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From: [REDACTED]
Sent: Monday, August 25, 2014 9:05 AM
To: rulescoordinator
Subject: Comments on "Gas Utility Docket 10366" and on "Amendment to 16 TAC 3.70"
Attachments: RRCcomments-_Bob-smitty-2.docx

Sir:

Thank you for the opportunity to comment on **Gas Utility Docket 10366** and **Amendment to 16 TAC 3.70**

I support and endorse the analysis of the documents and the comments provided by Public Citizens', Bob Smitty.

Those comments are attached.

Thank you.
Adrian

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**Comments of Pipeline Route Neighbors and Allied Groups on
Proposed Amendments to 16 TAC section 3.70
Relating to Common Carrier Permits
Gas Utilities Docket number 10366**

Introduction: We appreciate the Commission attempts to develop rules for granting common carrier status that resulting in the granting of the right of eminent domain to pipeline companies but we the undersigned individuals and groups don't think these rules go far enough and need to be strengthened.

These rules should be clarified to:

- 1. Establish standards for proof that the applicant is really a common carrier**
- 2. Develop standards for revocation of common carrier status**
- 3. Provide neighbors notice of application since most of the parties affected by pipeline construction and threatened by leaks of toxic materials are tenants or neighbors and not landowners**
- 4. Assure public comments are considered and responded to prior to the issuance of the permit**
- 5. Assure that the hearings on the pipelines are held by SOAH**
- 6. Applicants should be assessed a fee to assure that enough staff resources are available to review the applications**

In addition we would like to request a public hearing on the proposed rules.

Specific Comments

Paragraph 3.70 Pipeline Permit Requirements

In the RRC proposal page 2 lines 23, 24 and page 3 line1 Mary (Polly) Ross McDonald says “ *that for the first five years the amendment will be in effect, there are no anticipated significant fiscal implications to state or local governments as a result of enforcing or administrating the proposed amendments*”. The process of checking all the requested documentation will entail substantially more clerical time , effort, and expertise than the former method of “just checking the T-4 box”. Nowhere in the RRC proposal is there any request for or admission of a need for additional funding and there needs to be. On page 3, lines 2-8, Ms McDonald says “ *the public benefit expected.....will be greater confidence in the Commission’s classification of pipelines as common carrier.....and the assurance that there is a review of the pipeline operator’s assertion of a particular classification*. The permitting process will include a *more developed inquiry* into the issue of a pipeline’s public use, thereby providing more *credibility* to the Commission’s process with *respect to the ultimate classification of the pipeline, as well as increased certainty for both pipelines and landowners*”. (Italics added).

Without more resources and funding to do these reviews the “confidence” and “credibility” of the process will not materialize. These rules should require pipelines to pay an application fee that covers the cost to have this review process.

Sections (b) (3). There should be *a penalty for a false sworn statement. The penalty should be loss of operating permit and the individual making the false statement be*

should be referred to the Attorney General for a civil or criminal perjury.

And section (b) (3) the Commission should add **a sworn statement from the individual representing the pipeline applicant.**

Additionally we would like to suggest that Section 3.70 (b) be amended by adding the following:

- after the word "permit" on pg 6 line 7 "**and give notice of the application for the permit anyone living or to any business within 2 miles of the proposed route and the first responders along the route**"
- and a new subsection (4) be added to read "**(4) a sworn statement by the pipeline operator about the type and toxicity using the classification system and community notifications requirements contained in Emergency Planning and Community Right-To-Know Act of all the materials that the pipeline is designed to carry**"

and renumber the subsequent sections accordingly

amend section (c) (3) as follows:

Any other information requested by the commission **including change in the material to be transported.**

We would like to suggest that subsection (c) be amended by adding the following

- after the word "permit" on pg 7 line 4 "**and give notice of the application for the permit anyone living or to any business within 2 miles of the proposed route and the first responders along the route**"

- and a new subsection (3) be added to read **"(3) a sworn statement by the pipeline operator about the type and toxicity of all the materials that the pipeline is designed to carry"**

and renumber the subsequent section accordingly

- **Add (4) notify affected landowners and first responders of any change in the type of material transported with specific cautions as to hazards.**
- **Add (e) hold a public hearing by county or region for affected land owners and first responders for public comment prior to the final decision by the Commission similar to the PUC.**
- Add to (-e-) (f) Once an application is determined to be complete and sufficient **and after the public hearing and comment period the commission shall issueand after its own review [investigation] and considering the public comments,** that the proposed line is
- The pipeline permit, if granted.....determines that an application is complete. **The commission's determination of common carrier status does not preclude a challenge in district court by interested parties.**

We suggest that subsection (h) be amended as follows by adding the following prior to the word " the pipeline on page 9 at line 1 :

- **Any neighbor or business within 2 miles of the proposed route may request a hearing on whether the permit should be granted which shall be held and a decision rendered prior to granting a permit. Such a hearing shall be held by the State Office of Administrative Hearings.**