

By: Seliger

S.B. No. 2236

A BILL TO BE ENTITLED

AN ACT

1
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 that
10 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 petroleum
24 gas; or

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

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

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

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

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

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

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

15 (F) an electric cooperative, or a subsidiary of an
16 electric cooperative, excluded from being considered a gas utility
17 under Section 121.008.

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

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

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

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

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

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

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

17 (2) make an electric cooperative or a subsidiary of
18 the electric cooperative described by Subdivision (1) a common
19 carrier under the common law; or

20 (3) subject an electric cooperative or a subsidiary of
21 the electric cooperative described by Subdivision (1) to the
22 provisions of this chapter.

23 SECTION 5. This Act takes effect immediately if it receives
24 a vote of two-thirds of all the members elected to each house, as
25 provided by Section 39, Article III, Texas Constitution. If this
26 Act does not receive the vote necessary for immediate effect, this
27 Act takes effect September 1, 2009.