

Chapter 8

Gas Pipeline Relocation Issues

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§ 8.01. Introduction.

At the time when the majority of the United State’s pipeline infrastructure was constructed, pipelines – and in particular larger interstate transportation lines – were located in remote areas consisting mostly of farmland. As development increases and cities expand, pipelines and construction come more frequently into conflict. As a result, the need for pipelines to be relocated has increased in recent years.

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A number of issues arise when a request is made to relocate a pipeline including determining when and if the pipeline must be relocated, the mechanics of relocation, the need to acquire new rights, and the determination of who will pay for the relocation. This chapter will explore instances when an owner must relocate its pipeline, what must be done in order to relocate the pipeline, including acquiring new right-of-way and abandoning the old right-of-way if necessary, and what factors are applied by the courts to determine who is responsible for the costs of relocation under different circumstances including road construction, mining, and development projects near natural gas pipelines.

§ 8.02. Factors Regarding Pipeline Relocation.

[1] — When May a Pipeline Owner Decide to Relocate?

[a] — For Its Own Purposes.

A pipeline company may choose to relocate its line for a number of reasons. Common examples include instances when a company wants to link two pipelines together or where they wish to expand a line, and relocation of a pipeline is required to accomplish that goal. Also, as environmental and historic preservation requirements become stricter, pipeline companies are often required to relocate their lines around areas found to be of environmental or historical significance, such as wetlands or burial grounds, when upsizing or replacing currently existing lines.

[b] — For Safety Reasons.

In addition to federal environmental and historical preservation requirements becoming stricter in recent years, federal and state regulations regarding the safety of natural gas pipelines have also become more stringent.

The Pipeline Safety Act authorizes the Secretary of Transportation to prescribe minimum safety standards for the design, construction, operation and maintenance of pipeline facilities.² These standards or similar state requirements may require pipeline companies to relocate their pipelines in areas where erosion from water or landslides occurs, where construction has taken place too close to a pipeline, or where other dangerous conditions may exist.

² 49 U.S.C. § 60102(a) (2000).