



Myersville Citizens for a Rural Community Inc.

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May 7, 2013

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## MEDIA ALERT

### US Court of Appeals for the District of Columbia Circuit **Dominion Transmission Inc v. Maryland Department of the Environment Oral Arguments** *Federal Preemption vs. Federally Backed State Rights*

WASHINGTON, DC – On Tuesday, May 14, 2013 at 9:30 am, the United States Court of Appeals for the District of Columbia Circuit will hear oral arguments in *Dominion Transmission Inc. v. Summers/Maryland Department of the Environment* (Docket No. CA13-1019) on the question of whether the Natural Gas Act preempts Maryland's air quality permitting laws which require a compressor station that is a source of emissions to comply with local siting requirements. Maryland's permitting law has been incorporated into a state implementation plan pursuant to its authority under the Clean Air Act and, therefore, carries the force of federal law and may not be nullified by another federal statute.

The appeal arises out of Dominion's efforts to secure a certificate from the Federal Energy Regulatory Commission (FERC) for the controversial Myersville Compressor Station. [Myersville Citizens for a Rural Community, Inc.](http://www.mcrcmd.org) (MCRC) is an intervenor in this case and was instrumental in pressing the Clean Air Act issues before FERC through a motion to dismiss Dominion's certificate application and subsequent rehearing requests, challenging FERC's initial decision to issue a certificate.

MCRC asked FERC to dismiss Dominion's application, arguing that even if granted a certificate, Dominion could never obtain an air quality permit for the project. In August 2012, the Town of Myersville denied Dominion's request for a zoning amendment to site the compressor station – and without local zoning approval, the Maryland Department of Environment is prohibited from even accepting Dominion's permit application. In its initial decision, FERC refused to dismiss the Dominion application and declined to rule that state law barred Dominion from obtaining an air quality permit. However, FERC noted that "Maryland state and local agencies retain full authority to grant or deny air quality permits; if the State of Maryland rejects DTI's air quality permit application, or refuses to process it, then it is up to Dominion to determine how it wishes to proceed." Although FERC has not yet issued a final ruling on rehearing, Dominion has chosen to press the matter in court, availing itself of a provision of the Natural Gas Act that allows gas companies aggrieved by an adverse state agency ruling to seek direct appeal in federal court.

Myersville is a small part of a broader national issue--the natural gas boom. There is record excess supply of natural gas due to shale fracking in WV, OH, NY and PA. Given low prices and low domestic demand, the gas industry is looking to sell additional gas to new markets, especially since prices overseas are 3-4 times higher than in the US.

MCRC is a community group formed in response to Dominion's proposal to construct and operate a natural gas compressor of at least 16,000 hp in its small community. MCRC believes that while compressor stations are necessary in the transport of natural gas, they should not be located in close proximity to population centers and should not pose a threat to a municipality, its residents, schools, and agricultural practices. More information can be found at [www.mcrcmd.org](http://www.mcrcmd.org). A copy of MCRC's brief can be found [here](#).

The U.S. Court of Appeals for the District of Columbia is located at 333 Constitution Avenue NW, Washington D.C. Three cases have been scheduled for argument for May 14, with 30 minutes allotted for each. Although DTI v. MDE is second in the line up, those interested in attending are advised to arrive at 9:30 when the judges take the bench since the court runs through the docket quickly and may reach a case sooner than anticipated. The court has special (and somewhat restrictive) policies regarding cell phones and laptops in the courtroom – details [here](#).