


**Kellie Martinec**

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**From:** Alex Mills   
**Sent:** Monday, August 25, 2014 11:20 AM  
**To:** rulescoordinator  
**Subject:** Comments to proposed amendments pipeline rule  
**Attachments:** Proposed changes to pipeline regs.pdf

Please find attached comments of the Texas Alliance of Energy Producers to Rule 70.

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August 25, 2014

Rules Coordinator  
Railroad Commission of Texas  
Office of General Counsel  
P.O. Drawer 12967  
Austin, TX 78711-2967

Re: Proposed Amendments to 16TAC §3.70, relating to Pipeline Permits  
Required; Gas Utilities Docket No. 10366

The Texas Alliance of Energy Producers appreciates this opportunity to file comments on the proposed amendments to Rule 70, the rule on T-4 pipeline permits to operate. The Texas Alliance also appreciates the Commission's attention to these timely matters.

The Texas Alliance is very much aware of the discussions concerning pipeline permitting that ensued following the Texas Supreme Court's decision in the *Denbury* case decided by the Texas Supreme Court in 2012. Those discussions, in the legislature and the Commission and involving the general public, have included suggestions that something be done to address the Court's comments regarding pipeline permits for common carriers. However, the Texas Alliance of Energy Producers believes the Court made it clear that the critical public use determination required for the exercise of eminent domain, would remain one for the courts, not the Commission.

It has not been at all clear that something needs to be done or that the *Denbury* decision, based on very unique facts, has proven a significant impediment to the exercise of eminent domain by the pipelines. Our concern at this juncture is that if something is done, as in the proposed amendments, it not yield delays in pipeline permitting that will impede the building and operation of the pipelines necessary to transport produced oil and gas in a timely and cost-effective manner.

It is in this context, that we make the observations that follow. They are largely in the form of questions because it is not clear how the rule would operate on a day-to-day basis.

1. The rule proposal requires an open-ended requirement for the submission of information for a pipeline to support its requested classification. What are the standards and guidelines that will be used to determine the information that would need to be submitted? What guidelines will govern the staff's evaluation of the sufficiency of that information? Will these guidelines be published as a rulemaking? Should they be?

2. Common carriers and gas utilities are currently required by law to operate in a non-discriminatory and reasonable manner. Under the proposed rule, would they be required to submit specific information as to how they will be operated so as to comply with these requirements? This would include the terms of access for the public to ship oil, gas, or products, including the availability of access, how the availability information will be made known to the public (via website or otherwise), the rates and other tariff conditions that would apply, and the available receipt and delivery points. Will the pipeline's implementation of this be reviewed at the time of the annual T-4 permit renewal to determine if it complies with the statutory requirements? Will producers be given the opportunity to participate in the process if they believe that a given common carrier or utility has not lived up to the requirement for non-discriminatory access?

3. Are these additional regulations necessary, and are they worth the cost to pipelines, producers, and the Commission?

We appreciate your consideration of these and other comments on the proposed rule changes.

Sincerely,

A handwritten signature in black ink that reads "Alex Mills". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Alex Mills  
President, Texas Alliance of Energy Producers