

By: Burnam

H.B. No. 1535

A BILL TO BE ENTITLED

AN ACT

1 relating to the requirement that gas corporations obtain a permit
2 from the Railroad Commission of Texas before condemning property to
3 construct certain gas pipelines.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter A, Chapter 181, Utilities Code, is
6 amended by adding Sections 181.0045, 181.0046, 181.0047, 181.0048,
7 and 181.0049 to read as follows:

8 Sec. 181.0045. RAILROAD COMMISSION PERMIT FOR CERTAIN GAS
9 PIPELINES. (a) For purposes of this section, "interested person"
10 includes:

11 (1) a person who:

12 (A) owns property that may be condemned under
13 Section 181.004;

14 (B) owns property adjacent to property that may
15 be condemned under Section 181.004; or

16 (C) may be affected adversely by the condemnation
17 of property under Section 181.004; and

18 (2) any other person as defined by rules adopted by the
19 Railroad Commission of Texas.

20 (b) This section and Sections 181.0046-181.0049 apply only
21 to a gas pipeline proposed to be located in a county that:

22 (1) has a population of more than 1.4 million; and

23 (2) is located wholly or partly above a

1 hydrocarbon-producing geological formation in which during the
2 preceding year the Railroad Commission of Texas issued more than
3 2,000 drilling permits authorizing gas wells to be completed.

4 (c) A gas corporation may not exercise authority under
5 Section 181.004 for the purpose of constructing a gas pipeline
6 unless the gas corporation applies for and receives a permit from
7 the Railroad Commission of Texas that authorizes the pipeline and
8 the route of the pipeline.

9 (d) An application under Subsection (c) must include a
10 description of:

11 (1) the proposed route through the county that is
12 preferred by the gas corporation;

13 (2) at least three alternative routes that the
14 pipeline may feasibly take through the county; and

15 (3) the results of a study detailing the feasibility
16 of using existing public roadway rights-of-way in all proposed
17 pipeline routes.

18 (e) On written request by any interested person, the
19 Railroad Commission of Texas shall provide notice and opportunity
20 for hearing on an application under this section. The hearing is a
21 contested case hearing under Chapter 2001, Government Code. An
22 interested person is entitled to be a party to a hearing under this
23 section.

24 Sec. 181.0046. FEE FOR GAS PIPELINE PERMIT. (a) On
25 application for a gas pipeline permit by a gas corporation under
26 Section 181.0045, the commission shall require the gas corporation
27 to pay a fee in an amount determined by the commission.

1 (b) A fee assessed under Subsection (a) shall be calculated
2 according to a formula that takes into consideration the length of
3 the gas pipeline proposed in the application.

4 Sec. 181.0047. GRANT OR DENIAL OF GAS PIPELINE PERMIT.

5 (a) The Railroad Commission of Texas may approve an application
6 and grant a permit under Section 181.0045 only if the railroad
7 commission finds that the permit is necessary for the service,
8 accommodation, convenience, or safety of the public.

9 (b) The Railroad Commission of Texas may:

10 (1) grant the permit as requested;

11 (2) grant the permit for the construction of a portion
12 of the requested pipeline; or

13 (3) refuse to grant the permit.

14 (c) The commission shall grant each permit on a
15 nondiscriminatory basis after considering:

16 (1) the adequacy of existing pipeline service;

17 (2) the need for additional pipeline service;

18 (3) the effect of granting the permit on the recipient
19 of the permit and any gas corporation serving the proximate area;
20 and

21 (4) other factors, such as:

22 (A) community values;

23 (B) recreational and park areas;

24 (C) historical and aesthetic values;

25 (D) environmental integrity;

26 (E) the probable improvement of service or
27 lowering of cost to consumers in the area if the permit is granted;

- 1 (F) engineering constraints;
- 2 (G) cost constraints;
- 3 (H) whether the route uses existing compatible
4 rights-of-way; and
- 5 (I) whether the route limits the risk of exposure
6 to hazards associated with gas pipelines that can be avoided with
7 reasonable investments of money and effort.

8 Sec. 181.0048. DEADLINE FOR APPLICATION FOR GAS PIPELINE
9 PERMIT. The Railroad Commission of Texas must approve or deny an
10 application under Section 181.0045 for a permit for a new gas
11 pipeline not later than the first anniversary of the date the
12 application is filed. If the railroad commission does not approve
13 or deny the application on or before that date, a party may seek a
14 writ of mandamus in a district court of Travis County to compel the
15 railroad commission to decide on the application.

16 Sec. 181.0049. REVOCATION OR AMENDMENT OF GAS PIPELINE
17 PERMIT. (a) The Railroad Commission of Texas may revoke or amend a
18 permit after notice and hearing if the railroad commission finds
19 that the permit holder has never provided or is no longer providing
20 service in all or any part of the permitted area.

21 (b) The Railroad Commission of Texas may require one or more
22 gas corporations to provide service in an area affected by the
23 revocation or amendment of a permit.

24 SECTION 2. The Railroad Commission of Texas shall adopt
25 rules consistent with this Act not later than December 1, 2009.

26 SECTION 3. The changes in law made by Sections
27 181.0045-181.0049, Utilities Code, as added by this Act, apply only

1 to the taking of property by eminent domain for which a condemnation
2 petition is filed on or after the effective date of this Act. A
3 taking for which a condemnation petition is filed before the
4 effective date of this Act is governed by the law in effect
5 immediately before that date, and that law is continued in effect
6 for that purpose.

7 SECTION 4. This Act takes effect September 1, 2009.