

AN ACT

relating to gas utilities and gas storage facilities.

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

SECTION 1. Section 121.001(a), Utilities Code, is amended to read as follows:

(a) In this chapter, "gas utility" means a person who owns, manages, operates, leases, or controls in this state property or equipment or a pipeline, plant, facility, franchise, license, or permit for a business that:

(1) transports, conveys, distributes, or delivers natural gas:

(A) for public use or service for compensation;

(B) for sale to municipalities or persons engaged in distributing or selling natural gas to the public, in a situation described by Subdivision (3);

(C) for sale or delivery to a person operating under a franchise or contract with a political subdivision of this state; or

(D) for sale or delivery to the public for domestic or other use;

(2) owns, operates, or manages a pipeline:

(A) that is for transporting or carrying natural gas, whether for public hire or not; and

(B) for which the right-of-way has been or is

1 hereafter acquired by exercising the right of eminent domain, or by
2 lawfully representing to a property owner that the person has the
3 right to acquire right-of-way by the use of eminent domain; or

4 (3) produces or purchases natural gas and transports
5 or causes the transportation of natural gas by a pipeline to or near
6 the limits of a municipality in which the gas is received and
7 distributed or sold to the public by another gas utility or by the
8 municipality in a situation in which the business is the only or
9 practically the only agency of supply of natural gas to the gas
10 utility or municipality.

11 SECTION 2. Section 181.021(2), Utilities Code, is amended
12 to read as follows:

13 (2) "Gas utility" means a person, firm, or corporation
14 subject to the jurisdiction of the Railroad Commission of Texas, or
15 a municipality, engaged in the business of transporting or
16 distributing gas [~~for public consumption~~].

17 SECTION 3. Section 101.003(7), Utilities Code, is amended
18 to read as follows:

19 (7) "Gas utility" includes a person or river authority
20 that owns or operates for compensation in this state equipment or
21 facilities to transmit or distribute combustible hydrocarbon
22 natural gas or synthetic natural gas for sale or resale in a manner
23 not subject to the jurisdiction of the Federal Energy Regulatory
24 Commission under the Natural Gas Act (15 U.S.C. Section 717 et
25 seq.). The term includes a lessee, trustee, or receiver of a gas
26 utility. The term does not include:

27 (A) a municipal corporation;

(B) a person or river authority to the extent the person or river authority:

(i) produces, gathers, transports, or sells natural gas or synthetic natural gas under Section 121.004 or 121.005;

(ii) distributes or sells liquefied petroleum gas; or

(iii) transports, delivers, or sells natural gas for fuel for irrigation wells or any other direct agricultural use;

(C) a person to the extent the person:

(i) sells natural gas for use as vehicle fuel;

(ii) sells natural gas to a person who later sells the natural gas for use as vehicle fuel; or

(iii) owns or operates equipment or facilities to sell or transport natural gas for ultimate use as vehicle fuel;

(D) a person not otherwise a gas utility who furnishes gas or gas service only to itself, its employees, or its tenants as an incident of employment or tenancy, if the gas or gas service is not resold to or used by others; ~~or~~

(E) a person excluded from being considered a gas utility under Section 121.007; or

(F) an electric cooperative, as that term is defined by Section 11.003, or its subsidiary, that is excluded from regulation as a gas utility by Section 121.008.

SECTION 4. Subchapter A, Chapter 121, Utilities Code, is amended by adding Section 121.008 to read as follows:

Sec. 121.008. CERTAIN STORAGE FACILITIES OWNED BY ELECTRIC COOPERATIVES EXCLUDED. An electric cooperative, as that term is defined by Section 11.003, or its subsidiary, that sells electricity at wholesale is not a gas utility or subject to regulation as a gas utility solely because it provides gas storage services for hire if the gas storage facility is predominantly operated to support the integration of renewable resources. Such a gas storage facility shall not have a working gas capacity of greater than five billion cubic feet.

SECTION 5. Section 111.001(2), Natural Resources Code, is amended to read as follows:

(2) "Public utility" means a person, association of persons, or corporation that owns, operates, or manages crude petroleum storage tanks or storage facilities for the public for hire, either in connection with a pipeline, pipelines, or otherwise. The term does not include an electric cooperative, as that term is defined by Section 11.003, Utilities Code, or its subsidiary, that sells electricity at wholesale and that owns or operates an underground storage facility and provides gas storage services to the public for hire if the gas storage facility is predominantly operated to support the integration of renewable resources. Such a gas storage facility shall not have a working gas capacity of greater than five billion cubic feet.

SECTION 6. Section 111.003, Natural Resources Code, is amended by adding Subsection (c) to read as follows:

1 (c) The provisions of this chapter, and any common law
2 requirements or limitations applicable to a common carrier, do not
3 apply to an underground storage facility owned or operated by an
4 electric cooperative, as that term is defined by Section 11.003,
5 Utilities Code, or its subsidiary, that sells electricity at
6 wholesale and offers or provides gas storage services to the public
7 for hire if the gas storage facility is predominately operated to
8 support the integration of renewable resources. Such a gas storage
9 facility shall not have a working gas capacity of greater than five
10 billion cubic feet.

11 SECTION 7. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2009.

H.B. No. 3346

President of the Senate

Speaker of the House

I certify that H.B. No. 3346 was passed by the House on April 30, 2009, by the following vote: Yeas 144, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3346 on May 25, 2009, by the following vote: Yeas 139, Nays 0, 3 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3346 was passed by the Senate, with amendments, on May 21, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor