



## Taking Control Over Natural Gas Gathering and Transmission Pipelines and Compressor Stations\*

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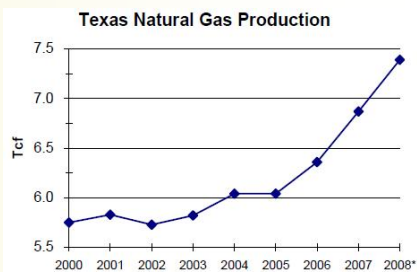
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## Demand for Natural Gas\*

Table 2. Texas Natural Gas (Trillion CF)

Period	Total Production	Proved Reserves #	Consumption #	Producing Wells	Wellhead Price **
1990	5.54	41.4	3.60	49,989	\$1.43
1991	5.52	39.3	3.56	49,825	\$1.39
1992	5.45	38.1	3.48	49,839	\$1.45
1993	5.61	37.8	3.74	50,794	\$1.80
1994	5.69	39.0	3.67	52,614	\$1.68
1995	5.69	39.7	3.80	53,612	\$1.36
1996	5.85	41.6	3.99	55,052	\$1.76
1997	5.85	41.1	3.95	56,736	\$2.14
1998	5.82	40.8	4.20	58,436	\$1.96
1999	5.60	43.4	4.01	59,088	\$1.86
2000	5.75	45.4	4.42	60,486	\$3.51
2001	5.83	43.5	4.25	63,598	\$4.00
2002	5.73	44.3	4.30	65,686	\$2.95
2003	5.82	45.7	4.05	68,488	\$4.88
2004	6.04	49.9	3.90	72,237	\$5.46
2005	6.04	56.5	3.50	76,510	\$7.33
2006	6.36	61.8	3.43	83,218	\$6.39
2007	6.87	72.0	3.51	88,311	\$6.37
2008*	7.39	n/a	n/a	n/a	\$8.07



\*Texas PetroFacts, Vol. 23, No. 1 (Mar. 2009).  
2008 Stats are estimates.

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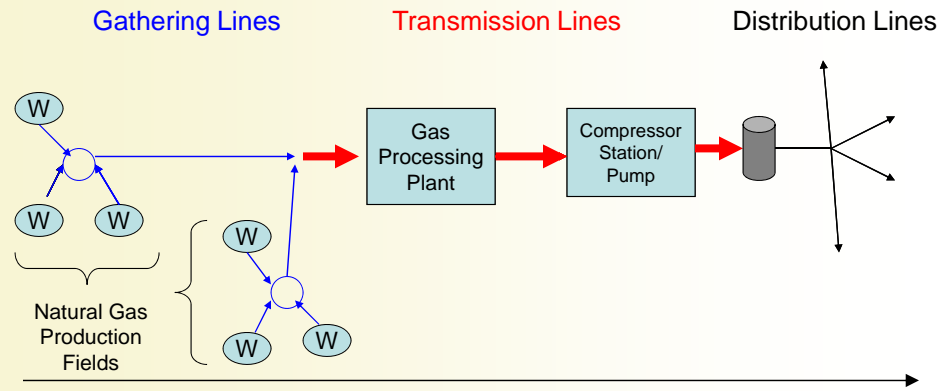
## **Competing Interests**

- Natural Gas Pipeline Companies
- Landowners
- General Public
- Railroad Commission of Texas (“RCT”)
- Municipalities!

## **Topics of Discussion**

- Background on Natural Gas Transportation Process
- Governmental Regulation of Natural Gas Pipelines
- Authority of Municipalities
- Recent Caselaw / Report on 81<sup>st</sup> Legislative Session
- Summary / Questions

## Production, Transportation, and Delivery of Natural Gas



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## **Federal Regulation of Natural Gas Pipelines**

- Federal Energy Regulatory Commission
- U.S. Dept. of Transportation- Pipeline and Hazardous Materials Safety Administration (Office of Pipeline Safety (“OPS”))
  - Title 49 United States Code § 60101 et seq.
  - Pipeline Safety Regulations (Title 49 CFR Parts 190-199)

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## **State Regulation of Natural Gas Pipelines Delegated to the RCT**

- Texas Natural Resources Code § 81.051- Grants RCT with jurisdiction over
  - (1) common carrier pipelines defined in Section 111.002 of this code in Texas;
  - (2) oil and gas wells in Texas;
  - (3) persons owning or operating pipelines in Texas; and
  - (4) persons owning or engaged in drilling or operating oil or gas wells in Texas.
- Texas Natural Resources Code § 81.052- Grants RCT authority to adopt rules under authority under TNRC § 81.051.
- Texas Utilities Code § 121.151- Grants RCT with general jurisdiction over price of and payment for natural gas and supervision over natural gas pipelines
- Texas Utilities Code § 121.201- Grants RCT with jurisdiction to regulate safety aspects and practices for natural gas pipelines.

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**Regulation of Natural Gas Pipelines by RCT**

- Title 16 Texas Administrative Code § 3.70
  - T-4 Pipeline Permit
  
- Title 16 Texas Administrative Code, Chapter 8
  - PS-48 Report (§ 8.115)
  - Leak Reporting (Ch. 8, Subchapter C)
  - Odorization (§ 8.215)
  - Penalty System (§ 8.135)

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**NEW CONSTRUCTION REPORT  
RAILROAD COMMISSION OF TEXAS  
SAFETY DIVISION  
PIPELINE SAFETY SECTION**

C&D # \_\_\_\_\_ New Construction Report # \_\_\_\_\_ Docket # \_\_\_\_\_  
(above info will be certified by RRC)  
This report is required by 16 TAC § 8.115, which pertains to the filing of a pre-construction report. This report must be filed with Pipeline Safety Section thirty days prior to the commencement of construction.

Name of Operator (Company) \_\_\_\_\_ Mailing Address/Number and Street \_\_\_\_\_  
 T-4 Permit Number \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
 Date Report Sent \_\_\_\_\_ Date Construction is to Begin \_\_\_\_\_  
 Gas/Class Location (1,2,3,4) \_\_\_\_\_ Liquids/Rural or Non-Rural \_\_\_\_\_  
 Proposed Location/County Name(s) \_\_\_\_\_  
 Path of Pipeline/Begin & End Points \_\_\_\_\_  
 System/Segment/Line Name \_\_\_\_\_  
 Pipeline Material/Grade (Example: API 5L X42) \_\_\_\_\_  
 Pipeline Diameter \_\_\_\_\_ Wall Thickness \_\_\_\_\_  
 Design Pressure Gas/MAGP \_\_\_\_\_ Liquids/MCP \_\_\_\_\_  
 Length of Line (Feet/Miles) \_\_\_\_\_  
 Intended Use/Product to be Transported \_\_\_\_\_  
 Hydrogen Sulfide Content of Product/PPM \_\_\_\_\_  
 New system     Replacement of existing system     Extension of existing system  
 Per 49 CFR 192 & 195/16TAC Chapter 8     Gathering     Transmission     Distribution

Name and Title of Reporting Official \_\_\_\_\_ Signature \_\_\_\_\_  
 Telephone Number \_\_\_\_\_ FAX Number \_\_\_\_\_ E-mail Address \_\_\_\_\_

Return completed form to Railroad Commission of Texas, Gas Services Division,  
Pipeline Safety Section, PO Box 12967, Austin, TX 78711-2967  
The Railroad Commission does not discriminate on the basis of race, color, national origin, sex,  
religion, age, or ability to employ or the provision of services. TDD/OTD (512) 463-7298

Form PS-48 (Rev. 10/2008) PLS Region # \_\_\_\_\_

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## Municipal Control

- Texas Utilities Code (“TUC”), Chapter 121
  - TUC § 121.202
  - TUC § 121.2025
- Texas Natural Resources Code (“TNRC”), Chapter 111
  - TNRC § 111.022

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## Texas Utilities Code § 121.202

- (a) A municipality or a county may **not** adopt or enforce an ordinance that establishes a safety standard or practice applicable to a facility that is regulated under this subchapter, another state law, or a federal law.

## Texas Utilities Code § 121.202

- (b) Except as provided by Subsection (a) and by Section 121.2025, this subchapter does **not** reduce, limit, or impair:
  - (1) a power vested by law in:
    - (A) a county in relation to a county road; or
    - (B) a municipality; or
  - (2) **the ability of a municipality to:**
    - **(A) adopt an ordinance that establishes conditions for mapping, inventorying, locating, or relocating pipelines over, under, along, or across a public street or alley or private residential area in the boundaries of the municipality; or**
    - **(B) establish conditions for mapping or taking an inventory in an area in a municipality's extraterritorial jurisdiction**

## **Texas Utilities Code § 121.2025**

- (a) Except as otherwise provided by this section or Section 182.025, Tax Code, a municipality may **not** assess a charge for the placement, construction, maintenance, repair, replacement, operation, use, relocation, or removal of a gas pipeline facility on, along, or across a public road, highway, street, alley, stream, canal, or other public way.

## **Texas Utilities Code § 121.2025**

- (b) A municipality **may**:
  - (1) assess a **reasonable annual charge** for the placement, construction, maintenance, repair, replacement, operation, use, relocation, or removal by an owner or operator of a gas pipeline facility on, along, or across the public roads, highways, streets, alleys, streams, canals, or other public ways located within the municipality and maintained by the municipality; and
  - (2) recover the reasonable cost of repairing damage to a public road, highway, street, alley, stream, canal, or other public way located within the municipality and maintained by the municipality that is caused by the placement, construction, maintenance, repair, replacement, operation, use, relocation, or removal of a gas pipeline facility if the owner or operator of the facility does not repair the damage in accordance with generally applicable paving standards or other applicable standards in the municipality.



## **Texas Natural Resources Code § 111.022**

- Sec. 111.022. RIGHT TO USE STREET OR ALLEY IN CITY OR TOWN. The provisions of this chapter do not grant a pipeline company the right to use a public street or alley in an incorporated or unincorporated city or town except with express permission of the governing body of the city or town or the right to lay its pipes or pipelines along and under a street or alley in an incorporated city or town except with the consent and under the direction of the governing body of the city or town.

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## **Compressor Stations**



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### **Texas Midstream Gas Services, LLC v. Grand Prairie**

- Cite: 2008 WL 5000038 (N.D.Tex.,2008).
- TMGS acquired land within the City of Grand Prairie to build a new compressor station
- Grand Prairie zoning ordinance required:
  - Special Permit Use
  - Minimum setback guidelines
  - Requiring a “security fence” around the perimeter
  - Insulating the facility for sound
  - Other construction standards
- TMGS filed suit for permanent injunction
- Federal District Court denied TMGS claim on all grounds except security fence

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### **Bills Passed - 81<sup>st</sup> Legislative Session**

- HB 2572 amends § 121.2025(a)
  - HB 2572, SECTION 1. Amends Section 121.2025(a), Utilities Code, to prohibit a municipality, except as otherwise provided by this section or Section 182.025 (Charges By a City), Tax Code, from assessing a charge for the placement, construction, maintenance, repair, replacement, operation, use, relocation, or removal of a gas pipeline facility on, along, under, or across a public road, highway, street, alley, stream, canal, or public way.

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## **Bill Passed – 81<sup>st</sup> Legislative Session**

- SB 1826 (amends TUC § 121.007(a))
- HB 1883 (amends TUC § 121.005, 121.007(a))
- HB 3346 (amends TUC § 121.001(a))
- HB 4300 (amends TUC § 121.2015(c), (d))
- SB 1540 (amends TNRC, Chapter 81)
- HB 472 (amends TNRC, Chapter 81)

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# **Questions?**

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