

FAQs

Major Oil Pipeline Proceedings

Disclaimer: The following is for informational purposes only, and if any difference between this description and any law, regulation or case law exists, then such law, regulation or case law shall control.

1. How long does a proceeding before the Public Service Commission under the [Major Oil Pipeline Siting Act \(MOPSA\)](#) application usually take?

Answer: Every proceeding is dynamic, very similar to a court case, so it is very difficult to predict. However, there are certain timelines built into MOPSA, including the Commission must enter an order on an application within 7 months, with the ability to extend that deadline to 12 months for just cause. *Neb. Rev. Stat. § 57-1408.*

2. Will the public be allowed to participate in the proceedings at the Commission?

Answer: Yes, the Commission has the ability to hold public meetings at various places close to the proposed route to receive comment from the public. Any statements made at the meetings will be transcribed and made a part of the permanent record of the proceeding. Additionally, the public will be able to make comment during the hearing on the record. *Neb. Rev. Stat. § 57-1407(2).*

3. What is the difference between Intervening in the proceeding and Protesting the proceeding?

Answer: There is no real difference. An individual/company can be in favor of or opposed to an application and formally intervene. The term “protest” is usually reserved for those individuals/companies that are opposed to an application. However, there is no difference in the legal rights, remedies, participation, obligations between the terms. The status of a formal intervenor or formal protestant in a proceeding in front of the Commission is the same.

4. Do I have to Formally Intervene/Protest in the proceeding to participate and have my concerns heard?

Answer: No, the Commission will solicit and receive public comment that will be made a part of the permanent record. See answer #2 above.

5. What is the difference between Formal and Informal Intervention?

Answer: Formal Intervention makes the person/company a formal legal party to the proceeding, including all the rights and obligations that come along with being a legal party. **Most formal intervenors are represented by an attorney** that conducts discovery, files and responds to motions, makes legal oral arguments in front of the Commission, prepares direct and rebuttal testimony, cross examines adverse witnesses, prepares legal briefs and memorandums, and

participates in any appeals of Commission final orders on their behalf. As with a court case, individuals can appear pro se, or on their own behalf with no attorney, but they are responsible to meet all the legal obligations and requirements of the proceeding.

Informal Intervention does not confer legal party status, but enables the individual/company to be on the official notice list of the proceeding and receive copies of all orders, pleadings, filings, motions, etc. made by any party or the Commission. Further, the informal intervenor can make a statement at the public hearing. The informal intervenor is not subject to the rules of discovery, does not call or cross examine witnesses, and will not be required to participate in any appeal proceedings before the Nebraska Court of Appeals or the Nebraska Supreme Court.

6. Does the Commission consider safety concerns regarding risk of any spills or leaks with the pipeline as proposed to be constructed by the pipeline carrier?

Answer: No, the Commission's review does *not* include an evaluation of safety concerns including the potential risks of spills or leaks. MOPSA explicitly prohibits the Commission from evaluating the safety of the pipeline proposed. *Neb. Rev. Stat. § 57-1407(4)*. The safety considerations and other environmental issues are reviewed as part of the federal permitting process. Agencies such as the U.S. Pipeline and Hazardous Materials Safety Administration (PHMSA) are responsible for overseeing the construction, safe operation and maintenance of interstate pipelines.

7. Does the Commission consider any environmental issues surrounding the pipeline?

Answer: Yes, however, the Commission's review is limited to the environmental impact of the pipeline if it were to be built and operated along the proposed route. The Commission may consider as it relates to the route: 1) an environmental impact study; 2) a comprehensive soil permeability study; 3) a distance-to-groundwater survey; 4) evidence regarding the impact of the pipeline on wildlife; 5) evidence regarding the impact of the pipeline on plants located within and surrounding the proposed route; and 6) evidence of methods to minimize or mitigate the potential impacts of the major oil pipeline to natural resources. *Neb. Rev. Stat. § 57-1407(4)*.