

AN ACT

relating to the exemption of certain electric cooperatives from certain regulations.

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

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

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

(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

1 agricultural use;

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

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

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

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

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

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

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

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

21 Sec. 121.008. CERTAIN STORAGE FACILITIES OWNED BY ELECTRIC
22 COOPERATIVES EXCLUDED. An electric cooperative, as that term is
23 defined by Section 11.003, or its subsidiary, that sells
24 electricity at wholesale is not a gas utility or subject to
25 regulation as a gas utility solely because it provides gas storage
26 services for hire if the gas storage facility is predominantly
27 operated to support the integration of renewable resources. Such a

1 gas storage facility may not have a working gas capacity of greater
2 than five billion cubic feet.

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

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

17 SECTION 4. Section 111.003, Natural Resources Code, is
18 amended by adding Subsection (c) to read as follows:

19 (c) The provisions of this chapter, and any common law
20 requirements or limitations applicable to a common carrier, do not
21 apply to an underground storage facility owned or operated by an
22 electric cooperative, as that term is defined by Section 11.003,
23 Utilities Code, or its subsidiary, that sells electricity at
24 wholesale and offers or provides gas storage services to the public
25 for hire if the gas storage facility is predominantly operated to
26 support the integration of renewable resources. Such a gas storage
27 facility may not have a working gas capacity of greater than five

1 billion cubic feet.

2 SECTION 5. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 312 passed the Senate on
March 17, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 312 passed the House on
April 13, 2011, by the following vote: Yeas 144, Nays 0, one
present not voting.

Chief Clerk of the House

Approved:

Date

Governor