

House committee approves bill that would keep Bluegrass Pipeline from invoking eminent domain

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FRANKFORT — In an 11-1 vote Wednesday, the House Judiciary Committee passed a committee substitute for House Bill 31 that prevents natural gas liquids pipelines such as the proposed Bluegrass Pipeline from invoking eminent domain.

The bill clarifies state law so that natural gas liquids — which Bluegrass Pipeline would carry through 13 Kentucky counties — would not be oil or gas products, so private land could not be seized through eminent domain to build its infrastructure. The bill's primary sponsor, Rep. John Tilley, D-Hopkinsville, is chairman of the House Judiciary Committee.

One lawmaker who spoke in support of the bill said it wouldn't block the pipeline.

"Any legislation we consider today is not going to kill Bluegrass Pipeline," said Rep. David Floyd, R-Bardstown. "They just won't be able to use eminent domain to condemn property from people who don't want it to be done."

Tom FitzGerald, a lawyer for the Kentucky Resources Council, said the bill sends a message that Bluegrass Pipeline must treat private landowners fairly.

"This is an issue that resonates all across the political spectrum," FitzGerald said. "People don't like to be pushed around. They don't like somebody saying, 'I want to voluntarily enter into partnership with you, but if you don't grant me what I want, I can take you to court and make you spend thousands of dollars you'll never see again just to vindicate your right to be left alone.'"

Asked about the bill's chances for passage in the full House and Senate, FitzGerald said it's easier to kill a bill than to pass one.

But he added: "We have felt across the board that legislators are keenly aware and keenly concerned that landowners need to be dealt with in a fair manner without this cloud of eminent domain hanging over their heads."

Tom Droege, spokesman for the Bluegrass Pipeline Project, issued this statement:

"We believe that current federal and state laws are more than adequate in terms of oversight and regulation of both the construction and operation of the Bluegrass Pipeline and that no new legislation is needed. Kentucky already has over 12,000 miles of liquid fuels pipelines, and singling out NGL pipelines that are regulated in the same manner by the federal government is unnecessary."

Andrew McNeill, executive director of the Kentucky Oil and Gas Association, said in an interview that he is concerned about the bill's long-term ramifications.

"It's a bill designed to address a very specific project and a controversy that we're faced with today," McNeill said. "But the oil and gas industry in Kentucky, we don't know where we're going to be two to five years from now. If this public policy is adopted and natural gas liquids pipelines have a difficult time being built, it could seriously hinder the oil and gas industry in Eastern Kentucky and Western Kentucky."

Natural gas liquids are already being transported in Kentucky, he said. "So it isn't a foreign substance. Wasn't it just one month ago that we were talking about the possibility of a near-crisis situation because there wasn't enough propane in the state? That's what we're talking about," McNeill said.

The Bluegrass Pipeline would carry natural gas liquids, which are byproducts separated from natural gas production. Both types of products are flammable, are transported under pressure and are subject to explosions. Bluegrass Pipeline would carry ethane, propane, butane, isobutane and pentane liquids used by the agriculture, petrochemical and plastics industries, and for home heating.

Pipeline officials have said the natural gas liquids would turn to vapor if there were a leak. They also contend that a pipeline is a safer mode of transportation than truck, rail or barge.

Pipeline officials have said they would invoke eminent domain only "as a last resort."

Officials said last week that the pipeline's in-service target date was being moved from late 2015 to late 2016 "to better align with the needs of producers."

So many people attended the meeting to hear about the bill that two other committee rooms were used to handle the overflow crowd. Many were members of the Laborers International Union of North America, wearing orange T-shirts. The union supports the pipeline for the construction jobs it will provide.

The Judiciary Committee heard from several landowners who supported the bill. Among them were Cindy Foster of Scott County and Susan Goddard, who with her husband owns property in Woodford and Franklin counties.

Foster said a vote for the bill was a vote "for my rights as a citizen of the commonwealth. I should have a say whether I want this natural gas liquids pipeline to come through my property. If it were gas or water or something I could benefit from, I would not be here. But how can I benefit from natural gas liquids?"

Goddard said she doesn't oppose public utilities, "because they are in the public's interest and they don't contain dangerous, explosive or toxic chemicals that can leach into our water or our soil. ... The court system could be tied up for decades with landowners and homeowners fighting big business against condemnation of their property and the usage of eminent domain."

Committee member Rep. Tom Riner, D-Louisville, agreed.

"No Kentucky landowner should have to endure the kind of intimidation and harassment" from company officials as described by property owners who addressed the committee, Riner said.

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