



# VIEW*S* & VISIONS

A publication of Bowles Rice LLP

Fall 2012



## An Amazing Asset – West Virginia’s Gas Pipelines

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Mr. Patterson is a former Trustee of the Energy and Mineral Law Foundation and served as chairman of its Oil and Gas Committee (1996 - 1997). He was named to *Best Lawyers in America* in the area of oil and gas law and has been a *West Virginia Super Lawyer* each year since 2007.

He graduated, *magna cum laude*, from West Virginia University in 1976, and received his law degree in 1979 from West Virginia University College of Law.

Completed in 1879, West Virginia’s first pipeline transported oil to Parkersburg from the Volcano oil field near the Ritchie-Wood county borderline. Not long thereafter, many businesses and homes used clean-burning natural gas for light and heat, and longer pipelines were constructed.

In 1919 natural gas was said to be in short supply, so the West Virginia Legislature enacted a law that required West Virginian pipelines to serve West Virginians before exporting gas to other states. Pennsylvania and Ohio both sued, and complained the law would “... imperil the health and comfort of thousands of their people who use the gas in their homes and are largely dependent thereon; and (b) will halt or curtail many industries which seasonally use great quantities of the gas and wherein thousands of persons are employed and millions of taxable wealth are invested.” Both cases were consolidated for argument and decision by the United States Supreme Court. In one of the first opinions defining the interstate commerce clause of the United States Constitution, our nation’s highest court found the West Virginia act unconstitutional.<sup>1</sup>

Today, because of an abundant gas supply and a central geographic location, West Virginia is home to many pipelines. Three interstate pipelines, those commonly referred to as Dominion, Columbia, and Equitrans/EQT, were born in our state. Several interstate pipelines cross our border. Public utility lines, commonly called local distribution lines, serve more than one million customers. Some large industrial plants are served by private gas supply lines that cross several counties. Well flow lines move gas from wells to slightly larger gathering lines, and gathering lines move gas from the field to large interstate transmission lines.

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Interstate pipelines in West Virginia connect gas supplies from the Gulf of Mexico and midwestern states like Colorado to northeastern cities like New York, Baltimore, and Washington, and deliver gas along their routes. Our country is now traversed with an efficient web of gas pipelines. As a result of our interconnected national pipeline structure, intense gas price competition provides the lowest cost supply to people throughout our nation. And, although West Virginia has more miles of pipelines than roads, production of the vast quantities of hydrocarbon liquids in the Marcellus and Utica geologic formations requires construction of more pipelines, plus additional processing infrastructure.



While it would be nice to believe additional pipeline infrastructure could be placed in service with ease, construction is difficult in many places and legal issues make the process costly and cumbersome. For example, in 1938 Congress was concerned about potential interstate pipeline monopoly power, and passed the Natural Gas Act to regulate interstate pipeline rates and terms of service. The Natural Gas Act, amended from time to time, remains effective today, and pipeline laws and regulations have grown, multiplied and substantially increased in detail and complexity.

Now, interstate pipelines are regulated as to rates and terms of service by the Federal Energy Regulatory Commission (FERC), and FERC must approve new construction. Rates charged by gathering lines owned by an interstate pipeline are regulated by FERC, while rates charged by West Virginia pipelines that serve the same function but are owned by a company owned by an interstate pipeline are intrastate pipelines subject to regulation by the West Virginia Public Service

Commission (WV PSC). One pipeline in West Virginia is regulated by both FERC and the WV PSC. Public utilities that provide gas to businesses and homes, like Mountaineer and Hope, file base rate cases at the WV PSC as needed to increase the amount of revenue required for a fair return on investment, plus separate cases every year for purchased gas cost review.

In addition to price regulation, pipeline safety is separately regulated. Federal safety law and regulations are promulgated and administered by the United States Department of Transportation (DOT). On a more local level, the WV PSC adopts and administers the DOT regulations, as well as its own rules.

In more ways than one, West Virginia's natural gas pipelines constitute an amazing asset that offers West Virginians economic opportunity. Miles of pipelines in existing rights of way can be used, upgraded and replaced to transport abundant Marcellus and Utica gas reserves. Large portions of the Marcellus and Utica formations produce valuable hydrocarbon liquids.

Some gas pipelines can be converted to transport these liquids, or liquids lines can be added in existing rights of way. West Virginia's existing and ever increasing pipeline infrastructure gives us the opportunity to attract new and retooled industry that will provide great jobs and a high standard of living. Our Governor recognizes our opportunity and we are poised for success. ♡

*footnote:*

<sup>1</sup> *Commonwealth of Pennsylvania v. State of West Virginia*, 262 U.S. 553 (1923); *The Court's 1923 opinion also notes: "In West Virginia the production of natural gas began as much as 30 years ago and for the last 14 years has been greater than in any other state."*

