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Texas Eastern Transmission's tactics leave landowners feeling bullied

By Rick Stouffer

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Conrad Gall isn't anti-pipeline: three pipelines already bisect a 30-acre portion of his 132 acres of property in Jefferson, Greene County.

He's not against Texas Eastern Transmission LP placing a fourth pipeline on his property, in a right-of-way granted to the company in 1951.

What Gall objects to is what he calls the Houston-based company's "sign it or sue" negotiating tactics.

"With Texas Eastern, it's either take it or leave it," said Gall, a practicing attorney in Fairmont, W.Va. "There's been no willingness to negotiate. We've been offered \$1,500 for the acre to acre-and-a-half they actually will take. But during the process, 12 to 15 acres won't be usable, and it means tearing down fencing for the sheep and cattle on the land."

Disputes between landowners and pipeline companies aren't new. Often, landowners have taken a "not in my backyard" stance. Given the booming growth in natural gas exploration and production across Pennsylvania, experts agree disputes will increase in number, with landowners now asking, what's in it for me?

In early December, Texas Eastern filed lawsuits against Gall and six other property owners in Greene County and one in Bedford County.

Texas Eastern maintains that if construction crews "bottleneck" at a particular property, bypassing the land until the dispute is settled would cost the company at least \$241,000 per incident, with delay charges payable by Texas Eastern to construction companies exceeding another \$500,000.

At stake for Texas Eastern is \$700 million to be invested in two pipeline projects, including new pipe and compressor stations. The projects will move natural gas originating in the Rocky Mountain region from eastern Ohio, through the West Virginia Panhandle and along Pennsylvania's southern counties to York County and to the East Coast.

"No one feels good about going the legal route," said Andrea Grover, director of stakeholder outreach for Texas Eastern's parent company, Spectra Energy Corp., of Houston. "We're offering what's been determined as fair market value for the property and, hopefully, we can come to an agreement."

The company expects to begin the projects in March and April, and to have natural gas flowing by November.

Greene County landowners who would be impacted by the Texas Eastern projects agree that compensation thus far offered isn't sufficient. One already has five pipelines crossing his land, and admits he has no problem with more work. Provided the price offered increases.

Prices for land use vary depending on how the property is used and its location. For example, when landowners representing about 37,000 acres in the state's northeast quadrant banded together, Chesapeake Energy offered a five-year deal, including \$5,750 per acre paid immediately as a signing bonus, 20 percent royalties on all natural gas brought to the surface and a multiyear extension option.

"Lease deals can range from a few hundred dollars an acre, to a few thousand dollars an acre," said Range Resources Corp. spokesman Matt Pitzarella. "The average royalty paid throughout Pennsylvania remains at 15 percent."

George V. Bissett Jr. and his three cousins use their 12.8 acres of Center Township property for hunting, four-wheeling, horseback riding, family picnics, even local 4-H meetings.

"Texas Eastern made us an offer, but it was unacceptable," Bissett said. He wouldn't say what was offered.

Bobbi Dale Citro of Ohiopyle, Fayette County, doesn't like the way she's been treated concerning the use of a portion of her Greene County farm.

"She was tricked by the person serving the summons," maintains Citro's attorney, Thomas W. Shaffer, of Uniontown. "He was very evasive over the phone, telling her they had to meet to talk about the easement on her property. And Texas Eastern's offer is paltry."

Legal experts said decades-old rights-of-way granted when the going price paid owners was \$1 per foot of property, coupled with a huge jump in natural gas transported because of new finds in the Marcellus Shale formation, a mile-deep layer of gas containing rock, will lead to more suits and more hard feelings.

"Many owners see what their neighbors are getting for their Marcellus acreage, and they figure they should be offered similar compensation," said Stanley Yorsz, a Buchanan Ingersoll & Rooney attorney who specializes in land-use issues. "Still, I know the pipelines I work for want to settle, they don't want to go to court."

Reed Smith attorney Kevin Abbott said that if a company already owns the right-of-way on a property, it technically doesn't have to pay the land owner.

"I'm sure the company is saying it needs to get on the property and do its work," said Abbott, a Reed Smith partner whose practice includes energy law. "If the company can't acquire the land needed by negotiation, they can go the eminent domain route, saying the property needed is in the public interest."

Citro's attorney Shaffer maintains the right-of-way on his client's land, originally granted in 1943 for \$121, allows the placement of two pipelines on the property. Even though Texas Eastern proposes removing a small pipeline and replacing it with a larger pipeline, there currently are four pipelines on Citro's land.

"The court will have to determine the language of the original grant," Shaffer said.

"It all comes down to the company trying to bully folks," Gall said. "If the company's going to act like a butthead, then I'm going to make them spend a lot of money."

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