

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Trans-Pecos Pipeline, LLC Docket No. CP15-500

MOTION TO INTERVENE OF PRESIDIO COUNTY COMMISSIONERS COURT

Pursuant to Rules 212 and 214 of the Federal Energy Regulatory Commission's ("FERC") Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 and 385.214, and 18 C.F.R. § 157.10, the Presidio County Texas Commissioner Court ("County") respectfully requests leave to intervene in the above-captioned proceeding. In support of this motion, the County states as follows:

I. COMMUNICATIONS AND SERVICE

All communications, pleadings, and orders with respect to this proceeding should be sent to:

Cinderela Guevara – County Judge
301 Highland Street
Marfa, TX 79843
Tel: (432) 729-3400
countyjudge@co.presidio.tx.us

II. INTERESTS OF PETITIONER

The Presidio County Commissioners Court ("County") is formed of four Commissioners, each representing a specific Precinct of the County, and the County Judge, of Presidio County Texas.

The county commissioners court serves as the governing body in each of Texas' 254 counties. This administrative body was established by the Texas Constitution of 1876 and is comprised of a county judge and four commissioners. The major duties of the commissioners court involves overseeing the budgetary and policy making functions of county government.

Beyond their budget duties, commissioners have the responsibility of providing oversight of the county's infrastructure. They are responsible for overseeing the construction, maintenance and improvement of county roads and bridges, establishing long-range thoroughfare, open space, and land use plans, and acquiring property for rights-of-way or other uses determined to be in the public's best interest. Commissioners each serve as the road and bridge administrator in their precinct except in places where a county unit road system has been adopted by local election. Other responsibilities include reviewing and approving subdivision platting and wastewater treatment for rural areas. Some commissioners are also responsible for providing rural ambulance services and subsidizing rural fire protection.

With respect to FERC Docket CP15-500, related to the Trans-Pecos Pipeline, the County has numerous concerns.

The County's concerns include:

- the regulatory status, and classification of the proposed Trans-Pecos Pipeline (“TPP”)
- regional safety concerns, including Fire, Emergency Response, Emergency Management, and inter-agency agreements related to the possibility of rupture, explosion and fire with respect to the TPP
- the impact on the regional economy within Presidio County, Texas related to the TPP
- the impact, especially during construction, on the infrastructure of Presidio County, including roads, bridges, groundwater resources, law enforcement, and the larger community

The proposed pipeline, a 42” high-pressure natural gas transmission system, has been granted an operating permit, T09352 by the Texas Railroad Commission, with the requested classification as an intrastate system, operating as a natural gas utility. The permit application, CP15-500 requests authorization by the FERC to site, and construct an international border crossing facility, along with associated Presidential permits, to join with a pipeline under construction in Mexico at the border of the United States, Texas and the Federal Republic of Mexico.

While the routing of the proposed pipeline in Texas is still the subject of some uncertainty, the proposed project routes through Presidio County Texas.

Presidio County, the adjacent counties of Brewster, and Jeff Davis, are largely rural, with low population densities, situated in rugged terrain including mountains, mixed grass prairie, the Chihuahaun Desert, and riparian areas including the Rio Grande basin. We are served by an all-volunteer fire department system, which includes the Presidio and Brewster County departments, the Presidio and Alpine volunteer units, the Jeff Davis, county departments, including Ft. Davis Volunteer and Davis Mountain Resort Volunteer units, which operate under a mutual-aid agreement to protect the entire 28,000 square-mile region. Our Emergency Management Services, including ambulance and trained Paramedic/EMT personnel are similarly volunteer, and both Fire and EMS are already thinly stretched resources. The addition of a 42” high-pressure natural gas pipeline, and its concomitant risk, will place additional pressure on our emergency responders.

Based on review of the FERC permit application materials, and materials supplied by Energy Transfer Partners, LP (one of the three consortium company members who will construct, own, and operate the pipeline), segmentation of the proposed pipeline project has been requested, a “jurisdictional” facility at the U.S. - Republic of Mexico border in Presidio Count, Texas, and a “non-jurisdictional” facility, the nominal 143-miles of pipeline classified as an intrastate system, and that loopholes in the administrative and regulatory framework are being exploited:

- Requested classification (intrastate), and consequent jurisdictional authority by the Texas Railroad Commission of the nominal 143-mile pipeline, and its status as a gas utility system seem inappropriate. During April of 2015, representatives of Energy Transfer Partners, LP indicated that no provisions existed in the design, or intent of the pipeline to provide natural gas to customers within Texas – the intent of the system is to deliver natural gas to Comisión Federal de Electricidad, an entity of the Federal Republic of Mexico. Although the company has indicated willingness to install “taps” in the transmission line to serve municipal customers, an existing provider already supplies natural gas to Alpine (Brewster County) and Marfa (Presidio County). The proposed pipeline is approximately 10 – 12 miles from the City of Presidio (Presidio County), an impractical distance to provide municipal service for that city.
- The requested gas utility status of the proposed pipeline is in question. Based on Texas Public Information Act requests, and responses, to the Railroad Commission of Texas, the T-4

Operating Permit issued by the Railroad Commission of Texas was approved in defect, based on an incomplete application, on Texas Administrative Code, Title 16, Part 1, Chapter 3, §3.70, which required the company, Trans-Pecos Pipeline, LLC via Energy Transfer Partner's, LP, to supply a sworn statement, and supporting documentation as to its gas utility status. These elements were absent from the operating permit application to Railroad Commission of Texas, and subject to challenge in the courts.

- The nominal 1093-feet, out of 143-miles of the proposed pipeline has been proposed in the FERC permit application as “jurisdictional,” the only portion of the pipeline subject to Federal regulatory authority, on the basis that the pipeline is intrastate.
- As such, it would appear that Energy Transfer Partners, LP, and the Trans-Pecos Pipeline, LLC are attempting to use gaps in the regulatory and administrative law framework to avoid appropriate environmental and cultural impact compliance with the National Environmental Policy Act (“NEPA”) required by the FERC and the Federal government.
- Avoiding the appropriate regulatory authority minimizes costs, potential delays, and other adverse impact on the proposed pipeline project that might stem from NEPA compliance, for example Environmental Assessment and Impact Statements, and Cultural Assessment and Impact Statements required for NEPA compliance.

Based upon the intended purpose of the pipeline, as stated in the permit application, the sole customer is Comisión Federal de Electricidad. Thus the nominal 143-mile portion of the pipeline from the Waha Market Hub to the international border is to deliver natural gas to CFE, an entity of the Republic of Mexico, an international transfer, which serves no intrastate purpose at all. The proposed “non-jurisdictional” facility is inseparable from the proposed jurisdictional facility, which serves no purpose in isolation, and is in fact non-functional in isolation from the larger project's claimed “non-jurisdictional” facility.

The County therefore respectfully urges FERC to review the proposed Trans-Pecos Pipeline project to determine which Federal requirements must apply to the entire length of the pipeline, including environmental and cultural impact studies, and the possibility that the FERC, and Federal government should in fact require the entire project to comply with NEPA.

Energy Transfer Partners, the parent company of Trans-Pecos, has had multiple pipeline accidents in Texas and other areas of the United States within the past five years. One 42-inch pipeline similar to the project proposed in this application and owned and operated by Energy Transfer Partners in Cuero, Texas ruptured on June 15, 2015 causing a massive fire that melted nearly a half-mile of roadway.¹ In Missouri, November 28, 2013 another Energy Transfer pipeline, a 30-inch natural gas line 75 miles east of Kansas City, exploded, setting fire to barns, farm outbuildings, equipment and hay bales.² A 30-inch natural gas line owned by Florida Gas Transmission Co., a subsidiary of

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□ See Sergio Chapa, *Pipeline explosion in Cuero has residents rattled, clean up underway*, (June 17, 2015, 12:38 PM) online at <http://www.bizjournals.com/sanantonio/blog/eagle-ford-shale-insight/2015/06/pipeline-explosion-in-cuero-has-residents-rattled.html>.

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□ See *Second Natural Gas Pipeline Explodes; That's Two in Two Weeks*,

Energy Transfer Partners, exploded on June 18, 2013, causing 55 people to be evacuated from their homes and melted the siding off of one of those residents mobile home.³ A compressor station northwest of North Zulch, Texas on January 17, 2013 burst into flames due to a malfunction of the compressor station at that Energy Transfer site. Fernando Castro.⁴ Another explosion occurred in Texas on July 28, 2010 by an Energy Transfer 36-inch pipeline that created a 70 by 80 foot crater in the ground due to unexplained causes.⁵ Fortunately no one was seriously injured in any of these incidents but many of them occurred in lines similar to the proposed Trans-Pecos line and arose from unexplained causes.

These safety concerns are exacerbated by the cross-border nature of the pipeline. Trans-Pecos' application did not provide any information on how the pipeline will guard against security threats that originate on the Mexico-side of the project. At the very least, the Commission must examine how these matters will be addressed as the proceeding moves forward, and allow the parties an opportunity to comment further.

The County, as party to this motion, requests that the FERC grant leave to intervene on Docket CP15-500 on the basis that:

- The requested classification, including intrastate, gas utility, and regulatory authority are in question,
- Significant regional safety risks exist, and mitigation plans are non-existent, associated with the potential events related to rupture, explosion, and fire,
- Significant, unmitigated impacts to the regional economy exist, with regard to damage to tourism, ranching, and related rangeland activity,

<http://247wallst.com/energy-business/2013/11/29/second-natural-gas-pipeline-explodes-thats-two-in-two-weeks/>

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□ Mark Schleifstein, et al, *Gas line explodes in Washington Parish*, (June 18, 2013, 8:27 PM), online at http://www.nola.com/traffic/index.ssf/2013/06/gasline_explosion_reported_in.html.

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□ *Fire at facility quickly doused*, (January 23, 2013, 9:08 AM), http://www.madisonvillemeteor.com/news/article_bb02293e-656e-11e2-b466-0019bb2963f4.html.

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□ Joel Williams, *Natural gas pipeline explosion rocks FM 949 community*, (August 5, 2010, 12:00 AM), http://www.sealynews.com/news/article_a34ea00f-e53d-5551-b2ac-c371adbf1948.html.

- The impact of planned, and future infrastructure impact associated with the TPP are unknown, and unquantified, and no environmental and cultural impact studies have been conducted for the proposed unregulated, nominal 143-mile pipeline

III. CONCLUSION

WHEREFORE, the Presidio County Commissioners Court, filing this motion to intervene, on behalf of Presidio County, Texas constituent interests, respectfully requests that it be permitted to intervene in this proceeding with full rights to participate in all further proceedings.

/s/ Cinderela Guevara
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/s/ Jim White III
Jim White III – Precinct 1 Commissioner
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CERTIFICATE OF SERVICE

Pursuant to Rule 2010 of FERC's Rules of Practice and Procedure, 18 C.F.R. § 385.2010, I, Eleazar Cano, hereby certify that I have this day electronically served the foregoing document upon each person designated on this official list compiled by the Secretary in this proceeding.

Dated: June 30, 2015 Respectfully submitted,
/s/ Cinderela Guevara
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