

SENATE AMENDMENTS

2nd Printing

By: Farabee

H.B. No. 3346

A BILL TO BE ENTITLED

AN ACT

relating to the definition of a gas utility.

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 representing to a property owner that the person has the right to
3 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. This Act takes effect September 1, 2009.

ADOPTED

MAY 21 2009

Henry Spaw
Secretary of the Senate

By: Averitt / Farabee

H.B. No. 3346

Substitute the following for ___B. No. _____:

By: *[Signature]*

C.S. ___B. No. _____

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the definition of a gas utility.

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

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

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

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

12 (A) for public use or service for compensation;

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

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

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

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

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

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

1 hereafter acquired by exercising the right of eminent domain, or by
2 representing to a property owner that the person has the right to
3 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. This Act takes effect September 1, 2009.

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ADOPTED

MAY 21 2009

Antony Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *[Signature]*

1 Amend CSHB 3346 by adding the word "lawfully" between the
2 words "by" and "representing" on lines 33 and 34.

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ADOPTED

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FLOOR AMENDMENT NO. 2

MAY 21 2009 BY: _____

Atty Gen
Secretary of the Senate

1 Amend C.S.H.B. 3346 (Senate committee printing) by striking
2 SECTION 3 of the bill (page 1, line 49), and substituting the
3 following appropriately numbered SECTIONS:

4 SECTION __. Section 101.003(7), Utilities Code, is
5 amended to read as follows:

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

15 (A) a municipal corporation;

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

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

21 (ii) distributes or sells liquefied
22 petroleum gas; or

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

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

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

29 (ii) sells natural gas to a person who

1 later sells the natural gas for use as vehicle fuel; or

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

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

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

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

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

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

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

27 (2) "Public utility" means a person, association of
28 persons, or corporation that owns, operates, or manages crude
29 petroleum storage tanks or storage facilities for the public for
30 hire, either in connection with a pipeline, pipelines, or
31 otherwise. The term does not include an electric cooperative,

1 as that term is defined by Section 11.003, Utilities Code, or
2 its subsidiary, that sells electricity at wholesale and that
3 owns or operates an underground storage facility and provides
4 gas storage services to the public for hire if the gas storage
5 facility is predominantly operated to support the integration of
6 renewable resources. Such a gas storage facility shall not have
7 a working gas capacity of greater than five billion cubic feet.

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

10 (c) The provisions of this chapter, and any common law
11 requirements or limitations applicable to a common carrier, do
12 not apply to an underground storage facility owned or operated
13 by an electric cooperative, as that term is defined by Section
14 11.003, Utilities Code, or its subsidiary, that sells
15 electricity at wholesale and offers or provides gas storage
16 services to the public for hire if the gas storage facility is
17 predominately operated to support the integration of renewable
18 resources. Such a gas storage facility shall not have a working
19 gas capacity of greater than five billion cubic feet.

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

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 24, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB3346** by Farabee (Relating to the definition of a gas utility.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would add language to the definition of a gas utility by including as an exercise of eminent domain the representation to a property owner that the person has the right to acquire pipeline right-of-way by the use of eminent domain. The bill would also clarify that a gas utility is an entity under the jurisdiction of the Railroad Commission that is engaged in the business of transporting or distributing gas. The bill would exclude from regulation as a gas utility an electric cooperative or its subsidiary that sells electricity at wholesale and that offers or provides gas storage services to the public for hire if the gas storage facility is operated predominantly to support integration of renewable resources.

The bill is not expected to result in significant costs to state agencies.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 455 Railroad Commission, 473 Public Utility Commission of Texas

LBB Staff: JOB, SZ, TL, SD

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 15, 2009

TO: Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3346 by Farabee (Relating to the definition of a gas utility.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would add language to the definition of a gas utility by including as an exercise of eminent domain the representation to a property owner that the person has the right to acquire pipeline right-of-way by the use of eminent domain. The bill would also clarify that a gas utility is an entity under the jurisdiction of the Railroad Commission that is engaged in the business of transporting or distributing gas.

The bill is not expected to result in significant costs to the Railroad Commission.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 455 Railroad Commission

LBB Staff: JOB, SZ, TL, SD

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 12, 2009

TO: Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3346 by Farabee (Relating to the definition of a gas utility.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would add language to the definition of a gas utility by including as an exercise of eminent domain the representation to a property owner that the person has the right to acquire pipeline right-of-way by the use of eminent domain.

The bill is not expected to result in significant costs to the Railroad Commission.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 455 Railroad Commission

LBB Staff: JOB, TL, SD

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 6, 2009

TO: Honorable Jim Keffer, Chair, House Committee on Energy Resources

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3346 by Farabee (Relating to the definition of a gas utility.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would add language to the definition of a gas utility by including as an exercise of eminent domain the representation to a property owner that the person has the right to acquire pipeline right-of-way by the use of eminent domain.

The bill is not expected to result in significant costs to the Railroad Commission.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 455 Railroad Commission

LBB Staff: JOB, TL, SD

