A BILL TO BE ENTITLED

AN ACT

relating to standards and procedures for determining whether a person who owns, operates, or manages a pipeline is a common carrier; authorizing a fee.

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

SECTION 1. Section 111.002, Natural Resources Code, is amended to read as follows:

Sec. 111.002. COMMON CARRIERS UNDER CHAPTER. (a) Except as provided by Subsection (b), a person is a common carrier subject to the provisions of this chapter if it:

(1) owns, operates, or manages a pipeline or any part of a pipeline in the State of Texas for the transportation of crude petroleum to or for the public for hire, or engages in the business of transporting crude petroleum by pipeline;

(2) owns, operates, or manages a pipeline or any part of a pipeline in the State of Texas for the transportation of crude petroleum to or for the public for hire and the pipeline is constructed or maintained on, over, or under a public road or highway, or is an entity in favor of whom the right of eminent domain exists;

(3) owns, operates, or manages a pipeline or any part of a pipeline in the State of Texas for the transportation of crude petroleum to or for the public for hire which is or may be constructed, operated, or maintained across, on, along, over, or
under the right-of-way of a railroad, corporation, or other common
carrier required by law to transport crude petroleum as a common
carrier;
(4) under lease, contract of purchase, agreement to
buy or sell, or other agreement or arrangement of any kind, owns,
operates, manages, or participates in ownership, operation, or
management of a pipeline or part of a pipeline in the State of Texas
for the transportation of crude petroleum, bought of others, from
an oil field or place of production within this state to any
distributing, refining, or marketing center or reshipping point
within this state;
(5) owns, operates, or manages, wholly or partially,
pipelines for the transportation for hire of coal in whatever form
or of any mixture of substances including coal in whatever form;
(6) owns, operates, or manages, wholly or partially,
pipelines for the transportation of carbon dioxide or hydrogen in
whatever form to or for the public for hire, but only if such person
files with the commission a written acceptance of the provisions of
this chapter expressly agreeing that, in consideration of the
rights acquired, it becomes a common carrier subject to the duties
and obligations conferred or imposed by this chapter; or
(7) owns, operates, or manages a pipeline or any part
of a pipeline in the State of Texas for the transportation of
feedstock for carbon gasification, the products of carbon
gasification, or the derivative products of carbon gasification, in
whatever form, to or for the public for hire, but only if the person
files with the commission a written acceptance of the provisions of
this chapter expressly agreeing that, in consideration of the
rights acquired, it becomes a common carrier subject to the duties
and obligations conferred or imposed by this chapter.

(b) A pipeline owner, operator, or manager is not a common
carrier subject to the provisions of this chapter unless at least 10
percent of the pipeline's capacity is used or is reasonably likely
to be used to transport one or more substances for one or more
persons who are not:

(1) corporate parents of the owner, operator, or
manager;

(2) subsidiaries of the owner, operator, or manager;
or

(3) under common control with the owner, operator, or
manager.

SECTION 2. Chapter 111, Natural Resources Code, is amended
by adding Subchapter B-1 to read as follows:

SUBCHAPTER B-1. COMMON CARRIER DETERMINATION HEARINGS

Sec. 111.041. COMMON CARRIER DETERMINATION. (a) A person
who owns, operates, or manages a pipeline may not exercise the power
of eminent domain granted by Section 111.019 to construct a
pipeline unless the State Office of Administrative Hearings
determines that the person is a common carrier as defined by Section
111.002 following one or more hearings conducted under this
subchapter.

(b) A person who owns, operates, or manages a pipeline may
submit a request to the commission for a determination of whether
the person is a common carrier.
Sec. 111.042. DUTIES OF COMMISSION. (a) The commission shall:

(1) review a request submitted under Section 111.041 for administrative completeness; and

(2) forward a complete request submitted under Section 111.041 to the State Office of Administrative Hearings.

(b) The commission shall charge a person who submits a complete request under Section 111.041 a fee for making a common carrier determination.

(c) The commission by rule shall establish the amount of the fee to be charged under this section. The commission may establish a fee schedule listing different amounts the commission may charge for making a common carrier determination according to the location and length of the pipeline at issue.

(d) The fee must be in an amount that covers the costs incurred by the commission and the State Office of Administrative Hearings in determining whether the person is a common carrier. The commission shall consult with the State Office of Administrative Hearings to determine the costs that the commission and the office will incur in making determinations under this subchapter.

(e) Money collected by the commission under this section shall be deposited in the general revenue fund to the credit of the commission.

Sec. 111.043. DUTIES OF STATE OFFICE OF ADMINISTRATIVE HEARINGS. (a) The State Office of Administrative Hearings shall conduct a hearing on a request received by the office from the commission under Section 111.042 to determine whether the person
who submitted the request is a common carrier as defined by Section 111.002. A hearing conducted under this subsection is a contested case hearing under Chapter 2001, Government Code.

(b) The State Office of Administrative Hearings may not conduct a hearing on a request until the person who submitted the request pays the fee required by Section 111.042.

(c) Before issuing a final decision on a request, the State Office of Administrative Hearings shall hold at least one public hearing on the request in a county in which the pipeline is or will be located. The office shall determine whether a public hearing in more than one county is necessary based on the location and length of the proposed pipeline.

(d) As soon as practicable after the hearing or hearings on a request are concluded, the State Office of Administrative Hearings shall issue a final determination as to whether the person who submitted the request is a common carrier as defined by Section 111.002.

Sec. 111.044. INTERAGENCY CONTRACT. The commission and the State Office of Administrative Hearings shall enter into an interagency contract to pay the costs incurred by the office in implementing this section.

SECTION 3. Not later than the 30th day after the effective date of this Act, the Railroad Commission of Texas shall adopt rules to implement the changes in law made by this Act to Chapter 111, Natural Resources Code.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as
provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.