

RESOLUTION NO. 08-1293

A RESOLUTION OF THE CITY OF EULESS, TEXAS, OPPOSING THE CONTINUED PREEMPTION OF MUNICIPAL REGULATION OF CERTAIN INTRA-STATE GAS UTILITIES; URGING LEGISLATIVE ACTION TO PERMIT GREATER LOCAL REGULATORY OVERSIGHT.

WHEREAS, cities throughout the state have been created in accordance with the provisions of Chapter 8 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the Legislature has vested regulatory authority in the State and has largely preempted the local regulation of so-called “midstream” intra-state natural gas pipeline utilities (“gas utilities”) on the basis that such companies are affected with a public interest; and

WHEREAS, the preemption of local regulation constrains the ability of the public to participate through their locally elected officials to tailor policies to meet their needs and demands; and

WHEREAS, with the recent development of mineral reserves within the Barnett Shale, oil and gas operators have become dependent on a comprehensive pipeline infrastructure to deliver the produced hydrocarbons to market; and

WHEREAS, in order to ensure the maximum profitability of natural gas production, oil and gas operators have refused to cooperate with unaffiliated third party gas utilities or coordinate pipeline efforts with other producers in the region and instead are each opting to form their own affiliated gas utility company; and

WHEREAS, each gas utility company serves not as a public-minded “utility” accepting produced hydrocarbons from “competing” operators but operates exclusively as the alter ego and servant of the utility’s affiliated oil and gas operator greatly blurring the line between gas utility and oil and gas operator; and

WHEREAS, the numerous gas utilities, frequently managed and exclusively operated by the affiliated oil and gas operators’ own employees, work aggressively to install a network of permanent gas lines across private property creating extensive “no-build” zones many dozen feet in width and many miles in length, with little regard for the availability of existing unaffiliated pipelines in the vicinity; and

WHEREAS, in order to rapidly accomplish the installation of duplicative and redundant pipeline networks, local citizens and business owners are quickly threatened with eminent domain proceedings by the gas utilities and are intimidated into executing one-sided permanent easements for nominal consideration; and

WHEREAS, the proliferation of duplicative and redundant pipeline networks, installed with regard only for the shortest and most cost-effective route, causes the unnecessary fragmentation of land and the creation of unusable slivers, chipping away at the long term economic potential of the land; and

WHEREAS, municipalities, rendered virtually ineffective by the preemption language of 121.202 of the Texas Utilities Code, are unable to respond to the plight of their constituent citizens and business owners and are without the necessary authority to safeguard the long-term economic viability of the region.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EULESS, TEXAS:

SECTION 1

THAT the City of Euless support legislation to revisit the prudence and continued appropriateness of preempting municipalities from regulating the practices of midstream gas utilities and respectfully requests that the Legislature confer additional regulatory authority upon municipalities over the activities described herein in order to safeguard the interests of the public and the long term economic viability of private property.

APPROVED AND ADOPTED at a regular meeting of the Euless City Council on the 14th day of October, 2008, by a vote of _____ ayes, _____ nays, and _____ abstentions.

APPROVED:

Mary Lib Saleh, Mayor

ATTEST:

Susan Crim, TRMC, City Secretary