Kellie Martinec

From: Sent: Julie Noble 4

Monday, August 25, 2014 9:57 AM

To:

rulescoordinator

Cc: Subject:

Rex H. White, Jr. Proposed Amendments to Draft Rule 3.70

Attachments:

8-25-14 Rex White proposed amendments to draft pipeline permit rule 3.70.pdf

Dear Rulemaking Staff:

Thank you for including Rex H. White, Jr.'s comments for consideration in the review process for amendment to Rule 3.70.

Please call or email with any comments or questions that you may have.

Best regards,

Julie Noble - for
Rex H. White, Jr.
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(512) 472-7041
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Rex White's email:



REX H. WHITE, JR.

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MEMORANDUM

TO:

Gas Utilities Docket 10366 Rules Coordinator,

Office of General Counsel

FROM:

Rex H. White, Jr.

DATE:

August 25, 2014

SUBJECT:

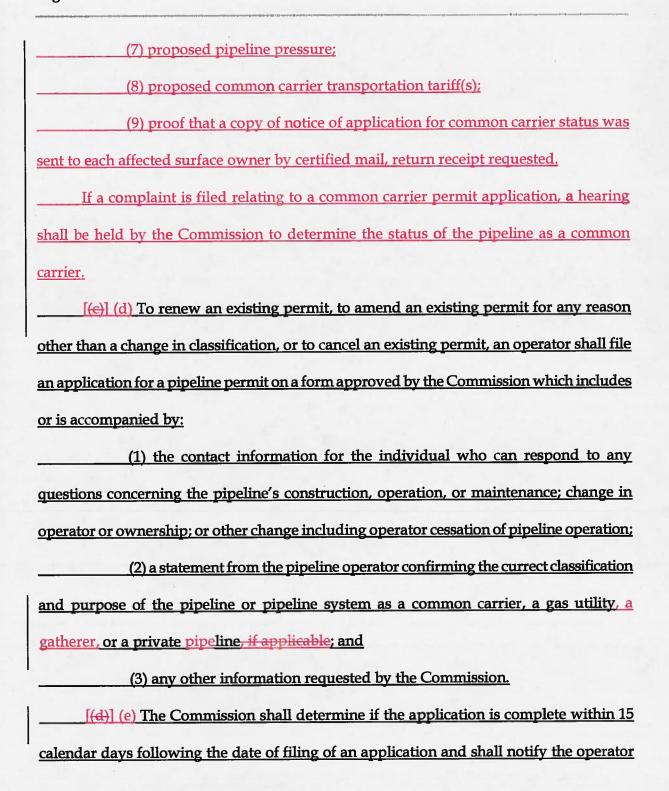
Rule 3.70 Proposed Changes / Pipeline Permits

Comment: In order to comply with Texas Rice Land Partners, Ltd v. Denbury Green Pipeline-Texas LLC, 363 S.W.3d 192 (Tex. 2012), the following amendment to the proposal is submitted:

§ 3.70. Pipeline Permits Required.

- (a) Each operator of a [No] pipeline or gathering system subject to the jurisdiction of the Commission shall obtain a pipeline [, whether a common carrier or not, shall be used to transport oil, gas, or geothermal resources from any tract of land within this state without a] permit, renewable annually, from the Commission as provided in this rule [commission].
- (b) To obtain a new pipeline permit or to amend a permit [because of a change of elassification], an operator shall file an application for a pipeline permit or amendment to an existing permit on a [Application for the permit shall be made upon the required] form approved by the Commission which includes or is accompanied by the following documentation and information:

Proposed Amendment to Draft Rule Changes - 3.70



either that the application is complete or that the application is incomplete. The notice of an incomplete application shall specify the additional information needed to complete the application.

[(e)] (f) Once an application is determined to be complete and sufficient, the Commission shall issue, amend, or cancel the pipeline permit or deny the pipeline permit as filed. If the Commission [, and the permit will be granted if the commission] is satisfied from the [such] application and the documentation and information provided [evidence] in support thereof, and its own review [investigation], that the proposed line is, or will be [, se] laid, equipped, [and] managed and [, as to reduce to a minimum the possibility of waste, and will be] operated in accordance with the [conservation] laws of the state and the [conservation] rules and regulations of the Commission, the permit may be granted [commission].

[(b)] The pipeline permit, if granted, shall classify the pipeline as a common carrier, a gas utility, a gatherer, or a private pipeline based upon the information and documentation submitted by the applicant and the Commission's review of the application. The Commission's decision on issuance of a pipeline permit shall be completed within 45 calendar days following the Commission's determination that an application is complete.

[(f)] (g) This rule applies to applications made for new pipeline permits and to amendments, renewals, and cancellations of existing pipeline permits which are submitted to the Commission on or after the effective date of this rule.

[(g)] (h) The Commission may delegate the authority to administratively issue pipeline permits.

[(h)] (i) [The] A common carrier pipeline permit, if granted, upon complaint shall be revocable at any time after a hearing held after 10 days' notice to all affected persons, if the Commission [commission] finds that the pipeline is not being operated as a common carrier in accordance with the laws of the state and the rules and regulations of the Commission [line is so unsafe, or so improperly equipped, or so managed, as likely to result in waste. If the commission finds the line is in such condition as to cause waste, five days' written notice shall be given to the operating company to correct the condition before notice of hearing for revocation of the permit is given. A permit may also be revoked after 10 days' notice and hearing, if the commission finds that the operator of the line, in its operation thereof, is willfully violating or contributing to the violation of the laws of Texas regulating the production, transportation, processing, refining, treating, and/or marketing of crude oil or geothermal resources, or any of the laws of the state to conserve the oil, gas, or geothermal resources, or any rule or regulation of the commission enacted under such laws].