

PETROLEUM PIPELINE CERTIFICATES

- 672-13-.01 Definitions
- | 672-13-.02 The Exercise of Eminent Domain for the Construction of a Petroleum Pipeline
- 672-13-.03 Applications for Certificates of Public Convenience and Necessity
- 672-13-.04 Additional Information to be Supplied
- 672-13-.05 Notice of Application and Proposed Route
- | 672-13-.06 HearingPublic Meetings on the Application
- | 672-13-.07 Review of the Commissioner's DecisionApproval or Denial of Application
- | 672-13-.08 ConductReview of Hearings and Reviews of Decisionsthe Commissioner's Decision
- | 672-13-.09 Notice to Landowner Prior to Initiating Eminent Domain Proceedings

672-13-.01 Definitions.

The following words when used in Chapter 672-13 shall have the following meaning unless the context thereof indicates ~~;~~ another meaning:

- (a) "Applicant" means any pipeline company that requests the issuance of a ~~certificate~~Certificate of Public Convenience and Necessity to exercise the right of eminent domain for the construction of a pipeline, pursuant to the provisions of Sections 22-3-80 through 22-3-~~8785~~ of the Official Code of Georgia Annotated.
- (b) "Certificate" means the Certificate of Public Convenience and Necessity issued by the ~~commissioner or the commissioner's designee~~Commissioner to any ~~applicant~~Applicant pursuant to the provisions of Sections 22-3-80 through 22-3-~~8785~~ of the Official Code of Georgia Annotated.
- (c) "Commissioner" means the Commissioner of the Georgia Department of Transportation.
- (d) "Existing Petroleum Pipeline" means a petroleum pipeline constructed and in use prior to January 1, 2016.
- (e) "Expansion" means a modification to an Existing Petroleum Pipeline within the existing easement or right of way that increases the supply of petroleum by:
 - (1) Increasing the diameter of an existing Petroleum Pipeline; or to be
 - (2) Constructing a Parallel Petroleum Pipeline.
- (f) "Extension" means a modification to an Existing Petroleum Pipeline that increases the length or footprint of the Existing Petroleum Pipeline by a distance greater than one linear mile.
- (g) "Maintenance" means:
 - (1) The care or upkeep of an Existing Petroleum Pipeline and its appurtenances;
 - (2) The replacement of an Existing Petroleum Pipeline within the same easement or right of way; or
 - (3) The relocation of an Existing Petroleum Pipeline for repair within one linear mile of the existing petroleum pipeline's alignment.
- (h) "New Petroleum Pipeline" means a petroleum pipeline that was not constructed as a common carrier in interstate or intrastate commerce for the transportation of and in use prior to January 1, 2016. The term "New Petroleum Pipeline" shall not include an Expansion, Extension, or any Maintenance.
- (i) "Parallel Petroleum Pipeline" means a Petroleum Pipeline that runs side by side to an existing Petroleum Pipeline.
- (j) "Petroleum Pipeline" means a fixed conduit constructed to transport petroleum or petroleum products in or through this state.

(e) "~~(k)~~ Petroleum Pipeline company ~~Company~~" means a corporation organized under the laws of this state or which is organized under the laws of another state and is authorized to do business in this state and which is specifically authorized by its charter or articles of incorporation to construct and operate ~~pipelines~~ Petroleum Pipelines for the transportation of petroleum and petroleum products.

~~(f) "Pipeline facility" or "Pipeline facilities" means and includes the pipeline and all equipment or facilities, including lateral lines, essential to the operation of the pipeline but shall not include any storage tank or storage facility which is not being constructed as a part of the operation of the pipeline.~~

Authority: O.C.G.A. Sec. 22-3-~~83(b)~~, O.C.G.A. (Ga. L. 1995, pp. 161, 164).

672-13-.02 The Exercise of Eminent Domain for the Construction of a Petroleum Pipeline.

- (a) Subject to the provisions, conditions, and restrictions of these rules and of O.C.G.A. Secs. 22-3-80 through 22-3-85, Petroleum Pipeline companies are granted the power to acquire property or interests in property by eminent domain for the purpose of an Expansion, an Extension, Maintenance, or construction of a New Petroleum Pipeline.
- (a)(b) No ~~pipeline company~~ Petroleum Pipeline Company shall exercise the right of eminent domain for the construction of ~~a pipeline~~ a New Petroleum Pipeline or for the Extension of a Petroleum Pipeline without first obtaining from the ~~commissioner or the commissioner's designee a certificate~~ Commissioner a Certificate that such action is authorized pursuant to the provisions of O.C.G.A. Section 22-3-83 ~~of the Official Code of Georgia Annotated.~~
- (c) No Certificate shall be required of a Petroleum Pipeline Company that is exercising the power of eminent domain for the purpose of Maintenance or Expansion.
- (d) No Certificate shall be required of a Petroleum Pipeline Company that is not exercising the power of eminent domain to acquire property.

Authority: O.C.G.A. Sec. 22-3-83(b), O.C.G.A. (Ga. L. 1995, pp. 161, 164).

672-13-.03 Applications for Certificates of Public Convenience and Necessity.

(a) ~~All applications for a certificate~~Certificate must be ~~in writing, properly authenticated. A verified and five conformed copies of the application shall be filed with the commissioner or the commissioner's designee. A certified~~submitted to the Department electronically. A copy of the ~~applicant's articles of incorporation~~Applicant's Articles of Incorporation and amendments thereto shall be ~~annexed to the~~submitted concurrently with the application. When the ~~New Petroleum Pipeline or proposed Extension is expected to be sited in five (5) or fewer Georgia counties, an application.~~A fee of \$2005,000.00 must accompany be submitted. When the New Petroleum Pipeline or proposed Extension is expected to be sited in more than five (5) Georgia counties, an additional \$1,000.00 per county is added to the application. This fee. The total fee is intended to cover costs associated with the processing and review of the application. ~~Application for a certificate to exercise as well as the right~~scheduling of public meetings. The application will not be considered filed until all required materials and the appropriate fee are received by the Department. Fees are to be submitted by mail to the Georgia Department of eminent domain for the constructionTransportation, Office of a pipelineUtilities.

~~(a)~~(b) The application for a Certificate shall set forth in the order indicated the following:

- (1) The exact legal name of the ~~applicant~~Applicant, the State or territory under the laws of which the ~~applicant~~Applicant was organized, the location of the ~~applicant's~~Applicant's principal place of business, the names of all States where the ~~applicant~~Applicant is authorized to do business and a concise but comprehensive description of the existing business, operations and properties of the ~~applicant~~Applicant with particular reference to the transportation by pipeline of petroleum or petroleum products.
- (2) ~~(b)~~The name, title, telephone number and post office address of the person to whom correspondence or communications in regard to the application are to be addressed. Unless advised to the contrary, the ~~commissioner or the commissioners designee~~Commissioner will serve notices, orders, and other papers upon the person so named.
- (3) ~~(c)~~A description of the proposed project together with its siting information, including its general route, but not limited to, a map indicating showing the proposed route, and the dates on which the applicant intends to begin and complete construction. The description should include a statement that all applicable federal and state laws and regulations on the sitting location of the pipeline will be met.route of the New Petroleum Pipeline or of the proposed Extension. Applicant
- (4) ~~(d)~~A description of the public convenience and necessity ~~which~~that support the proposed location of the route of the new pipeline route or of the proposed Extension.

- (5) ~~(e)~~ The width of the proposed ~~pipeline~~Petroleum Pipeline corridor up to a maximum width of one-third mile.
- (6) ~~(f)~~ A showing that use of the power of eminent domain may be necessary ~~to~~for construction of the ~~pipeline~~New Petroleum Pipeline or for the proposed Extension.
- (7) ~~(g)~~ A ~~Showings~~showing that the public convenience and necessity for the ~~petroleum pipeline~~Petroleum Pipeline justifies the use of the power of eminent domain.

Authority: O.C.G.A. Sec. 22-3-83~~(b), O.C.G.A. (Ga. L. 1995, pp. 1611-164).~~

672-13-.04 Additional Information to be Supplied.

The ~~applicant~~Applicant shall supply the ~~commissioner or the commissioner's designee~~Commissioner with any such additional information or data as may be ~~found~~determined necessary by the ~~commissioner or the commissioner's designee in order for the rendering of a fair and equitable decision in issuance of a certificate.~~Commissioner.

Authority: O.C.G.A. Sec. 22-3-83~~(b)~~, O.C.G.A. (Ga. L. 1996, pp. 161, 164).

672-13-.05 Notice of Application and Proposed Route.

~~(1)~~ a Notice of Application. Within ten (10) days of the filing of a complete application for a ~~certificate~~ Certificate as set forth in section 672-13-.03 of this chapter, notice of the application and the proposed route must be published ~~in the Atlanta Journal Constitution and in a newspaper of general circulation by the Applicant~~ in the legal organ of each county or counties in through which the proposed pipeline will lie. ~~Such notice shall be caused route of the New Petroleum Pipeline or of the Extension is to be published by the applicant and a copy thereof located.~~ Proof of publication shall be filed with the commissioner or the commissioner's designee within three (3) Commissioner as soon as practicable after the publication date, but in no event shall proof of the publication be filed later than ten (10) days following the publication date.

~~(2) Notice of Hearing. Within thirty (30) days after publication of notification as provided for in section 672-13-.05(a), the applicant shall cause notice of opportunity for hearing to be published as set forth in section 672-13-.05(a). The applicant shall file a copy of such notice with the commissioner or the commissioner's designee within three (3) days of publication. If response is received requesting an opportunity to be heard, the commissioner or the commissioner's designee shall set a time and place for hearing and the applicant shall cause a notice of hearing to be published as set forth in section 672-13-.05(a). Such notice shall be published not later than ten (10) days prior to the date of the hearing and shall include the time, date, and place of the hearing, the purpose of the hearing, a description of the proposed route, and the provisions governing the hearing, including the requirements for filing and hearing any objections to such application. Evidence of such notice of hearing must be submitted at the hearing as part of the record.~~

~~(b)~~ Notice to Landowners. Within ten (10) days of the filing of an application under this Code section, the Applicant shall provide written notice to all landowners whose property is located within the proposed route of the New Petroleum Pipeline or of the Extension. Such notice shall be delivered to each landowner and contain the following language in boldface type:

YOUR PROPERTY IS LOCATED WITHIN THE PROPOSED ROUTE OF A PETROLEUM PIPELINE FOR WHICH AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY HAS BEEN FILED PURSUANT TO ARTICLE 4 OF CHAPTER 3 OF TITLE 22 OF THE OFFICIAL CODE OF GEORGIA ANNOTATED. SAID ARTICLE ALONG WITH CHAPTER 17 OF TITLE 12 OF THE OFFICIAL CODE OF GEORGIA ANNOTATED PROVIDE SPECIFIC REQUIREMENTS WHICH MUST BE FOLLOWED BY PETROLEUM PIPELINE COMPANIES BEFORE THEY MAY BUILD A NEW PETROLEUM PIPELINE OR MODIFY AN EXISTING PETROLEUM PIPELINE. THESE PROVISIONS OF THE OFFICIAL CODE OF GEORGIA ANNOTATED ALSO PROVIDE SPECIFIC RIGHTS FOR YOUR PROTECTION. YOU SHOULD FAMILIARIZE YOURSELF WITH THOSE REQUIREMENTS AND YOUR RIGHTS.

Authority ~~Sec. 22-3-83(b)~~ O.C.G.A. ~~Sec. 22-3-83~~ (Ga. L. 1995, pp. 161, 164).

672-13-.06 ~~Hearing~~Public Meetings on the Application.

~~All hearings shall be held and a final decision rendered on any application not later than (90) days from the date of the publication of notice of application required in section 672-13-.05(a) of this chapter. In the event the application is not approved or denied within this ninety (90) day period, the application shall be deemed to be approved by operation of law. The commissioner or the commissioner's designee will make a determination based on the entire record, including any objections, and will either deny or approve the issuance of a certificate.~~

The Department will schedule a reasonable number of public meetings regarding the application for a Certificate prior to a final decision being rendered. In no event will fewer than two (2) public meetings be held regarding any application. Notice of the public meetings will be provided in the legal organ of each county through which the proposed route of the Petroleum Pipeline is to be located or through other means of communication deemed necessary and appropriate by the Department.

Authority ~~Sec. 22-3-83(b)~~, O.C.G.A. Sec. 22-3-83 (Ga. L. 1995, pp. 161, 164).

672-13-.07 ~~Review~~Approval or Denial of Application.

(a) ~~In making a decision as to whether to grant a Certificate, the Commissioner's Decision. As delineated by Section 22-3-83(d) of the Official Code of Georgia Annotated, the approval and issuance of a certificate shall not be subject to review; the denial of the certificate may be reviewed by a judge of the superior court of the county in Georgia in which the pipeline company has an agent and place of doing business, and petition for such review may be made directly to such superior court. Commissioner shall consider the following:~~

- (1) Whether existing Petroleum Pipelines or distribution systems are adequate to meet the reasonable public needs;
- (2) The volume of demand for such petroleum, and whether such demand and that reasonably to be anticipated in the future can support already existing Petroleum Pipelines and distribution systems, if any, and also the Petroleum Pipeline or distribution system proposed by the Applicant;
- (3) The financial ability of the Applicant to furnish adequate continuous service and to meet the financial obligations of the service which the Applicant proposes to perform;
- (4) The adequacy of the supply of petroleum to serve the public;
- (5) The economic feasibility of the Petroleum Pipeline or distribution system and the propriety of the engineering and contracting fees, the expenses, and the financing charges and costs connected with the Petroleum Pipeline or distribution system;
- (6) The effect on existing revenues and service of other Petroleum Pipelines or distribution system, and particularly whether the granting of such Certificate will or may seriously impair existing public service; and
- (7) Any other factors which the Commissioner deems necessary to grant or deny a Certificate.

(b) The Applicant shall bear the burden of proof to demonstrate that a Certificate should be issued.

(c) The application review process shall not exceed 120 days in length. If any application is not acted upon within 120 days of the date such application is filed, the application shall be deemed to be approved by operation of law.

Authority ~~Sec. 22-3-83(b),~~ O.C.G.A. Sec. 22-3-83(~~Ga. L. 1995, pp. 161, 164).~~

672-13-.08 ~~Conduct~~Review of ~~Hearings~~the Commissioner's Decision.

The issuance or denial of a Certificate may be reviewed by a judge of the superior court of the county in which the pipeline company has an agent and ~~Reviews of Decisions~~place of doing business. The review shall be by petition filed within 30 days of the date of approval or disapproval of the application and shall be determined on the basis of the record before the Commissioner. The action of the Commissioner shall be affirmed if supported by substantial evidence.

~~All hearings and appeals on applications for certificates shall be conducted in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act" and the special provisions of O.C.G.A. §~~

Authority O.C.G.A. § .Sec. 22-3-83 ~~and 22-3-85.~~

672-13-.09 Notice to Landowner Prior to Initiating Eminent Domain Proceedings.

Prior to initiating eminent domain proceedings or threatening to do so, the Petroleum Pipeline Company shall cause to be delivered to each landowner whose property may be condemned a written notice containing the following language in boldface type:

CHAPTER 17 OF TITLE 12 AND ARTICLE 4 OF CHAPTER 3 OF TITLE 22 OF THE OFFICIAL CODE OF GEORGIA ANNOTATED PROVIDE SPECIFIC REQUIREMENTS WHICH MUST BE FOLLOWED BY PETROLEUM PIPELINE COMPANIES BEFORE THEY MAY EXERCISE THE RIGHT TO CONDEMN YOUR PROPERTY. THOSE PROVISIONS OF THE OFFICIAL CODE OF GEORGIA ANNOTATED ALSO PROVIDE SPECIFIC RIGHTS FOR YOUR PROTECTION. YOU SHOULD FAMILIARIZE YOURSELF WITH THOSE REQUIREMENTS AND YOUR RIGHTS PRIOR TO CONTINUING NEGOTIATIONS CONCERNING THE SALE OF YOUR PROPERTY TO A PETROLEUM PIPELINE COMPANY.

Authority O.C.G.A. Sec. 22-3-83(b), O.C.G.A. ~~(Ga. L. 1995, pp. 161, 164).~~ Sec. 22-3-84