Texas Legislative and Regulatory Update

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I. GAS MARKET DEVELOPMENTS

A. Legislative Action: House & Senate Interim Committee Charges

The House Energy Resources Committee and the House Land and Resource Management Committee held committee hearings addressing several Interim Charges that impact the Texas Railroad Commission (RRC) and the entities it regulates. The topics addressed at the hearings include the RRC's response to Hurricane Harvey, the Gas Reliability Infrastructure Program (GRIP), wind facility landowner rights, the implementation of legislation passed last session, as well as the economic development of the Permian Basin and the evolution of the frac sand mining industry in the region.

No Senate Interim Committee charges specifically impact the RRC.

Gas Reliability Infrastructure Program

The House Energy Resources Committee heard testimony on the Interim Charge to examine the effectiveness of GRIP, which allows gas utilities to file up to six annual interim rate updates to recover invested capital without undergoing a full rate proceeding. GRIP was created by the legislature in 2003 to incentivize gas infrastructure development. Opponents of the current practice want to see changes made to the statute that parallel the interim rate process for electric utilities. Specifically, opponents recommend 1) prohibiting gas utilities from raising interim rates if the utility is currently over-earning, 2) requiring a load growth analysis to be incorporated into the recovery analysis, 3) limiting the definition of invested capital to align it with the mission of "putting pipe in the ground," 4) reducing the number of allowable GRIP filings between full rate cases from six to three. Proponents of maintaining GRIP in its current form assert that GRIP is an efficient, transparent, and balanced way to allow gas utility cost recovery of capital investment. They recommend foregoing significant changes to the process because it avoids the need for frequent expensive full rate cases, provides regulators frequent and thorough insight into gas utilities' infrastructure investment costs, and allows regulators to examine long-term trends and full cost of service inputs during full rate case proceedings.

Landowner Rights

The House Energy Resources Committee heard testimony on the Interim Charge to evaluate whether landowner rights are currently adequately protected during the process of decommissioning wind facilities. Legislators expressed concern that Texas is rapidly approaching the decommissioning of many wind facilities without a comprehensive set of guidelines for landowners or wind facility owners. During the invited testimony, the witnesses offered several key provisions that should be included in wind leases to protect landowners, including provisions that designate that clean-up will occur within a specific time period, that specify the details of the clean-up (such as giving the landowner the option to keep or remove roads and electric distribution lines), and creates a removal bonding requirement in an amount that is periodically adjusted throughout the term of the lease to ensure it adequately covers the costs of decommissioning the facility. Witnesses concluded that legislation is not needed at this time, but that future legislation will likely be necessary to address the issue of the ability of landowners to sever wind rights from the surface and mineral estates.

Frac Sand Mining Industry

The House Energy Resources Committee heard testimony on the Interim Charge to evaluate the evolution of frac sand mining in the Permian Basin and how it may impact county infrastructure and oil and gas development. Concerns were expressed that the Permian Basin represents 2% of the Texas population, but 10% of highway fatalities. Frac sand mining companies testified that the fast-growing frac sand industry benefits Texans by generating large investments to the General Land Office and the Permanent School Fund. Legislators expressed interest in legislation that will facilitate public-private partnerships to assist counties in developing transportation infrastructure without increasing state funding.

B. Regulatory Enactments

Adopted Rules

The RRC amended 16 Tex. Admin. Code (TAC) § 3.70, relating to *Pipeline Permits Required*, to implement legislative changes adopted in HB 1818, the RRC Sunset Bill passed during the 85th Legislative Session. HB 1818 authorizes the RRC to establish pipeline safety and regulatory fees to be annually assessed against permit or registration holders to provide necessary funding for the RRC's pipeline safety and regulatory programs. In accordance with this authority, the amendments to 16 TAC § 3.70 establish an annual mileage fee, a permit processing fee for new permits and annual permit renewals, and the procedure by which pipeline operators will pay both fees. The amendments also specify time periods for filing permit renewals, require the electronic filing of permits, require specific time periods for RRC review of permit filings, specify time periods and procedures for transfers of permits, and state that an operator who fails to comply with the rule may be assessed a penalty.

http://www.rrc.state.tx.us/media/45912/adopt-amend-3-70-fee-hb1818-060518-sig.pdf

The RRC also amended 16 TAC § 18.1, relating to *Scope, Applicability, and General Provisions*, to implement legislative changes adopted in HB 1818. The RRC Sunset Bill provides the RRC damage prevention authority over interstate pipelines. In accordance with this authority, the RRC amended 16 TAC § 18.1 by removing rule language that limited the scope of the rule to intrastate pipelines.

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