

By: Chisum

H.B. No. 4107

A BILL TO BE ENTITLED

1 AN ACT
2 relating to exempting electric cooperatives and their subsidiaries
3 that store natural gas underground and offer or provide gas storage
4 services to the public for hire from status as a gas utility, public
5 utility, common carrier, or common purchaser.

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

7 SECTION 1. Section 101.003(7), Utilities Code, is amended
8 to read as follows:

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

17 (A) a municipal corporation;

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

20 (i) produces, gathers, transports, or sells
21 natural gas or synthetic natural gas under Section 121.004 or
22 121.005;

23 (ii) distributes or sells liquefied
24 petroleum gas; or

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

4 (C) a person to the extent the person:

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

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

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

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

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

18 (F) an electric cooperative, or a subsidiary of
19 an electric cooperative, excluded from being considered a gas
20 utility under Section 121.008.

21 SECTION 2. Subchapter A, Chapter 121, Utilities Code, is
22 amended by adding Section 121.008 to read as follows:

23 Sec. 121.008. UNDERGROUND STORAGE FACILITY OWNED OR
24 OPERATED BY ELECTRIC COOPERATIVE OR SUBSIDIARY EXCLUDED. The act
25 of offering or providing gas storage services to the public for hire
26 does not make an electric cooperative organized under Chapter 161,
27 or a subsidiary of the electric cooperative, a gas utility or make

1 the electric cooperative or the subsidiary subject to the
2 jurisdiction, control, and regulation of the railroad commission as
3 a gas utility.

4 SECTION 3. Section 111.001(2), Natural Resources Code, is
5 amended by adding Subdivision (3) to read as follows:

6 (3) "Storage facility" does not include an underground gas
7 storage facility that offers or provides gas storage services to
8 the public for hire, if the facility is owned or operated by an
9 electric cooperative organized under Chapter 161, or a subsidiary
10 of the electric cooperative.

11 SECTION 4. Subchapter A, Chapter 111, Natural Resources
12 Code, is amended by adding Section 111.005 to read as follows:

13 Sec. 111.005. NONAPPLICABILITY TO ELECTRIC COOPERATIVES
14 AND SUBSIDIARIES. The act of offering or providing gas storage
15 services to the public for hire does not:

16 (1) make an electric cooperative organized under
17 Chapter 161, or a subsidiary of the electric cooperative, a public
18 utility, common carrier, or common purchaser, as those terms are
19 defined by this chapter;

20 (2) make an electric cooperative or a subsidiary of
21 the electric cooperative described by Subdivision (1) a common
22 carrier under the common law; or

23 (3) subject an electric cooperative or a subsidiary of
24 the electric cooperative described by Subdivision (1) to the
25 provisions of this chapter.

26 SECTION 5. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2009.