

112TH CONGRESS
2D SESSION

H. R. 3913

To amend the Natural Gas Act with respect to application of the right to exercise eminent domain in construction of pipelines for the exportation of natural gas, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 7, 2012

Mr. DEFAZIO introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Natural Gas Act with respect to application of the right to exercise eminent domain in construction of pipelines for the exportation of natural gas, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Reaffirming Constitu-
5 tional Property Rights Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) The Fifth Amendment to the Constitution
2 of the United States states “. . . nor shall private
3 property be taken for public use, without just com-
4 pensation”. This is a fundamental right of our citi-
5 zenry that should not be trampled upon.

6 (2) Federal Courts have found the authority of
7 the Federal Energy Regulatory Commission to grant
8 a private company the right of eminent domain to
9 construct pipelines constitutional because supplying
10 energy to the Nation meets the “public use” test, al-
11 though property owners must be fairly compensated.

12 (3) The Department of Energy currently has
13 nine applications to export liquefied natural gas
14 (LNG) either under review or already approved.
15 However, a Department of Energy analysis shows
16 that the exportation of LNG could raise the price of
17 natural gas by almost 11 percent for households,
18 leading to higher heating bills. The same analysis
19 found a potential 27 percent increase in natural gas
20 prices for industrial users, making energy intensive
21 industries less competitive. The higher natural gas
22 prices will also shift more electricity generation to
23 coal burning power plants and potentially raise the
24 price of electricity by up to 9 percent. This govern-
25 ment study strongly suggests that supplying natural

1 gas to LNG export terminals by definition does not
2 meet the “public use” test.

3 (4) In 2010, the Journal of Legal Studies pub-
4 lished the results of a hedonic regression model
5 using 80,000 sales to estimate the fair market value
6 (FMV) of condemned properties whose owners
7 reached compensation settlements with the con-
8 demner, New York City, between 1990 and 2002.
9 More than 50 percent of these condemnees were
10 compensated with less than fair market value. The
11 average difference between settlements and fair mar-
12 ket value was 23 percent. This study suggests that
13 current eminent domain compensation rules may not
14 ensure “just compensation”.

15 **SEC. 3. AMENDMENTS TO THE NATURAL GAS ACT.**

16 (a) LIMITATION ON USE OF EMINENT DOMAIN FOR
17 EXPORTS.—Section 7 of the Natural Gas Act (15 U.S.C.
18 717f) is amended by adding at the end the following new
19 subsection:

20 “(i) Notwithstanding subsection (h), a holder of a
21 certificate of public convenience and necessity may not ex-
22 ercise the right of eminent domain with respect to a pipe-
23 line to be constructed for the purpose of transporting nat-
24 ural gas to an LNG terminal for export to a foreign coun-
25 try from the United States.”.

1 (b) LIMITATION ON CONVERTING IMPORT TERMINAL
2 TO EXPORT TERMINAL.—Section 3 of the Natural Gas
3 Act (15 U.S.C. 717b) is amended by adding at the end
4 the following new subsection:

5 “(g) The Commission may not issue an order under
6 this section authorizing exportation of any natural gas
7 from the United States to a foreign country from an LNG
8 terminal if such LNG terminal uses for such exportation
9 any pipeline constructed for the purpose of transporting
10 natural gas to such LNG terminal and for which a holder
11 of a certificate of public convenience and necessity has ex-
12 ercised the right of eminent domain pursuant to section
13 7(h) of this Act after January 1, 2012.”.

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