

## **LANDOWNER’S RIGHTS**

The Federal Energy Regulatory Commission (“FERC”) requires National Fuel to provide a brief summary of your rights at FERC and in the proceedings under the eminent domain rules of your state. The following summaries should *not* be construed as legal advice, but only as brief descriptions for this limited purpose. If you have questions about your rights, you should discuss them with an attorney of your choice.

### **RIGHTS AT THE FEDERAL ENERGY REGULATORY COMMISSION**

The FERC pamphlet, “An Interstate Natural Gas Facility On My Land? What Do I Need To Know?” explains FERC’s approval process and your rights as an affected landowner. A landowner may become involved in the FERC review process in several ways. Any landowner who may be affected by a natural gas company’s project may be able to view the full application at area libraries or may request his or her own copy of the application by contacting National Fuel directly. A landowner may submit written comments to FERC and/or intervene in National Fuel’s docket at FERC while FERC is reviewing National Fuel’s application. FERC addresses landowner comments in the environmental review documents, if any, or in the final order. In addition, FERC places commenters on a mailing list to receive any environmental documents related to the application. A landowner may intervene in the proceedings through a formal filing process. An “intervenor” receives copies of any documents pertaining to the case and has the opportunity to file briefs, appear at hearings, and appeal final FERC rulings to the courts. An intervenor must serve copies of anything he or she files on all other parties, a process that can be expensive and time consuming. If you have any more questions about your rights at FERC, you can access the pamphlet on the FERC website at [www.FERC.gov](http://www.FERC.gov) or you can contact FERC’s Office of External Affairs toll-free at (866) 208-3372.

### **EMINENT DOMAIN GENERALLY**

A natural gas company’s right to use eminent domain to acquire a right-of-way or easement on a landowner’s property for facilities to transport gas is a statutory right granted by Congress in Section 7(h) of the Natural Gas Act, and also arises under various state statutes. Congress has conferred the power of eminent domain on a natural gas company in cases where FERC finds that the company’s proposal is required by the public convenience and necessity. Then, if the natural gas company cannot reach a negotiated agreement with the property owner, the company may exercise the right of eminent domain. This exercise involves condemnation proceedings where a court decides the appropriate compensation to be paid by the company to the landowner for the right-of-way or easement. It is National Fuel’s policy to negotiate with landowners in good faith, in a fair and honest manner, to reach a mutually agreeable resolution of issues necessary to the acquisition of a right-of-way or easement. Where a mutually agreeable resolution is reached, the need for an eminent domain proceeding is avoided.

### **EMINENT DOMAIN LAW IN NEW YORK**

Chapter 73 of New York State’s Consolidated Laws, also known as the Eminent Domain Procedure Law (EDPL), governs eminent domain proceedings in New York courts. A landowner is entitled to just compensation for real property acquired under the EDPL. The company seeking to acquire a right-of-way or an easement must make a

written offer to the landowner in an amount that represents just compensation based on the company's highest approved appraisal. The landowner may accept the offer as payment in full; may reject the offer and seek compensation from the court; or may accept the offer as an advance payment and seek additional compensation from the court.

The company must serve notice to the landowner of the time and place of the condemnation proceeding and identify the property the company seeks to condemn. Landowners also receive an acquisition map or diagram of the affected property. A landowner may appear and interpose a verified answer to the company's petition requesting objections to the requested taking.

A landowner may file a claim for compensation in the Supreme Court within the time specified by the court. An appeal from the judgment of the Supreme Court may be taken to the Appellate Division of the Supreme Court.

*Revised 5/12/2014 slj*