits. And I want to talk about one notable case—the story of the Holleran family in Pennsylvania. The Hollerans have owned a small maple syrup farm that's in the path of the then proposed Constitution Pipeline. They refused to sell access to their land, so the pipeline company took them to court and won an easement through eminent domain.

In January 2016, FERC allowed the company to proceed with preconstruction activity and so-called limited tree felling. This pipeline company cut down 550 trees [inaudible]—I'm sorry. Can I ask for a pause, Mr. Chairman? There's someone who is unmuted that has a lot of background noise.

Thank you.

So, if I can just be given a little latitude.

So, the company—the pipeline company cut down 550 trees on the Hollerans' land, including 90 percent of the trees they used for their maple syrup business, some of which were over 200 years old. This limited preconstruction activity all but destroyed their business. By the time we launched our investigation earlier this year, four years had passed, but the pipeline still hadn't been built because of ongoing litigation about state permits.

Mr. Turpin and Mr. Morenoff, do you think it was fair for this family business to lose four years of revenue, even though no construction was actually happening?

Mr. TURPIN. I'll go first. No, that is not an outcome that the FERC review process was ever intended to allow to have happen. I would like to clarify, though, that the Commission doesn't have a category of clearances for preconstruction activities. Any activity that is undertaken needs to have the permits for that activity, whether that's tree felling or anything else involved with the pipeline construction.

Ms. WASSERMAN SCHULTZ. But I think you'd agree—and it sounds like you do agree—that—I mean, if the purpose of eliminating trees on the Hollerans' property was to begin the process of clearing the way for the pipeline to be built, when you don't even know that the pipeline will ultimately get built—and it, to date, has not been. In fact, it's been canceled—then that kind of preconstruction activity, permitted one permit at a time is premature and inextricably and permanently damaging to this property owner and business owner's businesses. Wouldn't you agree?

Mr. TURPIN. Yes. I'm sorry, I had trouble with the mute button. Yes, and that's why the Commission changed its approach. Constitution was the first time, in my knowledge, that we'd come across a circumstance where once construction was authorized and moving forward, that the other permits weren't gotten.

So, after that, the Commission, in looking at the notices to proceed with construction, moved to a stance of ensuring—of not allowing construction if a unit—if an operable unit of the pipeline project couldn't be developed with all the permits in hand before any construction could start. That's not to say that every permit across the entire project is needed but ones that—basically, it's an approach to eliminate the potential that you have stranded construction that can never be used.

Ms. WASSERMAN SCHULTZ. OK. I want to explore this a little further with you. To add insult to injury, in February, after years of litigation over permits, the company actually abandoned the project completely. The termination of this unnecessary fossil fuel project was a big win in the fight to protect our Nation's waterways—that's not what we're debating here right now—but at the end of the day, the Holleran family maple syrup business was destroyed for nothing.

So, Mr. Turpin, can you expand on what is FERC doing to make sure this never happens to anyone else?

Mr. TURPIN. It's that approach of looking at—looking at notices to proceed requests to ensure that—

Ms. WASSERMAN SCHULTZ. I'm sorry. Just so that there's not a lot of gobbledygook that people can't understand. What—how have you changed your policies to make sure that no business owner or property owner ever has the impact, due to FERC's policies—approval policies, ever has to go through that again and face the hugely damaging economic impact that the Hollerans have faced?

Mr. RASKIN. OK. And the witness can answer this question, please.

Mr. TURPIN. By ensuring that when a pipeline moves into construction, that the full unit of the—an operable unit of the pipeline is what's authorized.

Ms. WASSERMAN SCHULTZ. I don't know how the clearing of trees would have—I don't know how that correction would have prevented the 550 trees being felled and ruining the Hollerans' business. How would it have prevented that?

Mr. RASKIN. The gentlelady's time is expired.

Did you want a final comment on that, Mr. Turpin?

Mr. TURPIN. Sure. The situation that developed on Constitution was one where construction and tree felling was authorized before the project had received permits in another state that were necessary for the project to ever flow gas. So, that set of circumstances is prevented by approaching those clearances for construction in such a way that even if the companies got the permits for the specific action they want to undertake, if they are still reliant on a separate permit in another place to ensure that that infrastructure can ever be used, can ever flow the gas, and they don't have that permit, then construction isn't authorized to move forward.

Ms. WASSERMAN SCHULTZ. OK. I'm not sure I understand or that that's clear, Mr. Chairman, but I appreciate the indulgence.

Mr. RASKIN. Yes. Just to complete the point, Mr. Turpin, are you saying the certificate would not issue in the first place until all of the necessary permits were obtained by the company?

Mr. TURPIN. No, Representative. What I'm saying is that once the Commission makes a public interest determination, review for compliance, getting the other permits, initiating construction action, is delegated down to staff. Staff reviews the filings that the company makes. If the company doesn't have the permits needed for a section of construction, that would—that allows the construction to actually flow gas, to be useable infrastructure, then we no longer issue notice to proceed to allow it moving into construction.

Mr. RASKIN. So, at that point, they're forbidden to proceed?

Mr. TURPIN. Yes. They have to have specific authorization to proceed. And so if that authorization is not issued, they cannot move forward.

Ms. WASSERMAN SCHULTZ. Would that have stopped the trees from being felled, Mr. Chairman?

Mr. RASKIN. Well, Mr. Turpin, we'll give you one final comment, and then we've got to go to Mrs. Miller. It's her turn. But, yes, would what that stopped—would that have saved the trees in this case?

Mr. TURPIN. I'm not—I'm not certain. I mean, it's difficult for me to speculate on that.

Ms. WASSERMAN SCHULTZ. It wouldn't have. It wouldn't have. That's the point.

Thank you very much.

Mr. RASKIN. Ms. Wasserman Schultz, thank you very much for your questioning.

Mrs. Miller, it is your turn.

Mrs. MILLER. Thank you, Chair Raskin and Ranking Member Roy. And I want to thank both of our witnesses for being here today. These conversations are very important for us to have.

You know, everybody wants their lights on and their homes heated. The rise in usage of natural gas has led to American energy independence and American energy dominance. Between 2005 and 2017, the United States decreased emissions by 14 percent, a large part because of natural gas.

For over a century, my state of West Virginia has been an energy producing state. The natural gas industry has provided new and high-paying jobs in my state and throughout Appalachia. This has helped, as burdensome government regulations caused the loss of coal jobs. Natural gas continues to be vital for our energy security, our national security, and overall reducing of global emissions.

My colleagues across the aisle would have you believe that solar and wind can bring our carbon emissions to zero while easily powering our country. In places like California, where they have unachievable renewable energy standards, natural gas has helped keep homes, businesses, and schools powered when renewables cannot.

According to the U.S. Energy Information Administration in California, the most populous state in our Nation, nearly two-thirds of the households use natural gas for home heating, and almost half of the state's utility scaled electricity is fueled by natural gas. How does California get this critical source of energy, you might ask. By pipelines.

Pipelines are necessary to transport natural gas, both to ensure American homes can keep their lights on, but also it's necessary to trade with our allies. Many of our European allies rely on Russian natural gas, which is not only worse for the environment, but it is also a major national concern for security reasons.

It is also necessary to not only be cognizant of our citizens' property rights, but also to work with our citizens and communities on pipeline projects. I believe that we can do both of these things reasonably.

Mr. Turpin, how do FERC and pipeline companies engage with landowners and communities when they are considering new pipeline projects? How does the community engage in the process?

Mr. TURPIN. As I—thank you, Representative. As I had mentioned earlier, it starts generally in the pre-filing process while the company is still designing its project. We require the companies to—we provide this venue so that all stakeholders can come to the table and give input, with the idea being that input into the project as it is being designed is much more effective than attempting to address issues that come up with a route that's already got a lot of study and a lot of factors baked into it.

So, during pre-filing, we require the companies to reach out to all the affected landowners, and they are free to file comments also to the Commission and its staff, and we will look at all those comments in looking at both the proposal by the company as it develops, as well as in suggesting alternatives throughout the project review.

Mrs. MILLER. I think we all understand that we have learned through our history the right way and wrong way to do things. People with orange groves, you know, when we've run roads right through their farms. We've all learned what's necessary. Can you discuss the importance of natural gas for American energy independence?

Mr. TURPIN. That would be something that I'm not able to discuss. My role at the Commission is really just reviewing the proposals that come in and it's looking at the transportation routes of that commodity, not making an assessment on the need of that commodity.

Mrs. MILLER. Have you been alive during the time when we were dependent on other countries for our energy?

Mr. TURPIN. Yes, Representative.

Mrs. MILLER. So, you would understand that.

How can exports of American natural gas improve the national security for our allies in Europe?

Mr. MORENOFF. Representative, Chairman Chatterjee has spoken many times with respect to that view, expressing his belief that the export of natural gas can be very helpful in the ways that you were describing.

Mrs. MILLER. Thank you. And how can natural gas help reduce carbon emissions while they are also providing key baseload energy? Either one of you.

Mr. MORENOFF. Representative, I think that is a question of what fuel is being displaced, but there may be situations where natural gas will lead to lower carbon emissions, relative to the—

Mrs. MILLER. OK. Thank you.

I yield back my time.

Mr. RASKIN. Thank you very much, Mrs. Miller.

I now recognize Congresswoman Robin Kelly from Illinois.

Ms. KELLY. Thank you, Mr. Chair.

FERC's processes and regulations are incredibly convoluted and difficult to understand, and landowners are often left to their own devices to try and figure it out. This is a stark contrast to pipeline companies who are repeat players with high-powered attorneys who know the system inside and out.

Mr. Turpin, do you agree that there is an inherent imbalance of power between individual landowners who know nothing about FERC and big energy companies with corporate attorneys?

Mr. TURPIN. No, I don't. I think the Commission's processes provide equal opportunity for anyone to make their voice heard in the Commission's considerations.

Ms. KELLY. Right. But there's a difference between when you have a high-powered attorney and when you're just an everyday landowner, in my opinion.

Advocates have pointed out that there is an imbalance and has been an imbalance for years. We have heard that the pipeline in-

dustry has many advantages over landowners in navigating the FERC process, including the ability to regularly communicate with FERC staff about their projects.

In 1978, Congress passed the Public Utility Regulatory Policy Act, or PURPA, which included a provision directing FERC to create an Office of Public Participation. Such an office would provide resources for folks who want to get involved in the FERC process but don't have the means or prior knowledge to do so.

Mr. Morenoff and Mr. Turpin, do you agree that an Office of Public Participation would be useful to landowners?

Mr. MORENOFF. Representative, I think that there are many ways that the Commission has sought to improve the experience at FERC. With respect to the Office of Public Participation in particular, my understanding is that since that authorization, Congress has never appropriated funds for that purpose, and my understanding is, in the absence of such an appropriation, FERC does not have the authority to provide such funds even if the office were created.

Ms. KELLY. Mr. Turpin, were you answering?

Mr. TURPIN. No, no. No, Representative.

Ms. KELLY. OK. Well, despite 40 years, as you know, has passed since Congress called on FERC to create the Office of Public Participation and it has not been created. And you seem to be inferring it's because of money that it has not been created.

Mr. MORENOFF. Representative, I think the Commission could create an additional office, and different chairmen have created different offices through their role and the proper assignment of staff, but I think specifically with respect to providing the funds that you were describing, I believe that would require a specific appropriation from Congress.

Ms. KELLY. Advocates have noted that FERC has never requested money for such an office, so a lack of money seems less likely. Makes you wonder about the lack of will.

PURPA also has a provision that would allow FERC to provide for compensation to landowners for fees they may encounter, which would significantly reduce the barriers for them to be able to participate in the FERC process.

Richard Averitt, a Virginia landowner, who was in the pathway of the Atlantic Coast Pipeline, spent more than \$100,000 defending his land in numerous court challenges. He has said he has no regrets about spending that money but thinks there should be a law that allows landowners to be compensated for reasonable fees. He stated, and I quote, "we're lucky we have the resources to fight it, but the way all of this is done is an outrageous abuse of landowners. You have everything to lose."

Would you agree that the average landowner attempting to protect his or her right to their land doesn't have \$100,000 to defend themselves against a large pipeline company?

Mr. MORENOFF. Representative, I suspect that's correct.

Ms. KELLY. And so if you suspect it is correct, why hasn't FERC created the PURPA provisions allowing landowners to request funds?

Mr. MORENOFF. Representative, again, my understanding is that FERC would not be able to provide such funds absent a specific appropriation.

Ms. KELLY. And then, Mr. Turpin, can you please tell us exactly what steps would need to be taken for FERC to provide this resource to landowners, and what should FERC do, and what should Congress do so maybe we can make some changes?

Mr. TURPIN. Well, I think, as my colleague has mentioned, it would have to be in appropriations. It would have to be addressing FERC's provision of this compensation to the private parties in these proceedings. We'd need to have—we would need to have instruction from Congress on that.

Ms. KELLY. OK. Mr. Chairman, I don't see the clock, so I don't know if I'm out of time. Oh, yes, I am. OK. Well, I definitely, for one, would like to see something done so we can be of more assistance to our landowners. Thank you.

Mr. RASKIN. Ms. Kelly, thank you for your promptness in your questioning.

And we will now go to Mr. Cloud of Texas.

Mr. CLOUD. Thank you very much, Chairman. Appreciate the topic. Energy is extremely important to where we are as a Nation right now.

Of course, you know, the world's demand on energy is growing, and so the question becomes, who's going to meet the world's demand for energy? And I think what we've seen lately with the amazing technological advancements with natural gas, it's really put the United States on the forefront of being a world leader in energy production. That has done a number of things. It's helped with our environment. It's helped with us being able to have strength going to the negotiating table when it comes to trade, when it comes to national security.

Indeed, we've had three historic peace deals in the Middle East. It's understandable that those may not have happened without the strength that we now have in the energy sector. So, it's important for us to understand the role that we do play in the energy world and how much of a benefit it is.

And, Mr. Turpin, could you speak to, what's the cleanest way to transport natural gas, that we know of?

Mr. TURPIN. Again, sir, my expertise is in analyzing the proposals for pipelines. I don't have the background for that.

Mr. CLOUD. Well, I think we understand that it is pipelines.

Could you speak to, then, the process leading up to filling out an application with FERC? Is it fair to say that many pipeline companies carry out pre-filing activities never formally apply? There's a lot of work that goes in even before the application. Is that correct? Can you speak to that?

Mr. TURPIN. Yes. Yes, there is. Actually, a lot of companies, from my understanding, will begin sort of conceptual investigations and design of projects and never even reach the pre-filing process. There are a smaller amount of companies that start pre-filing and then back out later.

It is typically no less than six months on a pipeline. More often it is a year or more, the pre-filing review. And again, it's where the pipeline is attempting to design its project with input from the af-

pected stakeholders so that when it does make a formal application to the Commission, it is attempting to address all the issues that people have raised about the project. So, it is a long process.

Mr. CLOUD. OK. Is FERC—you touched on this before, but is FERC the only agency that signs off on pipeline projects?

Mr. TURPIN. No. Any—

Mr. CLOUD. Or any project of this? Go ahead. Either of you can answer. Go ahead.

Mr. TURPIN. I wouldn't—no. The—the—FERC is often the agency that issues one of the principal or lead permits, but a project will have to comply with all Federal authorization.

Mr. CLOUD. What are some of the other agencies?

Mr. TURPIN. Oh, it depends on—you know, it's very specific to the project and the type of resources that it crosses. It can involve Clean Air Act permits from the EPA, Clean Water Act permits at the state level. It involves coordination and clearances from Fish and Wildlife Service, National Marines Fisheries Service on species consultations, as well as coordination with the advisory council on historic properties.

Mr. CLOUD. OK. And any company wanting to build a pipeline, even if FERC's authorization certification comes first, they still need to be approved by all these other agencies. Is that correct?

Mr. TURPIN. That is correct.

Mr. CLOUD. OK. Thank you, Chairman. I appreciate the time, and I yield back.

Mr. RASKIN. Thank you very much for your questioning, Mr. Cloud.

We come now to Ms. Norton for her five minutes.

Ms. NORTON. Thank you very much, Mr. Chairman, and I certainly appreciate this hearing, because I think it is important to straighten out where we really stand.

Now, nobody on this committee is against natural gas. Natural gas is an important step to be taking now in the fight to alleviate climate change. What we're talking about here does not seem to me to be hugely impossible for industry to take. But we find that FERC, the regulatory agency, falls short of fully enforcing its obligation. That's the problem.

Instead of requiring pipelines to fully repair property before being allowed to use the pipeline, FERC usually allows the pipeline to go into service before restoration. So, what that means is that the pipeline can begin profiting while dragging its feet on repairs. So, you can see why the committee sees a remedy here that apparently FERC has not seen.

So, I'd like to ask Mr. Turpin why FERC doesn't require companies to complete restoration before allowing them to turn the pipeline on. That would be a pretty simple solution here. Wouldn't it be a minor delay to ensure timely repairs, rather than begin profiting before the landowner is made whole?

Mr. TURPIN. So, the Commission does—the Commission does require companies to restore land. Often that—what is looked at is the trajectory of restoration that they're on. Restoration can take multiple years, which is why the Commission's standard is that the right-of-way needs to be monitored and inspected for at least two growing seasons. What we're looking for is the restoration of vege-

tation, that proper drainage is restored, and often those things can't be assured until after one or two growing seasons.

In addition, there can be pipeline subsidence after—or right-of-way subsidence after the pipeline is installed. So, rather, we look for the company taking the responsible action, recognizing that a restoration of things like vegetation can take some time.

Ms. NORTON. Yes, but you speak about the restoration being completed within two years. Let me give you another example, because two years is a long time to wait for restoration. I want to give you the case of the Midship Pipeline, because that's where we saw the kind of damage that brings on a hearing like this.

FERC let it go into service in April of this year, but that was after Midship promised to complete the full outstanding repair by the end of June. Now we're more than five months later. Those farmers are still waiting and have lost yet another growing season due to Midship's delays. That's after already having lost several seasons during construction.

I suspect that those repairs had to be done—if those repairs had to be done before Midship could turn the pipeline on, the farm would have long since been repaired. Don't you see the quid pro quo there, Mr. Turpin?

Mr. TURPIN. I think restoration activities are always dependent upon weather and lots of circumstances. In the cases you're talking about on Midship, there had been a substantial amount of rain throughout parts of the construction and restoration. And what we've seen is, the longer the restoration gets—drags on because of inefficiencies or because of difficulties, the more difficulties that pile up. So, that is a situation we still continue to look at, but the bottom line is, the—Midship will be required to restore those rights-of-ways to the conditions that the Commission establishes. I mean, point blank, that's it, they will be required to restore them.

Ms. NORTON. Of course, they're required to restore them.

Mr. Chairman, there simply is no equivalence between restoration and operation. Operation, it seems to me, is the overall—has the overall advantage with FERC, and as a committee, I believe we have got to make those two equivalent or the landowners will continue to be penalized.

Thank you, sir. Thank you, Mr. Chairman.

Mr. RASKIN. Thank you for your trenchant insight on that. I very much appreciate it.

And I now recognize our distinguished colleague from Michigan, Ms. Tlaib, for her five minutes of questioning.

You've got to unmute, please, Ms. Tlaib.

Ms. TLAIB. I'm so sorry. Thank you so much, Chairman, and thank you so much for bringing this important issue to our committee. I had no idea this was happening, and I really do appreciate it.

In our video report earlier this year, I think, Chairman Raskin interviewed a landowner named Richard Averitt who was fighting to protect his land from the now canceled Atlantic Coast Pipeline. He explained how complicated the FERC process is for the landowners and pointed out an absurdity in the process, which really took me aback.

If a landowner wants to challenge a pipeline that may go through their private property, they must affirmatively file to be an intervenor in the FERC case within 21 days. If you don't intervene, you lose standing, completely lose any rights. Richard, in his testimony before Chairman Raskin, he said, quote, "the idea that someone can take your land, and if you don't expressly opt in, you lose your rights for all the processes, it's outrageous."

I agree with him completely. This is an extraordinary burden, y'all, like, on landowners, on people, regular folks. They're not lawyers, they're not experts, and I truly believe that FERC's process puts this unfair burden onto our residents and landowners.

One of these things that came up, but, you know, one of the things that was really stunning was that FERC actually takes literally a hands-off process or approach in educating landowners about their rights. FERC delegates it—get this—to the pipeline company to conduct direct outreach to landowners and inform them of their rights. This is a huge conflict of interest.

Landowners have said that the only notice they ever receive consists of some sort of pamphlet that's buried in legal documents. They often have no idea, which is completely unfair—no idea, no notice that they must intervene to fully be engaged and be able to protect their land.

So, Mr. Morenoff, why doesn't FERC proactively reach out to affected landowners instead of delegating it to the pipelines?

Mr. MORENOFF. Representative, we go to great lengths to ensure that all landowners receive notice through attention to the landowner list and the—ensuring that information is provided. At that—

Ms. TLAIB. Mr. Morenoff, are they lying? Are they lying when they say they're not given notice? I mean, why wouldn't they? It's their land. So, when you say you do, you're literally delegating it, from what I understand, giving it and putting the burden on the companies that benefit from them not—from the landowners not knowing.

Mr. MORENOFF. Our sense is that, including through the pre-filing process that my colleague was describing, the pipeline is in the position to have a sense best of all of the people who will be affected along the way. FERC's regulations then require that information to be provided.

It's also the case that I—I'm sorry.

Ms. TLAIB. Go ahead, Mr. Morenoff. I just think it's a conflict of interest when it looks like you all are depending on the pipelines to do it.

Mr. MORENOFF. I also feel confident that in the situation where a landowner were able to show that they had not received notice, the Commission would allow them to intervene after that 21-day period as a matter of fairness.

Ms. TLAIB. Beyond the pamphlets and the FERC website, what does FERC do to proactively educate landowners other than the options in the FERC process right now?

Mr. MORENOFF. To me, one of the really important opportunities that we provide is also the landowner helpline, which is something that is also—we try to heavily publicize, so that people have the opportunity to have someone at FERC who can help them to under-

stand the process. We do understand that many people have no reason to be familiar with FERC.

Also, the FERC website was completely overhauled this past—

Ms. TLAI B. How many people, do you know how many people, Mr. Morenoff, have called the hotline?

Mr. MORENOFF. I believe over the past few years, it is in the hundreds to thousands.

Ms. TLAI B. I want to go back to the issue of intervention. It seems to me that if FERC wanted to protect landowners, it could, by default, make all the affected landowners parties to the case by default, literally make them part of the case—they are directly impacted—and allow landowners to opt out of the process. So, why not automatically go ahead and make them part of the process? They have legal standing obviously, it's their land.

I mean, the only good reason I can think of is FERC doesn't really want to make a good-faith effort to make the process smoother and easier for—you know, easier for landowners, but really lean toward benefiting the pipeline.

So, Mr. Turpin, why is the window for the landowners' intervention so short, 21 days?

Mr. TURPIN. Well, it's not just the 21 days. There's also opportunities to intervene after the Commission issues its draft environmental impact statement. And either of those periods are not prohibitive as well. Folks can petition to become an intervenor at any time in the process as long as they can demonstrate good cause. And the Commission has historically viewed land ownership as good cause for being an intervenor.

Ms. TLAI B. Mr. Turpin, is it true that FERC has the authority to set a longer intervention period?

Mr. RASKIN. The gentlelady's time is up, but please answer her question if you would.

Mr. TURPIN. Yes. The—the—yes, the Commission has that authority.

Ms. TLAI B. So, why haven't they done it?

Mr. TURPIN. I think, again, it comes back to that the Commission will always consider requests for intervention even outside of those periods when it makes its determinations and often grants that intervention.

Ms. TLAI B. Depending on what the pipelines want, right?

Mr. RASKIN. Ms. Tlaib, I think we're going to have to leave it at that. Thank you for your questioning very much.

And Mr. Lynch of Massachusetts is recognized for five minutes now.

Mr. Lynch—Mr. Lynch, you've been recognized for your questions.

Mr. LYNCH. Thank you very much, Mr. Chairman. I really appreciate your kindness in allowing me to waive in on this. I'm not a usual member here, but I am—

Mr. RASKIN. We are delighted to have you.

Mr. LYNCH. Well, thank you.

So, I also sit on the T&I Subcommittee on Railroads and Pipelines and Hazardous Material, so I do get a lot of action around pipelines. Matter of fact, I asked for assignment to that subcommittee on Transportation because of all the problems I'm hav-

ing with pipelines in my district. So, I really appreciate the opportunity to participate.

I've got two major and dangerous pipelines that have been recently permitted by FERC in my district. One is the West Roxbury Lateral. Mr. Turpin, you might be familiar with this. It actually runs through a live blast zone. OK? So, it's a high-pressure natural gas line that runs through an active blasting zone in a stone quarry that's next to a residential neighborhood, so—you get that? They're blasting, right? So, the people complain that their foundations are being disrupted and damaged by the continual blasting that goes on here. And then you come along and permit a high-pressure gas line to go through the blast zone right next to the homes. These are residential homes in West Roxbury.

And I got to tell you, we went to court against you. We lost because—because everybody loses, right? And I appreciate the due process arguments, you know, offered by the chairman. Absolutely true, and it's stunning. It's absolutely stunning.

And then I have another pipeline that is in Weymouth, Massachusetts, also in my district, and we're having a war about that. We had two accidents in the last several months on that one. There's been emergency shutdowns, and we still can't stop it. So, we're dealing with PHMSA right now. They're actually doing an active investigation.

But the question I have is, so in Weymouth, in Weymouth, that is a pipeline to bring gas to Canada. Now, the pipeline companies have relied heavily on the public purpose clause of the Fifth Amendment, because ostensibly there's a public purpose in providing gas to American cities and towns, you know, to service our needs.

But this gas, this gas, is now become available—because in the last 10 years, we went from a country that had a dwindling gas supply, but because of hydraulic fracturing and direct drilling, now we are an exporter.

And so what I'm asking is, shouldn't there be a different standard? Shouldn't we take a closer look, a deeper level of scrutiny for gas companies that are creating pipelines for profit to sell to other countries?

So, the public purpose clause should not apply, in my opinion—in my opinion. And I just want to ask Mr. Turpin and Mr. Morenoff if you could address that question. Because we raised it in court, but, you know, we had no shot.

Mr. MORENOFF. Representative, if it's all right, may I answer that question first?

Mr. LYNCH. Sure.

Mr. MORENOFF. In April 2018, the Commission issued a Notice of Inquiry with respect to the certificate policy statement that has governed the Commission's review of these types of certificates for the past 20 years. One of the questions that was teed up there went to what constitutes need and are there different standards that should be applied based on different facts.

Chairman Chatterjee has stated several times publicly that his view is those issues are of such importance that they should be addressed by a full complement of five commissioners. Regrettably, we've had difficulty having five commissioners over the past few

years, but with the recent approval, we will be up to five commissioners in January, and that may provide the opportunity to address that and other issues that were raised in that notice of inquiry.

Mr. LYNCH. OK. What I'm saying is that FERC's credibility is at a low point right now, and—so, you know, we've got a bunch of factors that have not been as present as they are now. And I haven't even got to the environmental part, which is huge, but just the public safety.

So, the people in these city towns came up with alternative courses, alternative routes, that were safer for the residents, and FERC would not consider those. The pipeline company knew they were going to get their—why should they—why should they compromise? Why should they accommodate the local community when they know they can jam it right through the court and get exactly what they want?

So, I'm asking you to rebalance the scales and consider the safety of the people, you know, that you're supposed to be protecting and that we're all supposed to be protecting.

So, I don't know if my time is up, Mr. Chairman. The only other thing I would—is just give Mr. Turpin an opportunity to address the same question.

Mr. RASKIN. Thank you, Mr. Lynch. Your time is up, but let's give Mr. Turpin a chance to respond.

Mr. LYNCH. You're very kind. Thank you.

Mr. TURPIN. Thank you. I would have the same response that David put forward. The Commission has considered those questions and has sought comment from the public and all kinds of stakeholders, and I'm hopeful that they'll move forward now that we'll be soon having a full panel.

Mr. RASKIN. Thank you. Mr. Lynch—

Mr. LYNCH. Thank you. Thank you, Mr. Chairman. You're awesome. Thank you.

Mr. RASKIN. Thank you for your questions.

Mr. Lynch poses a very trenchant question, I think, that all of us would be interested in having answered by FERC, which is, you know, it's one thing if they come and they want to take your whole backyard for a highway in your city. It's another thing if they want to take your backyard for a highway to get to another country that Americans aren't even going to be using, and should that be treated differently.

I see now finally we've been joined by Mr. Gomez. And, Mr. Gomez, you are recognized for your five minutes of questioning.

Mr. Gomez, you're recognized if you would unmute.

Mr. GOMEZ. Thank you, Mr. Chairman. In the age of coronavirus, I'm having some technical difficulties.

So, I want to just start off with the question. In our investigation, we saw a pattern of landowners' perception of the FERC process, one that unfairly favors pipeline companies over individual landowners. Irene Lynch, a Virginia landowner in the path of Atlantic Coast Pipeline, has said that, quote, "FERC is broken and the whole process is set up so that the industry has advantage over landowners every step of the way."

Similarly, Andrew Hindman, a Virginia landowner in the path of the Transcontinental Pipeline, said, quote, “FERC authorized a pipeline and unleashed a private company onto all the landowners along the pipeline without offering a whole lot of support. It’s unfair to the landowners.” FERC Commissioner Richard Glick has consistently called for more landowner support.

Mr. Morenoff, do you believe that as things stand now, FERC provides equal support for landowners to stand on equal footing with pipeline companies?

Mr. MORENOFF. Representative, thank you. I think the Commission is always looking for ways to improve their process. We recognize that landowners have those concerns, and we continue to make improvements to the FERC process to make it more accessible and more easily understandable for entities that do not have the same familiarity with FERC as would prospective developers.

Mr. GOMEZ. What do you think FERC should do to provide more support? Is there any specific recommendations?

Mr. MORENOFF. Representative, some of the changes that we have made already, and I know we continue to attend to, are making more information more easily available. I think it’s a fair criticism that even two or three years ago, someone coming to the FERC website trying to find information, if you didn’t know about FERC, it would be very challenging to find that information. Now the first page of ferc.gov is [inaudible] ask questions, as well as to provide more information about the landowner helpline, so that the landowners have the opportunity to talk to a real person that can help them to understand that process. I don’t have other specific ideas in mind today, but the Commission is committed to continuing to improve that process.

Mr. GOMEZ. Yes. And I appreciate that, but as far as we can tell, FERC seems to assign much of the responsibility of assisting landowners to the pipeline companies themselves. For example, FERC’s landowner—quote/unquote, landowner topics of interest page, it suggests that landowners first contact the natural gas company’s point of contact, then the company’s hotline, all before reaching out to FERC’s landowner helpline.

So, Mr. Morenoff, why should a landowner seeking help with a pipeline process trust the pipeline company to have his or her best interest at heart?

Mr. MORENOFF. Representative, thank you. And my colleague Terry may have thoughts on that as well, but because the pipeline developer is the entity that’s on the ground, we do suggest contacting the pipeline first, because if they can reach a solution quickly, that’s going to lead to the fastest relief. But that in no way is intended to say don’t contact FERC. FERC is always there as a resource. And if for any reason a landowner prefers to contact FERC directly, they should do so quickly and first.

Mr. GOMEZ. Thank you. Also, landowners who do call the pipeline, as what we’ve been told, say they feel like they’re speaking into the void. Landowner Maury Johnson of West Virginia stated, quote, “most landowners, citizens, and many other groups that I know feel that they are being ignored by FERC to the benefit of the energy firms that FERC is supposed to regulate. There is nothing fair about this at all.”

Mr. Morenoff, can you tell us what assistance FERC provides landowners through its helpline?

Mr. MORENOFF. Yes. There are a variety of types of assistance that a landowner may receive. One is it's a chance to talk to a real person about FERC, about the process, if someone does not understand what their opportunities may be to participate.

It's also a way that if a landowner has a specific concern at any point in the process, that point of contact through the landowner helpline either may be able to reach out directly to appropriate people on the ground or through the people in Terry's office, the Office of Energy Projects, to be able to have that kind of conversation. So, it is both informational and the opportunity to receive specific assistance.

Mr. GOMEZ. Thank you. I had more questions, but I'm running out of time.

You know, as the primary Federal authorizing agency for natural gas pipelines, it is, I believe, the duty of FERC to keep these pipeline companies in check. But at the same time, our investigation has found that 99.4 percent of pipeline applications have been approved—essentially, it is a rubber-stamp, right—for nearly every natural gas project, often at the objection of landowners.

It's a deep concern, because it's not your job just to authorize natural gas pipelines, but also to help determine if they're in the best interest of the landowners. And it seems that it's not—that purpose is not being followed through with and at the detriment of landowners.

So, with that, Mr. Chairman, I yield back.

Mr. RASKIN. [Inaudible.]

Mr. MORENOFF. Mr. Chairman, I believe you're muted.

Mr. RASKIN. OK. Thank you, Mr. Gomez.

And I don't know whether either of the witnesses wanted to comment on the question raised by Mr. Gomez about what is the standard that FERC uses in granting a certificate of convenience in the first place.

Mr. MORENOFF. Mr. Chairman, the Commission takes seriously our responsibilities with respect to the public interest as established by the Natural Gas Act, considering a wide range of considerations, including economic and environmental, as well as the concern of landowners, in determining whether a certificate of public convenience and necessity is appropriate. And I think that the types of changes to which my colleague was referring that develop through the pre-filing process, as well as through the more formal application process, reflect the seriousness with which the Commission takes that responsibility.

Mr. RASKIN. OK. Thank you.

Before I adjourn and make a quick closing remark, I wanted to give Mr. Armstrong the opportunity to make any closing remark he would like to on behalf of the minority.

Mr. ARMSTRONG. Thank you, Chairman Raskin.

I think it's important to remember natural gas is essential to our economy and the United States' energy independence, and it's often produced in states like mine and needs to be transported across the country. Pipelines are far and away the safest, cheapest, and most efficient way to transport natural gas.

Pipelines relieve congestion on our highways and our rail lines and keep transportation costs down for other industries such as agriculture.

Pipelines require many years and significant capital to be built. They require numerous permits at the state, local, and Federal level. Unfortunately, eminent domain is often a part of that process. FERC uses the eminent domain, and pipelines use it very sparingly, and it's essential for U.S. energy independence.

And with that, I'll yield back to you, sir.

Mr. RASKIN. Thank you very much, Mr. Armstrong.

I want to thank both of the witnesses for their remarks, for appearing today, and I want to commend all my colleagues for participating so seriously in this truly important conversation.

I wanted to just close by making a couple of points. You know, we are the Subcommittee on Civil Rights and Civil Liberties, and so we are concerned with the trampling of the property rights of our people. We are not the Environmental Subcommittee, so we're not dealing with the question of the overall utility of this or that form of energy system.

And so I would hope that all of our committee members—and I know from Mr. Roy's comments, he would seem to be part of this—that all of our committee members would be interested in the civil rights and the civil liberties of landowners who are in the path of these pipelines, whether you're the biggest supporter of natural gas and fracking in the world or you're a big opponent of it. Regardless of what you think about the energy systems generally, you would think that people have a right, as private property owners, to fair and balanced consideration of all of their claims and not having their property taken from them without due process, without fair compensation, without the opportunity to have it restored if a project exercising eminent domain actually ends up not going forward.

Let me just say, finally, because it was raised—although it was not the subject of the hearing—I think it was stated by a couple of people that natural gas fracking is climate change friendly or safe. That is hotly disputed, and the extraction, the combustion, the release of both carbon dioxide, but especially methane in the process, can make fracking as dirty as coal, according to a lot of scientific studies and reports. And, in fact, the fracking process leads to very intense concentrations of methane being released, and that is an even more diabolical substance when it comes to climate change than carbon dioxide itself is.

But in any event, that's the subject of another hearing. This one, I think, has been extremely productive and illuminating in terms of figuring out what's gone wrong in the FERC process. We look forward to FERC both acting quickly on its own to improving the fairness and the balance and the transparency of the process, but also us acting in Congress to make whatever changes we can to make sure that the property rights of tens of thousands of Americans is vindicated—are vindicated and respected in this process. So, thank you all for your participation.

Without objection, all members will have five legislative days within which to submit additional written questions for the witnesses to the chair, and we will forward them quickly to the wit-

nesses for their response. We thank you for your cooperation there in returning them to us as promptly as possible.

And the hearing is now adjourned.

[Whereupon, at 11:58 a.m., the subcommittee was adjourned.]