

PETROLEUM PIPELINE CERTIFICATES

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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 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 22-3-85 of the Official Code of Georgia Annotated.
- (b) "Certificate" means the Certificate of Public Convenience and Necessity issued by the Commissioner to any Applicant pursuant to the provisions of Sections 22-3-80 through 22-3-85 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
 - (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 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.

- (k) "Petroleum Pipeline 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 Petroleum Pipelines for the transportation of petroleum and petroleum products.

Authority: O.C.G.A. Sec. 22-3-83

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.
- (b) No Petroleum Pipeline Company shall exercise the right of eminent domain for the construction of a New Petroleum Pipeline or for the Extension of a Petroleum Pipeline without first obtaining from the Commissioner a Certificate that such action is authorized pursuant to the provisions of O.C.G.A. Section 22-3-83.
- (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

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

- (a) All applications for a Certificate must be submitted to the Department electronically. A copy of the Applicant's Articles of Incorporation and amendments thereto shall be 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 fee of \$5,000.00 must 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 fee. The total fee is intended to cover costs associated with the processing and review of the application as well as the 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 Transportation, Office of Utilities.
- (b) The application for a Certificate shall set forth in the order indicated the following:
 - (1) The exact legal name of the Applicant, the State or territory under the laws of which the Applicant was organized, the location of the Applicant's principal place of business, the names of all States where the Applicant is authorized to do business and a concise but comprehensive description of the existing business, operations and properties of the Applicant with particular reference to the transportation by pipeline of petroleum or petroleum products.
 - (2) 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 will serve notices, orders, and other papers upon the person so named.
 - (3) A description of the proposed project together with its siting information, including, but not limited to, a map showing the proposed location of the route of the New Petroleum Pipeline or of the proposed Extension. Applicant
 - (4) A description of the public convenience and necessity that support the proposed location of the route of the new pipeline route or of the proposed Extension.
 - (5) The width of the proposed Petroleum Pipeline corridor up to a maximum width of one-third mile.
 - (6) A showing that use of the power of eminent domain may be necessary for construction of the New Petroleum Pipeline or for the proposed Extension.
 - (7) A showing that the public convenience and necessity for the Petroleum Pipeline justifies the use of the power of eminent domain.

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

The Applicant shall supply the Commissioner with any such additional information or data as may be determined necessary by the Commissioner.

Authority: O.C.G.A. Sec. 22-3-83

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

- (a) Notice of Application. Within ten (10) days of the filing of a complete application for a Certificate as set forth in section 672-13-.03 of this chapter, notice of the application and the proposed route must be published by the Applicant in the legal organ of each county through which the proposed route of the New Petroleum Pipeline or of the Extension is to be located. Proof of publication shall be filed with the 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.
- (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: O.C.G.A. Sec. 22-3-83

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

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: O.C.G.A. Sec. 22-3-83

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

- (a) In making a decision as to whether to grant a Certificate, the 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.

672-13-.08 Review of 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 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.

Authority O.C.G.A. § . Sec. 22-3-83

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, O.C.G.A. Sec. 22-3-84