



Siting authority for crude oil and petroleum product pipeline siting is granted to the Michigan Public Service Commission (MPSC or Commission) under Public Act 16 of 1929, MCL 483.1 et seq (Act 16).¹

The MPSC operates in a quasi-judicial manner with the Commission making final decisions through a formal evidentiary hearing process and the MPSC staff serving as independent experts to advise the Commission. Interested parties may also intervene in the case to present evidence and arguments for consideration. The Commission bases its decision on the applicable law and evidence presented. Opportunities for the public to comment are also available.

Act 16 Overview

- Act 16 grants siting authority to the MPSC for intrastate and interstate crude oil and petroleum product pipelines.
- The Act 16 application is reviewed as part of a formal hearing process, known as a contested case,² that takes approximately one year for a Commission decision. This process includes expert witness testimony with cross examination by legal counsel representing parties to the case.
- While Act 16 siting approval grants the right of eminent domain with respect to private property, condemnation proceedings are handled in local courts and are not determined by the Commission.

MPSC Considerations in Reviewing an Act 16 Certificate

Based on Act 16 and applicable case law, the Commission must consider the following when reviewing whether to grant a certificate under Act 16:

- Has the applicant demonstrated a **public need** for the proposed pipeline?
- Are the **safety and engineering standards** for the pipeline's construction adequate?
- Is the proposed pipeline **designed and routed in a reasonable manner**?
- Does the project take into account environmental considerations as required by the Michigan Environmental Protection Act,³ specifically:
 - Would the **project cause** "pollution, impairment, or destruction of the air, water, or other natural resources, or the public trust in these resources"?
 - If so, are there **feasible and prudent alternatives** "consistent with the reasonable requirements of the public health, safety, and welfare"?

¹ [MCL 483.1 et seq.](http://legislature.mi.gov/doc.aspx?mcl-act-16-of-1929) Available at <http://legislature.mi.gov/doc.aspx?mcl-act-16-of-1929>. See also filing requirements under [MPSC's Rules of Practice and Procedure Before the Commission, pp. 45-68](#) available on the MPSC website.

² See Administrative Procedures Act of 1969 available at <http://www.legislature.mi.gov/documents/mcl/pdf/mcl-act-306-of-1969.pdf>. Non-controversial pipeline projects may be handled on an "ex parte" basis without a formal hearing and under a shorter timeframe.

³ MCL 324.1705. Available at <http://www.legislature.mi.gov/documents/mcl/pdf/mcl-451-1994-l-17.pdf>.

Opportunities to Learn More and Provide Comments

The MPSC provides many opportunities for the public to participate in cases. Customers, business owners, non-profit organizations, and others may share their views by becoming an intervenor in a case, attending and speaking at a Commission meeting or public hearing, commenting on a case, or writing a letter to the Commission. **Additional opportunities to become engaged include:**

- **MPSC application overview** – In high-profile cases, MPSC Staff will summarize the application, the MPSC’s process and standards of review, and explain opportunities for interested persons to participate. This presentation may be recorded and available on the MPSC’s website.
- **Becoming an intervenor** – Interested persons wanting to become an official party to the case must file a Petition to Intervene with supporting legal justification through the MPSC’s E-dockets system (<https://mi-psc.force.com/s/>) by the date provided in the Notice of Hearing and follow the other guidelines described in the notice.
- **Written comments** – Interested persons may comment on a case *at any point* during the proceeding. These comments will be filed in the case docket for review by the Commission. Such comments can be used to inform the Commission and parties of matters of public interest. Comments can be submitted via email to mpscedockets@michigan.gov, or by mail to: Michigan Public Service Commission, 7109 W. Saginaw Highway, Lansing, MI 48917. While not required, it is recommended that comments include the MPSC case or docket number.
- **Commission Meetings** – The Commission holds one to two meetings a month, which are held at the MPSC office located at 7109 W. Saginaw Hwy, Lansing, Michigan.⁴ Any person present at a Commission meeting may address the Commission during the time reserved on the agenda for public comments.
- **Public hearings** – The MPSC may schedule additional public hearings dedicated to receiving public comment. These hearings allow interested people to share their comments on a pending case before the Commission and are typically held near the project’s location or in areas most impacted.
- **Case monitoring** – All non-confidential documents filed in a case are available to the public. The public can access case information through the MPSC’s E-dockets system (<https://mi-psc.force.com/s/>). Anyone can sign up to receive e-mail notifications of new filings using the case notification feature.⁵

Formal Evidentiary Process

- The formal evidentiary process is known as a contested case and is governed by the Administrative Procedures Act and the MPSC’s Rules of Practice and Procedure, similar to a court of law.
- Any interested party may seek to participate in the contested case by filing a timely petition to intervene. Intervention provides the opportunity to present evidence and arguments for the evidentiary record to be considered in the Commission’s decision making. At a prehearing conference, the administrative law judge will rule on petitions to intervene and set the case schedule.
- The remaining process includes discovery (parties asking each other questions), testimony of expert witnesses, cross examination of witnesses, and legal briefing.
- The Commission may read the record itself or consider a proposal for decision from the administrative law judge before issuing a final decision. The Commission’s decision can be appealed in state court, starting with the Court of Appeals.

⁴ During the COVID-19 crisis, the MPSC is holding meetings using tele-/web-conference capability with opportunities for the public to comment via telephone or web-conference comment feature.

⁵ To receive updates on notices, filings, public hearing announcements, and decisions, click on the orange box with the words “Notify Me of New Approved Filings” within the relevant case docket.