

117TH CONGRESS  
1ST SESSION

# H. R. 2889

To amend the Natural Gas Act with respect to actions for eminent domain by holders of certificates of public convenience and necessity, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2021

Mr. MALINOWSKI (for himself, Mrs. WATSON COLEMAN, Mr. TONKO, Ms. KUSTER, and Mr. HUFFMAN) 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 actions for eminent domain by holders of certificates of public convenience and necessity, 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 “Fairness for Land-  
5       owners Facing Eminent Domain Act”.

1 **SEC. 2. MODIFICATIONS TO EXERCISE OF THE RIGHT OF**  
2 **EMINENT DOMAIN BY HOLDER OF A CERTIFI-**  
3 **CATE OF PUBLIC CONVENIENCE AND NECES-**  
4 **SITY.**

5 (a) REQUIREMENT.—Section 7(h) of the Natural Gas  
6 Act (15 U.S.C. 717f(h)) is amended—

7 (1) by striking “When any holder” and insert-  
8 ing the following: “ (1) Subject to paragraph (2),  
9 when any holder”; and

10 (2) by adding at the end the following new  
11 paragraphs:

12 “(2) A holder of a certificate of public convenience  
13 and necessity may not exercise the right of eminent do-  
14 main under paragraph (1) unless the holder—

15 “(A) obtains all Federal and State permits re-  
16 quired by law for the construction and operation of  
17 pipeline facilities;

18 “(B) complies with all environmental conditions  
19 appended to the certificate order; and

20 “(C) is in compliance with subsection (i)(2).

21 “(3) A holder of a certificate of public convenience  
22 and necessity shall be suspended from the exercise of the  
23 right of eminent domain under paragraph (1)—

24 “(A) if the holder requests a material amend-  
25 ment to the certificate, until such time as the condi-  
26 tions in paragraph (4) are satisfied; or

1           “(B) if a Federal or State permit held by the  
2 holder is vacated or remanded, until such time as—

3           “(i) all vacated or remanded permits are  
4 reinstated or reissued to the holder; and

5           “(ii) the holder complies with all environ-  
6 mental conditions appended to the certificate  
7 order.

8           “(4) A holder of a certificate of public convenience  
9 and necessity who requests a material amendment to the  
10 certificate and has the exercise of the right of eminent do-  
11 main suspended under paragraph (3)(A) may not com-  
12 mence a new action or proceeding to exercise the right  
13 of eminent domain under paragraph (1) until such time  
14 as—

15           “(A) the Commission issues an amended certifi-  
16 cate of public convenience and necessity; and

17           “(B) the holder—

18           “(i) obtains all additional Federal and  
19 State permits required by law pursuant to the  
20 amended certificate; and

21           “(ii) complies with all environmental condi-  
22 tions appended to the amended certificate  
23 order.”.

1 (b) ACCESS FOR SURVEYS.—Section 7 of the Natural  
2 Gas Act (15 U.S.C. 717f) is further amended by adding  
3 at the end the following:

4 “(i)(1) For purposes of subsection (h), the exercise  
5 of the right of eminent domain does not include accessing  
6 property for purposes of surveying prior to acquiring the  
7 property, except in accordance with paragraph (2).

8 “(2) If a holder of a certificate of public convenience  
9 and necessity is unable to agree with the owner of property  
10 on access to the property for purposes of surveying, the  
11 holder shall enter into the dispute resolution process of  
12 the Commission. If dispute resolution fails, or if the prop-  
13 erty owner refuses to participate in such process, the Com-  
14 mission may, upon a showing by the holder of documented  
15 repeated, good faith efforts to work with the property  
16 owner to agree on such access, issue an order declaring  
17 that, upon a court order, for purposes of the relevant cer-  
18 tificate and with respect to the relevant property, the exer-  
19 cise of the right of eminent domain under subsection (h)  
20 includes accessing the property, in a limited, non-land-dis-  
21 turbing manner, for purposes of surveying prior to acquir-  
22 ing the property.”.

23 (c) EFFECTIVE DATE.—The amendments made by  
24 this Act shall apply—

1           (1) to any action or proceeding for eminent do-  
2       main under section 7(h)(1) of the Natural Gas Act,  
3       as amended by this Act, commencing on or after the  
4       date of enactment of this Act; and

5           (2) to any request for a material amendment to  
6       a certificate of public convenience and necessity oc-  
7       curring on or after the date of enactment of this  
8       Act.

○