Kellie Martinec

From: mike dean [redacted]
Sent: Monday, August 25, 2014 10:27 AM
To: rulescoordinator; Mike Dean
Subject: Re: { Comment on RRC Pipeline Rules "Gas Utility Docket 10366" and on "Amendment to 16 TAC 3.70"

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"Gas Utility Docket 10366"
and on **"Amendment to 16 TAC 3.70"**

Railroad Commission
I am executive Vice president and on the board of directors of of THRMVA "The Historic Randol Mill Valley Alliance" a 7 neighborhood group.The rules for this document need to be changed to protect individual property rights in this great State of Texas in ONE main and crucial way . That is deletion of the ability of solely owned private pipeline operators to have the right of emminent domain over privately held property. This addition to the rules that prior only allowed this right to Public Utilities and Common Carriers was correct. The realitively new (since 2011) addition of private pipeline operators or gas operators have reek havoc in many Barnett Shale area communities. It has devalued properties in densely populated areas and has allowed a foreign Oil company to put a gun to private property owners heads to protect their prpoerty or negotiate fair valuation and access to their property for the XL tar sands pipeline. Texas should stand for Texans Private Property Rights.. Aithough it appears that our leaders paid by lobbiest and special interests are willing to seel out long held Texas rights to even foreign solely owned and operated pipelien operators.

DELETE this right to private Pipeline operators

1) PROPOSED AMENDMENT TOO VAGUE -- Though we appreciate the Railroad Commissions attempt to more carefully define what entity can be a "common carrier" in Texas, the proposed amendment to Rule 3.70 is inadequate and too vague. The way the amendment reads is difficult to see how this is not the basic status quo the RRC is currently doing in administrating permits.
Examples of the Amendment being too vague per the RRC Memo to the Commission:
• p. 1, Line 20
Indicates that the RRC will ask for "certain additional information"
There is no delineation of what that "certain additional information" required would be within this amendment.
• p. 1, Line 23 refers to "any other information" the Commission may also request. There is no indication within the text of what that additional info is that the RRC may ask for.
• p. 2, Line 8 indicates the RRC will conduct "its own review" of the applicant. There is no indication of what the RRC means by "its own review" of the applicant. Is the RRC staff simply reading the application without verifying its accuracy? There is no indication staff will actually investigate if in fact the applicant is a "pipeline for hire," or "for the public good" as required by law to be a common carrier. Since the agency says it should need no monies for additional staff to review applications, there is no indication that staff will indeed verify the voracity of the applicant by spending staff time talking to FERC, shippers, etc.

There is no specificity whatsoever about what changes may be to the T-4 form for "what additional information" will be asked for. Currently an applicant can just check a few boxes and sign off on a one-page vague application form.

2) NO STANDARDS FOR COMMON CARRIER are indicated in the proposed amendment. Nothing in the amendment indicates specific criteria an applicant has to meet other than the basics of a contact, address, etc.. Nor does the amendment indicate what factors are cause for revocation of a permit.

3) A PROCESS FOR PUBLIC NOTICE for common carrier is not indicated but should be provided for in the proposed amendment. A more "balanced" approach would a similar procedure to what the Public Utility Commission or the TCEQ follow in permits/notice. There should be a 30-day first notice of the application and the applicant should be required to provide a route. All landowners, municipalities,and county officials within a minimum 2-mile distance of the pipeline should receive MAILED notice (not electronic due to lack of good internet service in rural areas) of the application. There should be a

2nd notice with a 30-60 day window when an application is considered "complete" via newspaper with a mailing to "affected" parties for a public hearing re: the common carrier permit. There should be a mechanism for landowners to gain standing if the common carrier permit is contested.

5) PERMIT REVIEW AND APPROVAL SHOULD NOT BE A CLOSED AGENCY PROCESS
p. 2, Line 19 The RRC states it can "administratively issue pipeline permits."
It appears that the RRC is trying to maintain a closed process which indicates no involvement for an "independent" review if a common carrier permit application is challenged. The logical place for an independent review is the State Office of Administrative Hearings or SOAH. The RRC Commissioners receive contributions for their elections by some of the applicants who have applied and will continue to seek a "common carrier" permit. An independent SOAH review gives the public a more balanced process.

Though the local district court process of a common carrier challenge appears to be preserved, this is an expensive process where individual landowners must each hire attorneys in various districts. A contested common carrier permit may be enjoined in a SOAH hearing expediting each individual common carrier challenge into one contested case.

6) APPLICANTS SHOULD BE ASSESSED A FEE to ensure that staff time and resources are compensated to thoroughly review, investigate, and validate applications. A fee should also be assessed upon renewal or the amendment of a common carrier permit to ensure staff time is covered and the state's natural resources and landowners are protected.

Finally, the RRC has stated itself before the legislature that it has no jurisdiction over INTERSTATE pipelines or their construction -- that authority is relegated to PHMSA. Many references are made to RRC staffer Polly McDonald in this memo regarding this amendment. The RRC can and should ask for "expanded jurisdiction" to have the authority to monitor INTERSTATE pipelines as 4 other states currently do to check how a pipeline is built, monitored, etc. to better ensure public safety in collaboration with PHMSA.

This push for expanded authority under PHMSA has been brought to Ms. McDonald's attention with other legislators present this past session, but in the context of what entities qualify a common carrier, construction information (though informative), etc. has no bearing on the required qualifications of a "pipeline for hire" and should not be misconstrued in this amendment as part of those qualifications. The proprietary nature of not revealing what companies a "pipeline for hire" is shipping for should be waived to establish a valid common carrier status.

I also request to be notified of all activity concerning the gas activity in my area and to be put on the appropriate regular mailing list for such.

Sincerely
Mike Dean
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