

**PUBLIC STATEMENT HEARING**

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APPLICATION OF NEW YORK STATE ELECTRIC & GAS  
CORPORATION FOR A CERTIFICATE OF ENVIRONMENTAL  
COMPATIBILITY AND PUBLIC NEED PURSUANT TO  
ARTICLE VII SECTION 121-a OF THE PUBLIC SERVICE  
LAW FOR APPROVAL TO CONSTRUCT 11-T-0654 NYSEG  
SENECA WEST (BIG FLATS TO HORSEHEADS)  
NATURAL GAS PIPELINE

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Held on: April 26, 2012 at 3:30 p.m.

Held at: Horseheads High School  
Horseheads, New York 14845

Held before: HOWARD A. JACK  
Administrative Law Judge  
Office of Hearings and Alternative  
Dispute Resolution, State of New  
York, Public Service Commission  
Department of Public Service  
Three Empire State Plaza  
Albany, New York 12223-1350

REPORTED BY: DELORES HAUBER  
Shorthand Reporter  
Notary Public

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ADMINISTRATIVE LAW JUDGE: Good  
afternoon, Ladies and Gentlemen. This is a  
hearing to receive public comments  
concerning a case currently before the New  
York State Public Service Commission for  
its consideration and action. I would like  
to begin by thanking the Horseheads Central  
School District for graciously allowing us  
to use these facilities for the hearing.

In very broad terms, the case  
concerns an application by New York State  
Electric & Gas Corporation for a  
certificate of environmental compatibility  
and public need, under Article VII of the  
Public Service Law, to build a  
4.9-mile-long eight-inch diameter natural  
gas pipeline and associated aboveground  
facilities in the Towns of Big Flats and  
Horseheads here in Chemung County. The  
proposed pipeline would extend from  
Inergy's Seneca Lake Gas Storage Facility  
West Pipeline near the intersection of  
Yawger Road and Upton Road in the Town of  
Big Flats to connect with NYSEG's

1 distribution system at Gardner Road just  
2 west of Westinghouse Road in the Village of  
3 Horseheads. Associated facilities would  
4 include proposed metering and pressure  
5 regulating stations near either end of the  
6 proposed pipeline.

7 The Public Service Commission is  
8 seeking public comment on the application  
9 and petition. This is the first of the two  
10 public statement hearings we are conducting  
11 in the case. The other will be held this  
12 evening.

13 My name is Howard Jack and I'm the  
14 administrative law judge assigned to the  
15 case to conduct these public statement  
16 hearings. The final decision of the case  
17 will be up to the Public Service Commission  
18 itself. The Commission has a chairman and  
19 four commissioners appointed by the  
20 governor and confirmed by the New York  
21 State Senate. The Commission may grant the  
22 certificate as requested, grant it with  
23 modifications that the Commission might  
24 determine proper or deny it.

1           Notice of today's hearing was issued  
2           on April 2nd, 2012. The Company was  
3           required to have the notice published in  
4           the Star-Gazette at least two weeks before  
5           these hearings.

6           You can find copies of the  
7           application in this case on the Department  
8           of Public Service website at  
9           www.dps.ny.gov. Click on "What's New" or  
10          "What's Hot: Natural Gas", then click on  
11          the link for case 11-T-0654 or on "NYSEG  
12          Big Flats to Horseheads Gas Pipeline." You  
13          can also click on "Search" and then find  
14          the box labeled "Search For Case/Matter  
15          Number," enter "11-T-0654" in the box and  
16          click again.

17          Hard copies of the application are  
18          available at the Commission's offices in  
19          Albany. In addition, hard copies have been  
20          served on the supervisors of the Towns of  
21          Big Flats and Horseheads and either the  
22          mayor or the manager of the Village of  
23          Horseheads. You might be able to view the  
24          application at their offices. I'm not sure

1 of that.

2 Let me briefly describe the process  
3 that we'll follow today. The purpose of  
4 the hearing is to receive comments, as I  
5 said, on the proposed pipeline for members  
6 of the public. It is not intended as a  
7 question and answer session. If you want  
8 to comment orally at this session, you  
9 should fill out a card if you have not  
10 already done so. Mr. Wagner has cards like  
11 this over there. At this point I have just  
12 three cards. And when your name is called,  
13 please come up to the podium. There's a  
14 microphone there. It would help the  
15 reporter if you could get close to the  
16 microphone as you speak. And for the  
17 benefit of others who want to follow what  
18 is said at the hearing, I ask that you all  
19 please turn off all cell phones and similar  
20 devices or put them in a silent mode.

21 As I mentioned, we have a court  
22 reporter here who will take down what you  
23 say and prepare a word-for-word transcript  
24 of the hearing. It's very important that

1           only one person speak at a time and each  
2           speaker go slowly so everything can be  
3           transcribed accurately. When you begin,  
4           please state your name and also please  
5           spell your name for the reporter after you  
6           say it. In addition if you have written  
7           out your comments, it would help the  
8           reporter if you could either provide a copy  
9           or give it, if you don't need the written  
10          copy yourself at the end, you could give  
11          that to the reporter.

12                 Each speaker will be allowed a  
13                 reasonable time. What is reasonable will  
14                 turn in part on the number of people who  
15                 want to speak today. The record will stay  
16                 open for at least one hour and up to 5 p.m.  
17                 if necessary to accommodate the speakers  
18                 this afternoon. If we cannot finish with  
19                 all who want to speak by the end of  
20                 tonight's session, I will make other  
21                 arrangements to receive comments.

22                 For those who want to comment but  
23                 don't want or get the opportunity to speak  
24                 today, the public notice of these hearings

1 mentions alternative ways to submit  
2 comments, including US mail, e-mail and  
3 telephone. Mr. Drexler went through those  
4 earlier in the information session. But if  
5 you need that information, please come up  
6 and see me afterwards and I can get that  
7 for you.

8 The important thing to remember, if  
9 you decide to submit comments by one of the  
10 alternative means that Mr. Drexler  
11 mentioned are, first, that you should  
12 mention the number and name of this case  
13 and, secondly, your comments must be  
14 received in Albany on or before Wednesday,  
15 May the 2nd. Does anyone have any  
16 questions about the process before we get  
17 started? In that case I call the first  
18 speaker, Geoff Rubin.

19 MR. RUBIN: Thank you, Judge. I'd  
20 like to thank you, Judge, and the  
21 Commission and NYSEG and Horseheads High  
22 School and all the people responsible for  
23 making this opportunity available for those  
24 of us to come and comment. My name is

1 Geoff Rubin, G-E-O-F-F. Rubin, R-U-B-I-N.  
2 I represent the Rugby Road Corporation  
3 which owns roughly 650 to 800 feet of land  
4 that this pipeline is proposed to cross.

5 Judge Jack and members of NYSEG and  
6 Ms. Riggs and Mr. Alexander and  
7 distinguished members of the community and  
8 other attendees, thank you for the  
9 opportunity to speak. I will not be long.  
10 I expect what I have to say will take five  
11 minutes or less. Everything today that I  
12 say or present is based on my understanding  
13 of the facts. I offer my input, my  
14 opinions and I make no accusations. I am  
15 not against progress, but I am against  
16 nondisclosure, nonresponsiveness and  
17 tactics that I have seen used here in this  
18 process.

19 The first thing I want to address is  
20 I sent NYSEG an e-mail on August 3rd and  
21 I'll read the important sentence. It went  
22 to Paul Honker, care of CHA Companies, an  
23 alleged subcontractor. Part of it reads:  
24 "Have your company send me a copy of the



1 law that allows a utility to be on my  
2 property and the documentation that allows  
3 NYSEG and its subcontractors to use this  
4 law and a copy of the contract between  
5 NYSEG and each of NYSEG's subcontractors.  
6 Prove that the liability goes from each  
7 contractor and subcontractor to NYSEG,  
8 thank you."

9 What I'm trying to determine, Mr.  
10 NYSEG, is if you're going to put people on  
11 my property and you're going to do it by  
12 what, telling me that they are your  
13 subcontractor, if they hire somebody, where  
14 is the link? I don't want to be left  
15 holding the bag some day if there's a  
16 problem. I got no response.

17 I sent a letter to Judge Brillling, an  
18 e-mail and I can provide you a copy,  
19 although not at this moment. And it starts  
20 out with: "Please see my e-mail of August  
21 3rd to NYSEG contractor representative Paul  
22 Honker, which I just read. None of the  
23 requests in this e-mail were honored.  
24 What's so hard about proving that the

1 people you're putting on somebody's land  
2 from a company that is owned in another  
3 continent, and you don't even know who you  
4 are doing business with, what's so hard  
5 about somebody responding to me even if  
6 it's to say I can't do it.

7 Now, in this same, in a letter from  
8 Christine Baker, in attendance here. Nice  
9 person as all the people I've met from  
10 NYSEG are. They are all pleasant. I was  
11 offered \$8 a running foot for an easement.  
12 Although there was another letter sent to  
13 me on NYSEG stationery from Christine Baker  
14 that said that the fair market value is  
15 \$6.40. So my letter to Judge Honorable  
16 Jaclyn Brillling. And I say this looks  
17 like -- well, I don't say this, but feel  
18 this like is hucksterism at a fair. It's  
19 really a \$6 product, but I'm going to get  
20 40 cents product, but I'm going to get 8  
21 bucks if you sign right now. If it is  
22 worth \$8, and one of the explanations  
23 offered to me earlier today from one of the  
24 representatives of the company was that

1 while, in order for us not to have, I may  
2 be misquoting or gotten it wrong, but the  
3 way I perceived it was if we don't have to  
4 file an eminent domain process, it's worth  
5 the dollar and a half or whatever it is.  
6 If that's the case, tell somebody. And if  
7 that's the case, that makes it the fair  
8 market value, don't tell the people that at  
9 \$6.40 is a fair market value, tell them  
10 it's 8 bucks and then give them the reason  
11 why if they request it. What bothers me is  
12 the person on South Main Street in Elmira,  
13 New York that can't pay their gas and  
14 electric bill, if that person reads in the  
15 paper this notice from NYSEG that says  
16 we're paying \$8 for something worth 6.40,  
17 that's not how you win friends and  
18 influence people. It's not how to get the  
19 community behind something that might in  
20 the end benefit them. This comes down to  
21 again the tactics, the nonresponsiveness  
22 questions.

23 Now other questions I have. Does  
24 NYSEG have the right to free ingress and

1 egress without notifying me? Is that so  
2 hard to give me that answer? How much land  
3 can they take from -- I was sent a copy of  
4 an easement, sample easement. And in the  
5 fine print it talks about them being able  
6 to take additional rights-of-way and/or  
7 land for maintenance. Where would the  
8 roads be? How wide? It's all wooded area  
9 that I have. Do they have to pay extra for  
10 that if they cut down my trees? If so, at  
11 what rate? What if they create runoff?  
12 Who do I talk to? Why can't somebody give  
13 me those answers?

14 Now I asked the question of Mr.  
15 Honker, the easement says they have the  
16 right to cut down logs and leave them on  
17 the land. My land is on a 45 degree angle.  
18 You're going to leave them on my land.  
19 Little kids go out there and play like  
20 little kids do on logs. They roll down on  
21 top of a kid on a 45 degree angle hill and  
22 a kid gets rolled over by a log. And now  
23 the best I can remember the answer I got  
24 was, yeah, that's the way the easement

1 reads. However, if you want us to take the  
2 big logs off as we chip up the little ones,  
3 we'll take them off. Well, why don't you  
4 put that in the easement to begin with that  
5 says if you want any or all of the logs  
6 taken off, we'll take them off. Why don't  
7 you address it ahead of time? It feels  
8 like you're hiding. It feels like you're  
9 trying to do it on the cheap. It feels  
10 like you're trying to make the public  
11 become their advocate when dealing with the  
12 utility. It's a noncompetitive  
13 organization. It's not right in my  
14 judgement.

15 Now in addition to that, if you had a  
16 question as mentioned in the law firm Bond,  
17 Schoeneck & King, the lawyer says if you  
18 have any questions about the EDPL Section  
19 404, whatever the initials stand for  
20 because they don't take time to tell you,  
21 we recommend, we recommend, we recommend,  
22 we recommend you retain an attorney and  
23 have him or her contact the lawyer. You  
24 know, there's a lot of people in this state

1           that can't afford a lawyer for hundreds of  
2           dollars an hour to call up this lawyer.  
3           Why doesn't he say if you got a question,  
4           why don't you call me directly? What he's  
5           suggesting here is you need a lawyer to  
6           call up to find out answers to questions.  
7           And for the people that can't afford  
8           lawyers, they run scared. They take the  
9           money. They cannot fight. They cannot  
10          inquire. The worst part is they are not  
11          invited to inquire. It's sounds like and  
12          feels like and smells like that kind of  
13          wording is meant for you to drop your claim  
14          and give in.

15                 Now I have some other questions here  
16                 and I asked NYSEG representatives Paul  
17                 Honker, you have the right in this easement  
18                 small print to come in here and use  
19                 chemicals to kill the brush. What  
20                 chemicals are you going to use? Agent  
21                 orange? Something that is going to kill  
22                 the animals or spread to the animals that  
23                 will spread to the backyards to these  
24                 wooded areas to where kids can kick it up?

1 Why can't somebody put the list of the  
2 chemicals out there they are going to use?  
3 No answer.

4 Here's what I said to NYSEG. I said,  
5 you know what, I don't want the  
6 responsibility for the chemicals you're  
7 going to put on the right-of-way or the  
8 trees that are going to roll over on a kid.  
9 I'll give you my land. Keep your money. I  
10 don't want your money and I'll give you the  
11 land because I don't want the  
12 responsibility. You know what the answer  
13 was? We won't take your land and you're  
14 going to be responsible or I guess I have  
15 to go fight them in court to make sure they  
16 are responsible. Why can't they take my  
17 land? I don't want it. I don't want the  
18 liability. I asked my insurance company,  
19 or I asked NYSEG if my insurance company  
20 sees that there's toxic waste coming off of  
21 that hillside because of chemicals you guys  
22 used to spray the trees and the foliage,  
23 who is going to pay for my insurance  
24 premium increases? If I got some case some

1 day where somebody's injured because of  
2 these chemicals or the wildlife or the  
3 people, who is going to stand behind me?  
4 I'll be fighting City Hall. I'll be  
5 fighting the government. I'll go broke  
6 fighting the government. I said I'm not  
7 interested, but yet they wouldn't take my  
8 land for free. I don't care if they take  
9 it and give it away, I just don't want the  
10 liability.

11 Now I'm through. I appreciate the  
12 time you've given me. A lot of unanswered  
13 questions. It's the process here. Nobody  
14 wants to stand in the way of progress. I  
15 can only speak for myself. I don't. I  
16 don't. But, you know what, with these  
17 liability issues and the unanswered  
18 questions and the way they deal with the  
19 people's land they want, I don't want any  
20 part of it. I'm willing to give them the  
21 land to avoid liability just to get rid of  
22 them and they won't even take the land and  
23 they won't answer the questions. And, you  
24 know what, I'm going to leave a copy of the



1           easement. Judge, you ought to take a look  
2           at the fine print and see what's in there,  
3           what they have the right to do. I hope  
4           somebody, Justice Brillling reads this  
5           stuff. It's sadly lacking. Sadly lacking.  
6           I'm fortunate enough to have a little more  
7           education or maybe considerably more than a  
8           lot of people that would be called upon to  
9           sign one of these things who can't afford  
10          \$100 an hour to have one lawyer talk to  
11          another lawyer. Those are the people that  
12          ought to be protected. Thank you.

13                   ADMINISTRATIVE LAW JUDGE: Thank you,  
14                   Mr. Rubin. The next speaker is Dorianne  
15                   Riggs.

16                   MS. RIGGS: Good afternoon and thank  
17                   you. I really want to thank --

18                   ADMINISTRATIVE LAW JUDGE: Could you  
19                   state your full name and spell it for the  
20                   reporter.

21                   MS. RIGGS: It is Dorianne,  
22                   D-O-R-I-A-N-N-E, and the last name is  
23                   Riggs, R-I-G-G-S. All right. I do want to  
24                   thank everybody for allowing this hearing

1 to take place.

2 Our home, my husband's not here, he's  
3 ill, but our home and our property is on  
4 Barnes Hill Road in the Town of Big Flats.  
5 Our address is Horseheads, but we live in  
6 the Town of Big Flats. Would you also like  
7 my address? It's 168 Barnes Hill Road,  
8 Horseheads, New York. Okay.

9 The first letter that we received  
10 from New York State Electric and Gas  
11 stating that they wanted to do this project  
12 was dated April 15th of last year, 2011.  
13 In that letter it's stated that they would  
14 be following the Millennium Pipeline and  
15 then their electric transmission line. Now  
16 we have, the electric transmission line  
17 does cross our property for about 400 feet  
18 on an edge and we weren't really worried  
19 about that. The Millennium Pipeline turns  
20 north before it gets to Barnes Hill Road.  
21 It does follow what was Columbia Gas  
22 right-of-way, but it turns north and does  
23 not come over our property. We arrived  
24 back from Pittsburgh to find that Columbia

1 Gas had marked the A5 line. It's called  
2 Columbia Gas A5 pipeline, it's a  
3 transmission line, and there was yellow  
4 flags on the line. And I thought I wonder  
5 what's going on here?

6 Well, we didn't do anything about it  
7 and set the letter aside that we had  
8 received. And pretty soon Mr. Honker came  
9 by, Paul Honker as Geoff Rubin stated  
10 before. I thought that he was a NYSEG  
11 employee. I'm not sure, but I do believe  
12 he is a NYSEG employee. And I pointed out  
13 to him, he wanted to know if I knew about  
14 the new pipeline that they wanted to build.  
15 And I said, well, I think that it's going  
16 to be here on your electric line  
17 transmission, or where the electric power  
18 line goes. And he said oh, no, it's going  
19 to be further up the road. And I said  
20 really? He then got out his copy of what  
21 had been sent and I thought, well, I could  
22 see where there's some confusion here.

23 The long and the short, and I want to  
24 read, I have written up many different

1 instances where there was confusion or  
2 seemed to be confusion and nobody knows  
3 who's doing what. But consequently when  
4 Columbia Gas came on our property to mark  
5 their line, they broke through a diversion  
6 ditch to allow water to come down on our  
7 driveway. We have three drives that cross  
8 the Columbia Gas transmission line. One is  
9 the turnaround. The next one comes over a  
10 bridge, because we live with a creek, comes  
11 over a bridge, comes up to our home. The  
12 other one goes around to the right. It's a  
13 service road so that we can do agriculture.  
14 They all cross the Columbia A5 line and the  
15 design of the roads, the driveways was done  
16 by Chemung County Soil and Water. And if  
17 NYSEG wants to do anything with our  
18 driveway, then I have requested that we  
19 involve Chemung County Soil and Water. Of  
20 course we don't get any questions answered,  
21 nor responses made.

22 I asked next NYSEG, Mr. Bob Paz and  
23 Mr. Paul Honker and another gentleman, Gary  
24 Pan -- and I'm sorry. Maybe I should just

1 spell his name. P-A-N-E-B-I-A-N-C-O and I  
2 don't want to, it's a little difficult to  
3 pronounce. They came to our home to talk  
4 to us about this line and we pointed out  
5 some of the things that had been said like  
6 the Millennium line, which is not the  
7 Millennium line that comes on our property.  
8 It is the Columbia Gas A5. We had a very  
9 nice discussion. I asked if they would  
10 please consider moving it, doing an  
11 alternate route. I also, we went to the  
12 hearing that -- well, it wasn't a hearing.  
13 It was a public information meeting in the  
14 Town of Big Flats. And again I met with  
15 NYSEG employees and I asked once again  
16 would you please consider changing this  
17 route. Not coming on the side hill because  
18 we do little on a side hill. I do have  
19 pictures if you would like to see the side  
20 hill. The gas line where the A5 line is is  
21 very steep. The electric line is down on  
22 the flats. I was told at first that they,  
23 they didn't know if they could do that or  
24 not. I was told the next time that they

1 thought that there was too many houses  
2 there. I walked that line and I don't  
3 think there's any more homes that would be  
4 affected there than there is on the A5  
5 line. I could be wrong. And I certainly  
6 don't want to stand in the way of progress.  
7 That's for sure. If it's really needed, if  
8 the gas line is really needed, then we  
9 should be able to work it out. And I would  
10 like to be able to negotiate and so far  
11 that's been impossible.

12 As Geoff Rubin stated, we have  
13 received at least three, maybe four letters  
14 from the NYSEG attorneys. And in every  
15 letter they do state that if you have any  
16 questions, you should retain an attorney  
17 and have the attorney contact them. Well,  
18 as Geoff Rubin says not everyone can retain  
19 an attorney.

20 On August 8th I did receive from Mr.  
21 Paz an alternate route to take the pipeline  
22 away from our home and away from our  
23 driveway. I don't think it was more than  
24 ten days later that I received a phone

1 message from Mr. Paz stating that they  
2 could not do that. That they had walked  
3 that line. They had investigated it. They  
4 walked it. They traveled it with a PSC  
5 representative and there would have to be  
6 four bends in the line. There would have  
7 to be more trees cut down and then there  
8 was more wetland impact and it would cost  
9 more. And that was sort of the key that  
10 clicked to me. It would cost more. Well,  
11 I understand that it may cost more, but,  
12 you know, this is my land and if I'm giving  
13 a little, then I think the people who are  
14 receiving the gas at the other end, the  
15 consumers, would have to give a little as  
16 well. And if they have to pay a little  
17 more because of this, well, then they have  
18 to pay a little more because of this.

19 We have several concerns. As I said  
20 before, my husband is ill. If they are  
21 going to dig up our driveway, then we have  
22 to be able to get in and out, especially if  
23 he should need emergency services for some  
24 reason. The only way in and out is the

1 drive and so I'm concerned about that.

2 I'm concerned about increasing the  
3 water runoff. We still have this problem  
4 of a broken diversion ditch and last winter  
5 as the water was coming down our driveway,  
6 I went out and hand dug a ditch across,  
7 right next to our driveway on the A5 line  
8 in order to take care of the water problem  
9 so we wouldn't have frozen water on our  
10 driveway all winter long and I'm not very  
11 happy about that. And I've asked for this  
12 diversion ditch to be repaired and I was  
13 told that Columbia Gas did it. And when I  
14 talked to Columbia Gas they said we marked  
15 the line for NYSEG. They should be the  
16 ones to repair them. So here's another  
17 huge concern. If we're going to have two  
18 pipelines there side by side, then who is  
19 going to maintain? Who is going to take  
20 care of things? Like we have fences and  
21 gates at both ends of our property on that  
22 transmission line which Columbia Gas  
23 currently takes care of. Although I found  
24 yesterday when I finally walked way up on



1 top of the hill that the fence is down at  
2 the top. Nothing has been done. Gate's  
3 wide open. So I wasn't happy about that  
4 either because that means more people can  
5 trespass. As we know the public seems to  
6 think when there's a right-of-way somewhere  
7 that they can certainly hike that, walk  
8 their dogs, do anything that they please.  
9 We've had snowmobilers, four wheelers all  
10 sorts of things come through there. After  
11 we put up the fences and gates, it slowed  
12 that down.

13 If this line does come through, then  
14 I need to know that there's plenty enough  
15 insurance to take care of if someone gets  
16 hurt up in there. I don't want to be the  
17 one that's left with a judgement. I need  
18 to know that someone, either NYSEG or  
19 Columbia Gas, and here we go again because  
20 there's two of them, who is going to be the  
21 one that's going to be insured. And I  
22 certainly would like to be indemnified as  
23 the landowner against trespassers and water  
24 damage. We need to have our fences

1 maintained and the gates closed. And I  
2 would like to know who has the keys.

3 They wanted to cut down trees. I'm  
4 asking that the trees in the temporary  
5 right-of-way be replanted with like trees.  
6 I don't want just pines. If they are going  
7 to take down oaks and hickory and cherry  
8 and maple, then I would like those kinds of  
9 trees replanted and those such trees need  
10 to be at least 10 to 12 years old in order  
11 to survive the deer.

12 I don't know what sort of grass they  
13 intend to replant. I did note that they  
14 are able to use herbicides and pesticides  
15 and I'm concerned about that. Our water  
16 well is at the bottom of the hill and it's  
17 not very far off from the transmission  
18 line. So if they are going to be using  
19 those sorts of things, we would like to  
20 have our water tested and we would like  
21 them to continue to test it for the next  
22 ten years.

23 There was something said in the  
24 application about Columbia Gas taking care

1 of the right-of-way. They do and they  
2 don't. It has not been mowed at least the  
3 last three years. It hadn't been mowed  
4 before that for probably at least five.  
5 When the Millennium Pipeline came through,  
6 it didn't come next to us and of course I  
7 thought at that point that the gas line was  
8 empty, wasn't being used. We found out  
9 differently. Right after the Millennium  
10 went through, a Columbia Gas employee came  
11 to our home with a letter and said that  
12 they were going to increase the pressure on  
13 the line and I said increase the pressure?  
14 I didn't think there was any gas in there.  
15 And he said oh, there's gas in there.  
16 Well, you haven't mowed. He said oh, yeah,  
17 they sort of stopped us, whoever they are,  
18 have stopped us from mowing. And I take it  
19 that it's Columbia Gas that's made that  
20 decision. So they don't mow. I sure hope  
21 they are testing the line, although I don't  
22 know who I would ask for that. Unless I  
23 call up Columbia Gas and say are you  
24 testing the line.

1           The stated eight-inch pipeline, I  
2           would guess if it's needed, it's needed.  
3           It doesn't seem like a whole lot, eight  
4           inches. I believe the Columbia Gas line is  
5           a 20-inch line that's there. I would like  
6           to have stated in an easement that it is  
7           only an eight-inch line and nothing ever  
8           larger. I don't want to see them come back  
9           through in another five years, taking up  
10          the eight-inch line and putting down a  
11          20-inch line.

12           The other, I have some other  
13          unanswered questions. I would like to know  
14          if there's a New York State Law for how  
15          close a gas transmission line can be  
16          constructed to an occupied dwelling. Can  
17          Columbia Gas grant an easement to NYSEG on  
18          their right-of-way which is on our property  
19          or should this all come from us? Our, we  
20          as the landowner, will Columbia Gas receive  
21          compensation from NYSEG for this shared  
22          right-of-way? If you give NYSEG approval  
23          for this project and they acquire an  
24          easement on our property through the use of

1 eminent domain, then are they also granted  
2 the right to use our private driveways and  
3 our gravel roads to service this pipeline?  
4 I understand there has been some changes in  
5 the application about waivers from the  
6 local ordinances. So will the PSC waive  
7 the laws in the Town of Big Flats  
8 concerning timber harvesting for this  
9 application or will NYSEG need to obtain a  
10 permit from the Town of Big Flats before  
11 they can begin cutting trees? Is there a  
12 need for the eight-inch transmission line  
13 five miles long? I already mentioned  
14 herbicides and pesticides. I'd like to  
15 know what is being used. If NYSEG abandons  
16 this easement, will they remove the  
17 pipeline from our property? Is NYSEG  
18 bonded or do they carry enough insurance to  
19 cover any lawsuits which we, as the  
20 landowner, are party because of neglect or  
21 acts of NYSEG on the easement? And what is  
22 the duration of this pipeline and easement?  
23 Can NYSEG commandeer our property off the  
24 proposed right-of-way to support their

1           intended construction?

2                   When we call, as we have, you know,  
3           they send us these letters and say if you  
4           have questions to call. Our phone calls  
5           don't get returned. We did contact  
6           Christine Baker. She didn't have the  
7           answers, nor did she get answers for us.  
8           So it's been, it's been a real trial having  
9           them here and we haven't even begun the  
10          process of putting pipe in the ground yet.  
11          So I would like to hope that this does not  
12          get passed until some of the questions get  
13          answered. We had this possibility of  
14          taking the line away from our home and then  
15          no, we can't do that. And after that no  
16          one came by to say can we negotiate. Not a  
17          soul. No one called. Christine Baker sent  
18          a big form, sign this easement, we'll give  
19          you \$8 a foot, sign this now. Get it  
20          notarized. I wasn't even in town when it  
21          arrived. If you didn't do it in a matter  
22          of ten days, then you were SOL. And I sort  
23          of laughed because I don't think that the  
24          amount of money they were going to give us

1 would even pay to replace the trees in the  
2 temporary ten foot area. So thank you for  
3 listening. And I certainly hope that out  
4 of this meeting we will get some answers.

5 ADMINISTRATIVE LAW JUDGE: Thank you,  
6 Miss Briggs. Richard Gawenus.

7 MR. GAWENUS: My name is Richard  
8 Gawenus. I live at 123 Hickory Grove Road  
9 in Horseheads, New York. R-I-C-H-A-R-D,  
10 G-A-W-E-N-U-S. My concern is for existing  
11 right-of-ways that you're using for this  
12 pipeline, that NYSEG is using for the  
13 pipeline. I have some about 600 feet that  
14 border the southern edge of this  
15 right-of-way. There's 150 KV transmission  
16 line on this right-of-way now. And now in  
17 the last four or five or six years, erosion  
18 has set in on the steep part of the  
19 right-of-way. I have water coming down  
20 right around the side of the house now when  
21 it rains heavily. The ditch in the  
22 right-of-way is probably now two to three  
23 feet deep. I don't know that anyone has  
24 done anything lately about, you know, doing

1 any repair work. Originally they had bales  
2 of hay set along the right-of-way of the  
3 electric line to stem the water. Of course  
4 the bales of hay have since disappeared and  
5 now just torrents of water pour down there  
6 during heavy rains which now come in the  
7 back end of the property that I own and  
8 thankfully right now they miss the side of  
9 the house. But it seems like all the  
10 cuttings and the maintenance of the  
11 right-of-way on these lines, there's  
12 nothing left to hold the soil. You're  
13 pretty much left with maybe a little bit of  
14 grass and some of the trees are left for a  
15 while and then they come in and cut that  
16 stuff or spray it, one or the other, and  
17 that leaves nothing to maintain the erosion  
18 problem which on any of these hills around  
19 here can be severe. That is my main  
20 concern with this line going in at all.  
21 It's going to be two lines adjacent to each  
22 other and erosion that I can see is going  
23 to be a problem, water coming off the hills  
24 and in both cases you have a lot of



1 communities that are right next to this  
2 transmission line. So I think somebody has  
3 to take a real good look at what they are  
4 going to do to maintain these lines from an  
5 erosion standpoint. Should they go in? If  
6 it's for the betterment of the community, I  
7 suspect yes, but somebody's got to think  
8 about the ramifications of the people  
9 nearby and what they are going to do to  
10 contain all this dirt flow and water flow,  
11 etcetera, coming off these hills and  
12 there's quite a few involved with this gas  
13 line. Thank you for letting me speak.

14 ADMINISTRATIVE LAW JUDGE: Thank you,  
15 Mr. Gawenus. Christopher Denton.

16 MR. DENTON: My name is Christopher  
17 Denton. I'm an attorney. I represent at  
18 least one client who has property along the  
19 proposed right-of-way. Let me start by  
20 saying that my experience with pipelines in  
21 the last 13 years has been disappointing  
22 from the respect of how landowners are  
23 treated by pipeline companies. I've seen  
24 it from oil and gas companies, I've seen it

1 from transmission companies and I've seen  
2 it from gathering pipeline companies.

3 When there's the right of eminent  
4 domain, as in this case, the gas pipeline  
5 company has no respect for the landowner.  
6 It has not in my experience and has not in  
7 this particular case, entered into any good  
8 faith negotiations. When there is no right  
9 of eminent domain, it's a different world  
10 entirely. Not only is it a different world  
11 from negotiation purposes, but it's a  
12 different world when it comes to how much  
13 they pay. The cultural environment in  
14 which the pipelines function is one in  
15 which we'll throw a few bones out there,  
16 make it look like we've negotiated, we'll  
17 make an offer, we'll low ball them, give  
18 them a little bit higher if they sign  
19 within 10 or 15 or 30 days and then go to  
20 EDPL, Eminent Domain Procedure Law, and  
21 they will have to hire an attorney and it's  
22 a mess. You get a proposed sale price or  
23 purchase price of several thousand dollars,  
24 who is going to hire an attorney?

1 Attorneys can't be hired on an hourly  
2 basis. They will eat up in the first round  
3 of negotiations the entire amount of the  
4 proposed purchase which of course is  
5 inadequately low. So they have to do it on  
6 a contingency basis. Contingency of a  
7 \$2,000 settlement is nothing. So nobody  
8 will represent the landowners. The  
9 landowners are effectively handcuffed, if  
10 you will, in this proceeding, in this  
11 process. Not this proceeding itself, but  
12 these processes.

13 The other is there are only three  
14 other speakers here. There are more than  
15 300 people along there. They don't  
16 understand that tonight is their threshold.  
17 If they don't get their word in here, they  
18 don't have another chance. Because once  
19 this goes to eminent domain and once the  
20 issue, once the order and certificate has  
21 been issued of necessity and convenience,  
22 all their claims are reduced to a dollar  
23 amount and currently we've had several  
24 cases to confirm this. For some strange,

1 odd, bizarre, archaic reason. Courts in New  
2 York and now the Federal Courts think that  
3 all you have to do is condemn based on the  
4 fee cost of the property and then reduce it  
5 by some discount because you're not getting  
6 the whole fee and that's all you have to  
7 pay. In fact this is not a fee  
8 condemnation. This is a condemnation of an  
9 easement, a right-of-way, a right of user.  
10 This is like condemning a ground lease.

11 Anybody here who has ever been  
12 involved at the mall or something like  
13 Toys-R-Us knows that the property, the land  
14 itself is owned by one company and then the  
15 other company leases that ground for the  
16 life basically of that store's usefulness,  
17 50 years, 80 years, 99 years, whatever it  
18 is, there is a lease and they get paid  
19 annually for that right to use that  
20 property. Now this is for all intents and  
21 purposes perpetual that they get an annual  
22 fee, the taxes are included, the liability  
23 is included, there are obligations,  
24 indemnity obligations. There are financial

1 solvency obligations. There are default  
2 obligations. These things are treated like  
3 the business transition they are.

4 Now why should a pipeline, which is  
5 effectively a ground lease because you  
6 cannot use that land for anything else, you  
7 can't build on it, you can't build through  
8 it, except a certain number of feet below  
9 it and then you have to be very careful.  
10 Apparently they don't mow it. People use  
11 it as a right-of-way to walk between places  
12 if it's a shortcut for them, or they drive  
13 on it as I've heard tonight and that's been  
14 the experience of my clients as well. So  
15 the whole process is skewed as if it's a  
16 fee, fee is a legal term which means all of  
17 your ownerships and rights of land, as if  
18 it's a fee condemnation. It acts like a  
19 fee condemnation, but it is not. In a fee  
20 condemnation you do not have to describe  
21 the rights and obligations between the  
22 parties. Why? Because they took the  
23 property. You are out. You are out.  
24 Permanently out. Here you are permanently

1 in. There have been some great points made  
2 tonight about what about me as the  
3 landowner? You get these rights. What are  
4 your obligations to me? Well, if this  
5 weren't eminent domain, the answer is there  
6 would be plenty because any good attorney  
7 worth a salt would require if they are  
8 being given rights, they are getting  
9 obligations back. The bonding issue is a  
10 big one and insurance is another. One  
11 which hasn't been raised is financial  
12 responsibility. The company forms this and  
13 then form an LLC, transfers the LCC. The  
14 LLC is financially liable, but has no  
15 assets other than the pipeline. So  
16 effectively it's a nonrecourse liability.  
17 The landowner is out. They are without  
18 remedies and they are without rights.

19 So let's take a look at how this is  
20 handled when it's a sovereign nation.  
21 Sovereign nation, who is that? Indian  
22 tribes, American Indian tribes are  
23 sovereign nations. Not only that, the  
24 United States is a sovereign nation. BLM,

1 Bureau of Land Management. I've done some  
2 research. A lot of research in fact. And  
3 the tribes, the western tribes and the  
4 Bureau of Land Management no longer grants  
5 permanent easements for pipelines. They  
6 give them a ten-year easement lease and  
7 they charge rent. And if certain terms are  
8 in place, they get another ten years, but  
9 they have to pay rent and that rent is  
10 adjusted every year according to fair  
11 market value of what that rent would be.  
12 And it's based, based on the value of that  
13 line, not based on some fee of this land  
14 for farmland.

15 Taking that information, a year and a  
16 half ago I represented some clients in a  
17 gathering line case in Broome County. A  
18 gathering line case, and this was before  
19 the PSC, in a gathering line case there's  
20 no eminent domain. In that proceeding the  
21 gathering line company ended up with two  
22 20-year easements. One 20 year with  
23 another 20-year renewable because that's  
24 what they figured was the life use of those

1 gathering lines and so we went with that.  
2 The price for that was figured, now this  
3 has nothing to do with the damages  
4 associated, the compensatory and  
5 consequential damages like cutting down  
6 trees. Just for the pipeline. Just the  
7 right to put the pipeline in was \$40 for  
8 running foot a year and a half ago, almost  
9 two years in August, \$40 a running foot and  
10 then for the second 20 years, \$60 a running  
11 foot. Now this was confidential for a year  
12 and then it's been released a year ago.

13 At eminent domain proceedings when  
14 the condemnee, which is the landowner,  
15 brings up the issue of a pipeline, the  
16 pipeline company says there's no data out  
17 there to know what the value is. We just  
18 have to go by the surface rights. The  
19 reason is because the company's require  
20 confidentiality agreements when they sign.  
21 This is an invidious and nasty tactic and  
22 the PSC should, either in this deal or in  
23 general, outlaw, prohibit in every way the  
24 nondisclosure of purchase prices of



1 rights-of-way. This is the thing that  
2 hurts us the most. In eminent domain we  
3 are stuck with this God awful assessment on  
4 the fee instead of on the value of the  
5 pipeline.

6 Now let me give you an idea of how  
7 this worked in this Broome County pipeline  
8 issue. We negotiated a pipeline  
9 right-of-way and easement, which when it  
10 went on the record they tried to put on  
11 something called a memorandum of pipeline.  
12 There's no such thing as a memorandum of  
13 pipeline recordable in New York. You can  
14 record a memorandum of lease, and that's  
15 statutory allowed. And this is another  
16 thing that companies try to do. How can  
17 you put a memorandum of pipeline on record  
18 and hide the terms which bind that land?  
19 That's absurd. They tried to do it. The  
20 Broome County clerk finally agreed they  
21 couldn't do it, but I've seen it done in  
22 other counties and actually it was proposed  
23 here. That thing, the PSC should take  
24 formal action for in this proceeding and

1 generally to stop. It's a horrible  
2 incumbrance on the property. It creates  
3 for real problems in real property titles  
4 because we don't know what the terms of  
5 that easement are. That's another one of  
6 the invidious tactics.

7 So what happens is because they  
8 didn't have the right of eminent domain,  
9 they actually functioned in a business-like  
10 manner. They treated us with respect.  
11 They responded to our e-mails within 24  
12 hours. We got answers. We sat down. We  
13 bargained into the wee hours of the morning  
14 week after week, but we did it. And they  
15 ended up, when we were done, the owner of  
16 the pipeline said this is the toughest  
17 easement he had seen outside of California  
18 and the best for landowners he had seen in  
19 the United States. Why? Because they  
20 didn't have the right of eminent domain and  
21 they had to treat us in business-like  
22 decorum. Made all the difference in the  
23 world. All right.

24 So first of all, in this particular

1 proceeding, which is going to lead to  
2 eminent domain because I don't think anyone  
3 here who has spoken will sign the God awful  
4 easement which I'll read into the record  
5 here. There are no terms for the easement.  
6 When I've seen these eminent domain  
7 proceedings, and I'm involved in some right  
8 now, they just said oh, we condemn in the  
9 end. I say to the court, yeah, but what  
10 does that mean? Well, it's an easement for  
11 the pipeline. I said yeah, but what? What  
12 terms? Exclusive? Nonexclusive? What do  
13 they do when they abandon the pipe? Can  
14 they abandon an easement? The other thing,  
15 when a company comes in and they condemn a  
16 fee, all the land as suggested by Mr.  
17 Rubin, they can't give it back to you.  
18 They have to, you have to accept it back.  
19 But they can abandon an easement and you're  
20 stuck with the liability. Say if there is  
21 a spill, they abandon the easement back to  
22 you. Guess what, you have liability under  
23 New York Law for any spills on your  
24 property. Where are they? Well, I'm

1           sorry, they are out of the business. Well,  
2           I'm not going to sign an easement, nor is  
3           my client going to sign an easement that  
4           allows that. Except in eminent domain,  
5           they get an easement without any terms.  
6           Because an easement is a right of user, to  
7           my mind it is entirely inappropriate and I  
8           think perhaps even illegal from a  
9           conceptual point of view to allow to  
10          condemn for an easement by eminent domain  
11          without the rights and obligations set  
12          forth in the notice of appropriation.

13                 Now I'm going to give you an idea of  
14          how the proposed easement is in bad faith.  
15          I have a copy of the proposed easement  
16          right here that NYSEG has sent around and I  
17          won't read the name of my client in this,  
18          but this is very interesting and listen  
19          very, very carefully. The grantee, its  
20          lessees, grants the grantee's lessees,  
21          licensees, successors and assigns forever,  
22          a permanent easement. All right. Remember  
23          the Feds and tribes don't allow that  
24          anymore, so there's no need for a permanent

1           easement. Tell us how long they are going  
2           to need it. What's the business plan.  
3           Permanent is the first problem in the  
4           right-of-way. So an easement is the right  
5           of user and a right of way is the right of  
6           ingress or egress, right of travel. With  
7           the right, privilege and authority to  
8           install, construct, reconstruct, extend,  
9           operate, inspect, repair, replace and at  
10          grantee's pleasure, remove one or more  
11          underground pipelines with appurtenant  
12          facilities. One or more. Now I thought  
13          this proceeding was for a single eight-inch  
14          pipeline dedicated to a specific use. So  
15          why does the easement that they are  
16          proposing give them unlimited number of  
17          pipelines over this area. Makes no sense  
18          to me. That's bad faith in every possible  
19          way.

20                 Second, with appurtenant facilities.  
21                 Well, appurtenant facilities are not  
22                 described herein. And a compressor station  
23                 is an appurtenant facility, you grant them  
24                 right-of-way for a compressor or compressor

1 unit or any other housing that may appear  
2 on your right-of-way that is necessary for  
3 this. For the transmission and/or  
4 distribution of natural and/or manufactured  
5 gas. And here's the kicker, and for  
6 communication purposes. Now what does that  
7 mean? Read as broadly as this is being  
8 read by their own language that means  
9 cable. That means optic fiber cable. A  
10 number of companies around the United  
11 States have used these easements to  
12 sublease part of the lease and run  
13 fiberoptic cable through these so they  
14 don't have to pay anything to the  
15 landowners. They simply pay to the  
16 easement owner. So communication purposes,  
17 for whom? I don't think pipelines need to  
18 communicate among itself. And I think  
19 their communications network in the United  
20 States, both by the air waves and by cable,  
21 is already sufficient. So why would they  
22 have to put communication lines inside or  
23 along this pipeline right-of-way? For  
24 public or private use? Now in other words

1           they can sell it. Upon, under, over, in,  
2           through, etcetera, together with adequate  
3           protection therefore. Now what does that  
4           mean? Any lawyer in this room knows that  
5           that's a weasel clause. That they will use  
6           that to do anything they need to without  
7           paying extra money. Now if I'm a  
8           landowner, I'm not going to sign this. Is  
9           this what they're expecting from eminent  
10          domain? No. They are not expecting it.  
11          Where are they going to get the eminent  
12          domain? We don't know because these terms  
13          are not set out, yet their assessment asks  
14          for all of these things which are not set  
15          forth in their application to the PSC. So  
16          why are they asking for it? That's bad  
17          faith.

18                 Further, says in here together 30  
19          feet in width, etcetera, 10 feet for  
20          temporary on either side of the permanent  
21          easement. Why don't they just say 50 feet  
22          wide? Because in fact they are going to  
23          tear up that, and this particular easement  
24          gives them the right to continue to use

1           that temporary easement for repairs and  
2           anything else related to it. So it's not a  
3           temporary easement. It's a permanent  
4           easement. So that by itself is a  
5           misrepresentation of the full width of  
6           this.

7                        Now it goes on: The grantor, that's  
8           the landowners, grants the grantee, its  
9           successors and assigns, the right from time  
10          to time trim, cut, burn, treat, you can  
11          imagine what treat is. That's the  
12          pesticides, and/or remove by manual or  
13          chemical means any bush, trees,  
14          obstructions or other encroachments.

15                       The easement which we granted in  
16          Broome County prohibited herbicides,  
17          pesticides or any chemical treatments  
18          whatsoever. And guess what? They didn't  
19          even blink. It was not even an item of  
20          negotiation. We told them no. They said  
21          fine. So why would it have to be in here?  
22          It's because they want it and it makes it  
23          easier for them, but they are not paying  
24          you for that. That's another thing. In



1 every business transition, this is what  
2 this is. This is a business transition.  
3 Let's not beat around the bush. They are  
4 going to make money off this and you're  
5 not. The landowners are not. So how are  
6 we going to become part of this business  
7 transaction. Well, we want rent. So long  
8 as it's there, we want some sort of an  
9 annual payment. And if you want the right  
10 to poison our land for this stuff, we  
11 either want payment for that or we're going  
12 to deny it. That is a business negotiation  
13 issue. Here they ask us to grant it  
14 without any further value. They say we  
15 will pay you the value of your land, but we  
16 are not going to pay you for the rights we  
17 get on top of that.

18 In addition, what do we grant them?  
19 The right of free ingress and egress over  
20 the strip across the property. The right  
21 to grading, constructing, maintaining and  
22 using roads, but it doesn't say anything  
23 about protecting the drainage. Nothing in  
24 this document commits them to the

1 obligation to protect against drainage.  
2 The right to mark location, etcetera, but  
3 it does not say that they will mark the  
4 boundary, the survey boundaries. It does  
5 not say they will give you an instrument  
6 survey. In fact they don't give you an  
7 instrument survey. They will not give you  
8 an instrument survey and they will not put  
9 pins at the corners of those surveys. They  
10 will not even put them at the marker line  
11 between your property and the next  
12 property. And the minimum, at a very  
13 minimum an attorney who represents a  
14 landowner would ask in a business  
15 negotiation that there be an instrument  
16 survey with pins at every point in the  
17 change of course and every point where it  
18 touches someone else's boundary line and  
19 there be an as-built survey showing the  
20 exact location of the pipeline within the  
21 easement. Why not? You have to. It's  
22 coming across your property, you have  
23 permanent obligation after this is done.

24 So this thing is absurd. I mean,

1           it's, it is not good faith. Then they go  
2           on. This is even better. You have to  
3           warrant title. Now how many people in  
4           here, even the attorneys, would warrant  
5           title to their property? They don't know  
6           what their title is. We've gotten, in the  
7           pipeline easement we got in Broome County,  
8           we didn't warrant title. We said whatever  
9           title we've got, you've got. Go look it up  
10          and they did and they worked it out. So  
11          why would we want to warrant title to  
12          something when we got obligations and they  
13          don't and they have privileges and we  
14          don't. That's just the tip of the iceberg  
15          on there.

16                 Oh, by the way they have the right to  
17          subdivide this. Well, that's a valuable  
18          point. That's something they can sell.  
19          These communication lines, the subdivision  
20          of this pipeline, they can sell that.  
21          These are economic rights which they are  
22          saying, well, we're just going to pay you a  
23          portion of the value of the surface of the  
24          land and we are going to get the benefits.

1 Any order allowing to condemn this should  
2 say they are not allowed to take benefits  
3 from this other than their singular  
4 pipeline, at that width at the pressure  
5 they are asking for, from the construction  
6 material they are asking for and nothing  
7 else. Not only that, that right-of-way  
8 should be nonexclusive. That is the  
9 landowner has the right to grant other  
10 rights-of-way to other people so long as it  
11 doesn't violate the provisions of the PSC  
12 law or the rights of pipelines. So why  
13 should they get more? They asked for more,  
14 but we won't grant them and so they walked  
15 away.

16 Let me give you as an alternative  
17 some of the provisions that were granted by  
18 the pipeline company that they agreed.  
19 This is in Broome County. Give you an idea  
20 of the kind of things that when you don't  
21 have eminent domain and they must bargain,  
22 you get it. There was testing and  
23 preservation of data. For instance prior  
24 to the commencement of any activities on

1 the site of the easement, the grantee,  
2 that's the company, shall complete a soil  
3 survey including tests for pipes, depth,  
4 fertility, pH and such values that the  
5 grantor may reasonably require after  
6 consultation with a qualified expert. A  
7 contour survey. Hydrology survey of the  
8 movement of water in and above the ground,  
9 below the ground in the impacted area.

10 ADMINISTRATIVE LAW JUDGE: Excuse me.  
11 Could we go off the record for just a  
12 moment?

13 (OFF-THE-RECORD DISCUSSION.)

14 ADMINISTRATIVE LAW JUDGE: Back on  
15 the record.

16 MR. DENTON: For instance the grantee  
17 shall also conduct pre and post  
18 construction, that's within two months of  
19 completion. Testing of water, streams,  
20 ponds, springs and other water sources  
21 within 500 feet of the easement. As to all  
22 properties, dwellings with potable water,  
23 sources will be tested as well for potable  
24 water supply. Grantee shall be strictly

1           liable for any diminution in quality and  
2           quantity of air, soil, water, water wells,  
3           streams, ponds, springs, aquifers or water  
4           sources that become apparent anytime during  
5           or after construction. In other words, we  
6           make them responsible as a matter of the  
7           easement in the contract for the things you  
8           would expect them to be responsible for in  
9           something where they are not owning the  
10          land. They are leasing our land. That's  
11          the whole point. If testing required  
12          herein is not performed, there may be  
13          adverse water quality and quantity shall be  
14          irrebuttably presumed to have been caused  
15          by the grantee. That's a wonderful  
16          provision. If you don't do your testing  
17          and there's a problem, you guys agree that  
18          it's your fault. This is the kind of thing  
19          you can get in negotiations. We have  
20          erosion standards.

21                   And there was an excellent point made  
22                   about surrender and abandonment. I think  
23                   Ms. Briggs made that point and maybe Mr.  
24                   Rubin as well. Because this can be

1           abandoned back to you, the easement. What  
2 happens when that line comes out? When  
3 they take it out, who pays for the damages  
4 if they take it out? Does the PSC allow  
5 them to abandon it in place? And what  
6 right does the PSC allow them to abandon it  
7 in place? And are we getting paid for  
8 having this pipeline on our property? That  
9 pipeline isn't going to stay integral after  
10 it's empty. Unless it's somehow filled  
11 with concrete and now we've got a concrete  
12 pipeline on our property. That's going to  
13 eventually collapse. We're going to have  
14 subsidence. Someone could put a foot, if  
15 it subsides, someone could trip, fall, go  
16 into a foot and a half hole. It also might  
17 act, if that pipe itself is breached by  
18 corrosion, which it will eventually be, it  
19 may act as a conduit for water and other  
20 fluids underground along that pipeline's  
21 length depending on whether it flows uphill  
22 or downhill and now that is going to be an  
23 issue. And of course the landowner may  
24 have liability for allowing this, if you

1 will, nuisance to continue to reside on  
2 their property. And in this litigious  
3 society which we have, once the pipeline  
4 company is gone and the pipeline is still  
5 there and somebody new buys downhill from  
6 you and they get some water damage coming  
7 from your pipe which has now been breached  
8 and is now running down and flooding,  
9 they're going to sue you. You're going to  
10 dig it up. Where is the money to take it  
11 out? It's not there. It's not in the  
12 condemnation.

13 So the PSC have not addressed the  
14 issues of the rights and obligations.  
15 Right of the landowner and obligations of  
16 the grantee. And this is a glaring defect  
17 in the entire process. I would recommend  
18 that this process not be allowed to go  
19 forward until there's regulation or a  
20 standard is set forth by the PSC. Now it  
21 could be situational. PSC could set a  
22 standard strictly for this pipeline and  
23 then use that in the future to try to make  
24 generalized regulations. I've seen it done



1 at DEC. They do a particular, basically an  
2 ad hoc regulation in a particular case  
3 which amounts to a kind of regulation, but  
4 it's a term of the grantors.

5 Next, part of this pipeline is going  
6 to run not just next to the Millennium, but  
7 from what I've seen, unless it's been  
8 changed, 15 feet is going to be taken from  
9 the Millennium. Now Millennium has the  
10 right-of-way. So they are either going to  
11 have to condemn at 15 feet in order to  
12 allow a second easement over it and they  
13 will condemn Millennium's rights to have  
14 their easement there and they will condemn  
15 the landowner's rights as well. It's a  
16 double condemnation. My guess is that  
17 Millennium will actually charge NYSEG and  
18 NYSEG will work out a deal with them for  
19 the right to either rent that or purchase a  
20 part of it. Knowing business today, my  
21 presumption is that they will rent part of  
22 that 15 feet to NYSEG. If they do, has  
23 that not in fact established that the value  
24 of these pipelines is not as a fee

1           condemnation, but as a rental. Just like a  
2           ground lease for Toys-R-Us or somewhere at  
3           the mall.

4           So the way in which these things are  
5           valued is archaic. Makes no sense. Maybe  
6           it might have made sense 80 years ago, but  
7           it doesn't make sense in today's day and  
8           age. So that's another thing that I think  
9           the relationship between Millennium and  
10          NYSEG for that portion of the pipeline to  
11          go into the Millennium right-of-way should  
12          be publically disclosed including the terms  
13          of the compensation.

14          We talked about disclosure of  
15          purchase price. NYSEG should be required  
16          to disclose the purchase price that they  
17          pay for each and every one of the rights so  
18          at least there is a market. If they keep  
19          it all confidential, there is no market.  
20          It's like derivatives, nobody knows what  
21          derivatives are sold for, nobody knows what  
22          the market is and it collapses. People  
23          wonder why. We need to know what they are  
24          paying. It's only fair. So we can

1           establish a fair market value, because  
2           remember, they are not buying the land.  
3           They are buying the easement.

4           Also, there's an issue in regulatory  
5           oversight. Just to give you an example.  
6           For instance, there's a pipeline company,  
7           local pipeline company out of Corning that  
8           has a pipeline that actually runs under a  
9           beaver dam. The pipeline has been leaking  
10          for some time now. How can you tell?  
11          Because you can see the bubbles coming up  
12          through the beaver pond. And they have  
13          been notified several times and they still  
14          have done nothing about it. There is still  
15          bubbles and that's a venting of gas, an  
16          improper venting of gas. They have been  
17          told about it. Nothing has been done. PSC  
18          has been told about it. Nothing's been  
19          done. If that kind of oversight happens  
20          here in a residential area, it's going to  
21          be a recipe for disaster because that  
22          venting will not show. The only reason it  
23          shows is because there's a beaver pond on  
24          top of the pipeline. Of course the beaver

1 pond was made after the pipeline went in.  
2 So regulatory supervision I think is an  
3 issue which is something that a landowner  
4 is very concerned about.

5 I think I've covered nearly  
6 everybody. However, the one thing that I  
7 want to stress is that at a minimum, at a  
8 minimum the PSC should establish rights and  
9 obligations between the parties and allow  
10 the parties to submit comments on what  
11 those should be. These pipeline easements  
12 ought to be nonexclusive, non-  
13 subdividable. Single use because the  
14 application is for a single use. No other  
15 uses. No other sublets. Single pipe,  
16 single diameter. That's what they  
17 condemned for. That's what it should be  
18 for. If that's what their application is  
19 for, that is what it should be for. And  
20 their easement that they offer should be no  
21 broader than their application. And I  
22 think that PSC can, right now can do  
23 something about that and say we will not  
24 approve this application unless the

1           easement proposal that's made to the  
2           landowner matches the terms and does not  
3           exceed the terms of the application.

4           By the way, our office also sent to  
5           counsel for NYSEG and NYSEG a counter-  
6           proposal easement and they sent their  
7           easement. And we said no. Here, try our  
8           easement. We never got a reply. Now EDPL  
9           requires that there's constant negotiation  
10          from before and even after they take their  
11          condemnation right up through the claims  
12          process and that has not been done here.  
13          As a consequence, I don't think they should  
14          be granted the right to go to eminent  
15          domain until they show that in good faith  
16          they have actually carried out negotiations  
17          on the basis of which I have discussed.  
18          Thank you very much.

19                 ADMINISTRATIVE LAW JUDGE: Thank you.  
20                 When we were off the record I asked if  
21                 there were other people who wanted to make  
22                 comments tonight or this afternoon and Mr.  
23                 Rubin indicated that he had had some  
24                 additional comments to make. Mr. Rubin.

1 MR. RUBIN: Thank you. Geoff Rubin  
2 again. Thank you, Mr. Denton. I hope you  
3 listen to his comments. I have a specific  
4 request because we had a lot of  
5 conversation today. And I've talked to  
6 some of the landowners and I've heard more  
7 today. Based on all of that, I'm making a  
8 specific request to the Public Service  
9 Commission and to the Honorable Jaclyn  
10 Brilling to appoint a special investigator  
11 from the New York State Attorney General's  
12 office to investigate these problems  
13 related to good faith dealings and for such  
14 an entity to come down here and interview  
15 the landowners and interview all the  
16 parties involved.

17 Secondly, I would say this:  
18 Mr. Denton's ideas make a lot of sense to  
19 me. And if in fact the public, and I don't  
20 know one way or the other on this, but if  
21 in fact the Public Service Commission  
22 understands the issues that he has raised  
23 and has continued in the recent past to  
24 grant easements like this one is proposed

1 without a full investigation, then I would  
2 suggest that the Public Service Commission  
3 in New York State be investigated, also.

4 Now, in closing, there are people who  
5 are not willing to come forward like Miss  
6 Riggs and myself. They don't want to be on  
7 record. They don't want to be on TV. They  
8 don't want to be in the newspaper. But it  
9 doesn't mean that they are not upset. And  
10 the other gentleman that came forward,  
11 excuse me. They don't want to be in the  
12 headlines, but it doesn't mean that they  
13 don't care deeply about this. Now there is  
14 a defined number of people that were  
15 affected by this pipeline going in, this  
16 five miles, whatever it is. People at  
17 NYSEG like Christine Baker have been living  
18 with this thing from the very first letter  
19 that came out over a year ago. She knows  
20 the number of people I expect. So at this  
21 point I am asking her, I am challenging her  
22 to come forward after I speak and tell us  
23 the exact number of people that were  
24 affected and tell us on the record how many

1           were opposed and she never, to this that  
2           she knows of. And how many that were in  
3           favor of this that she heard from on the  
4           record right now in front of us all. That  
5           is my challenge to her and the question is  
6           if she doesn't, she has the time between  
7           now and tonight to get the information.  
8           And if there is nobody coming forth from  
9           NYSEG to give us that information, to help  
10          speak on behalf of the people that haven't  
11          shown up here, and I know a lot of other  
12          people that are opposed, then let that  
13          silence speak for itself because it speaks  
14          volumes. Thank you again.

15                 ADMINISTRATIVE LAW JUDGE: Thank you,  
16                 Mr. Rubin. Is there anyone else here who  
17                 wishes to speak this afternoon? If not.  
18                 Yes, ma'am.

19                 MS. GEBHART: My name is Dorothy  
20                 Gebhart. I'm from Horseheads. And I guess  
21                 I don't understand --

22                 ADMINISTRATIVE LAW JUDGE: Can you  
23                 spell your name for the reporter, please?

24                 MS. GEBHART: G-E-B-H-A-R-T. And I



1           guess my only real question is I don't  
2           understand why it's necessary that if a  
3           person wants to make a comment, that you  
4           must grant consent to be televised,  
5           broadcast, webcast or be photographed at a  
6           public hearing. It seems like you can go  
7           to other meetings and make a comment and  
8           you have a choice of whether or not your  
9           image is going to be used. Thank you.

10                   ADMINISTRATIVE LAW JUDGE: Thank you.  
11           Are there any other people who wish to  
12           speak this afternoon? Seeing none, we are  
13           adjourned and we will be back for another  
14           informational session tonight at 7 p.m. and  
15           another public statement hearing at 7:30  
16           p.m. Thank you all for coming. We  
17           appreciate your comments.

18                           \*    \*    \*

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## C E R T I F I C A T I O N

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the above cause and that this is a correct transcript of the same to the best of my ability.

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DELORES HAUBER