

1-1 By: Seliger S.B. No. 2236
1-2 (In the Senate - Filed March 13, 2009; March 31, 2009, read
1-3 first time and referred to Committee on Natural Resources;
1-4 April 23, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 23, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 2236 By: Seliger

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the exemption of certain electric cooperatives from
1-11 certain regulations.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subdivision (7), Section 101.003, Utilities
1-14 Code, is amended to read as follows:

1-15 (7) "Gas utility" includes a person or river authority
1-16 that owns or operates for compensation in this state equipment or
1-17 facilities to transmit or distribute combustible hydrocarbon
1-18 natural gas or synthetic natural gas for sale or resale in a manner
1-19 not subject to the jurisdiction of the Federal Energy Regulatory
1-20 Commission under the Natural Gas Act (15 U.S.C. Section 717 et
1-21 seq.). The term includes a lessee, trustee, or receiver of a gas
1-22 utility. The term does not include:

1-23 (A) a municipal corporation;

1-24 (B) a person or river authority to the extent the
1-25 person or river authority:

1-26 (i) produces, gathers, transports, or sells
1-27 natural gas or synthetic natural gas under Section 121.004 or
1-28 121.005;

1-29 (ii) distributes or sells liquefied
1-30 petroleum gas; or

1-31 (iii) transports, delivers, or sells
1-32 natural gas for fuel for irrigation wells or any other direct
1-33 agricultural use;

1-34 (C) a person to the extent the person:

1-35 (i) sells natural gas for use as vehicle
1-36 fuel;

1-37 (ii) sells natural gas to a person who later
1-38 sells the natural gas for use as vehicle fuel; or

1-39 (iii) owns or operates equipment or
1-40 facilities to sell or transport natural gas for ultimate use as
1-41 vehicle fuel;

1-42 (D) a person not otherwise a gas utility who
1-43 furnishes gas or gas service only to itself, its employees, or its
1-44 tenants as an incident of employment or tenancy, if the gas or gas
1-45 service is not resold to or used by others; ~~or~~

1-46 (E) a person excluded from being considered a gas
1-47 utility under Section 121.007; or

1-48 (F) an electric cooperative, as that term is
1-49 defined by Section 11.003, or its subsidiary, that is excluded from
1-50 regulation as a gas utility by Section 121.008.

1-51 SECTION 2. Subchapter A, Chapter 121, Utilities Code, is
1-52 amended by adding Section 121.008 to read as follows:

1-53 Sec. 121.008. CERTAIN STORAGE FACILITIES OWNED BY ELECTRIC
1-54 COOPERATIVES EXCLUDED. An electric cooperative, as that term is
1-55 defined by Section 11.003, or its subsidiary, that sells
1-56 electricity at wholesale is not a gas utility or subject to
1-57 regulation as a gas utility solely because it provides gas storage
1-58 services for hire if the gas storage facility is operated wholly or
1-59 partly to support integration of renewable resources.

1-60 SECTION 3. Subdivision (2), Section 111.001, Natural
1-61 Resources Code, is amended to read as follows:

1-62 (2) "Public utility" means a person, association of
1-63 persons, or corporation that owns, operates, or manages crude

2-1 petroleum storage tanks or storage facilities for the public for
2-2 hire, either in connection with a pipeline, pipelines, or
2-3 otherwise. The term does not include an electric cooperative, as
2-4 that term is defined by Section 11.003, Utilities Code, or its
2-5 subsidiary, that sells electricity at wholesale and that owns or
2-6 operates an underground storage facility and provides gas storage
2-7 services to the public for hire if the gas storage facility is
2-8 operated wholly or partly to support integration of renewable
2-9 resources.

2-10 SECTION 4. Section 111.003, Natural Resources Code, is
2-11 amended by adding Subsection (c) to read as follows:

2-12 (c) The provisions of this chapter, and any common law
2-13 requirements or limitations applicable to a common carrier, do not
2-14 apply to an underground storage facility owned or operated by an
2-15 electric cooperative, as that term is defined by Section 11.003,
2-16 Utilities Code, or its subsidiary, that sells electricity at
2-17 wholesale and offers or provides gas storage services to the public
2-18 for hire if the gas storage facility is operated wholly or partly to
2-19 support integration of renewable resources.

2-20 SECTION 5. This Act takes effect immediately if it receives
2-21 a vote of two-thirds of all the members elected to each house, as
2-22 provided by Section 39, Article III, Texas Constitution. If this
2-23 Act does not receive the vote necessary for immediate effect, this
2-24 Act takes effect September 1, 2009.

2-25 * * * * *