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Pipeline rule debated at hearing

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LINCOLN — Attendees at a public hearing Tuesday, as well as some members of the Nebraska Public Service Commission, defended a proposed requirement that oil pipeline companies disclose what chemicals are being shipped through their pipelines.

An oil industry official spoke against the proposed rule, saying it was impractical, unnecessary and violated a state law that restricts the commission to regulating only pipeline routes, not pipeline safety.

It was the third and probably last public hearing as the commission attempts to adopt regulations for a new law placing the state agency in charge of approving routes for future crude oil pipelines.

The rules, which are expected to be finalized in the next couple of months, don't currently pertain to the proposed Keystone XL pipeline, which was already in the planning stages when the Legislature passed the law 11 months ago during a special session.

But that could change if a lawsuit filed by opponents of the controversial pipeline is successful. They claim that a second law passed during the special session that allows for a review of the Keystone XL by another state agency, the Department of Environmental Quality, was unconstitutional "special legislation" because it applied only to TransCanada Inc., the Keystone XL developer.

Lancaster County District Judge Stephanie Stacy is expected to rule on that lawsuit any day.

If the law is tossed out, DEQ's months-long review of the Keystone XL pipeline would be nullified. Instead, the Public Service Commission would jump into the regulatory driver's seat, placing the pipeline under the regulations discussed Tuesday.

Representatives of BOLD Nebraska, the Audubon Society and others concerned about pipelines' environmental impact testified that the commission should require pipeline companies to disclose the exact chemicals being pumped across the state. Chemicals, including some that cause cancer, are used to dilute the thick, tar-like bitumen that is being steamed out of tar-sand deposits in Canada and shipped through the pipeline.

Tom Byers of Magellan Midstream Partners, a Tulsa, Okla., pipeline company, told the commission Tuesday that requiring the company to provide the exact chemical makeup of oil before a pipeline is even sited would be impossible. That typically isn't known until the product is being shipped, he said.

Byers also said the Legislature gave the Public Service Commission authority only to decide where to locate pipelines. Reporting the chemical makeup of the oil strays into regulating safety, which is outside the agency's power, he said.

Byers testified on behalf of two oil industry groups, the American Petroleum Institute and the Association of Oil Pipe Lines. He said material safety data sheets, which indicate the chemicals present in a pipeline shipment, would be available to emergency responders in the event of a leak.

Jane Kleeb of BOLD Nebraska and at least three members of the Public Service Commission expressed doubt about the ready availability of such data.

Kleeb said her group has contacted the State Fire Marshal's Office, state emergency responders and those along the Keystone XL pipeline route and found no one who had an emergency response plan in the event of a pipeline leak, or documents to show what kinds of chemicals responders would encounter.

Commissioners Frank Landis, Anne Boyle and Gerry Vap all said it was reasonable that emergency responders know ahead of time what kinds of chemicals are being pumped through local pipelines.

"They should not have to be digging around for that information," Boyle said, in the event of a leak in the middle of the night or on a weekend.

The commission ordered Byers to provide an answer within 10 days on where and how the chemical data sheets are made available. He was also asked to provide more information on what safety steps are taken when pipelines cross municipal drinking water wellfields.

Bonnie Kruse of Seward testified that TransCanada's first pipeline across Nebraska, the Keystone, was allowed to cross her community's

wellfield because maps used to site the pipeline didn't include it. She asked that the commission include a rule that bans pipelines from crossing areas surrounding such wellfields.

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