

1-1 By: Seliger S.B. No. 312  
1-2 (In the Senate - Filed January 4, 2011; February 2, 2011,  
1-3 read first time and referred to Committee on Natural Resources;  
1-4 March 9, 2011, reported favorably by the following vote: Yeas 11,  
1-5 Nays 0; March 9, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the exemption of certain electric cooperatives from  
1-9 certain regulations.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subdivision (7), Section 101.003, Utilities  
1-12 Code, is amended to read as follows:

1-13 (7) "Gas utility" includes a person or river authority  
1-14 that owns or operates for compensation in this state equipment or  
1-15 facilities to transmit or distribute combustible hydrocarbon  
1-16 natural gas or synthetic natural gas for sale or resale in a manner  
1-17 not subject to the jurisdiction of the Federal Energy Regulatory  
1-18 Commission under the Natural Gas Act (15 U.S.C. Section 717 et  
1-19 seq.). The term includes a lessee, trustee, or receiver of a gas  
1-20 utility. The term does not include:

1-21 (A) a municipal corporation;

1-22 (B) a person or river authority to the extent the  
1-23 person or river authority:

1-24 (i) produces, gathers, transports, or sells  
1-25 natural gas or synthetic natural gas under Section 121.004 or  
1-26 121.005;

1-27 (ii) distributes or sells liquefied  
1-28 petroleum gas; or

1-29 (iii) transports, delivers, or sells  
1-30 natural gas for fuel for irrigation wells or any other direct  
1-31 agricultural use;

1-32 (C) a person to the extent the person:

1-33 (i) sells natural gas for use as vehicle  
1-34 fuel;

1-35 (ii) sells natural gas to a person who later  
1-36 sells the natural gas for use as vehicle fuel; or

1-37 (iii) owns or operates equipment or  
1-38 facilities to sell or transport natural gas for ultimate use as  
1-39 vehicle fuel;

1-40 (D) a person not otherwise a gas utility who  
1-41 furnishes gas or gas service only to itself, its employees, or its  
1-42 tenants as an incident of employment or tenancy, if the gas or gas  
1-43 service is not resold to or used by others; ~~or~~

1-44 (E) a person excluded from being considered a gas  
1-45 utility under Section 121.007; or

1-46 (F) an electric cooperative, as that term is  
1-47 defined by Section 11.003, or its subsidiary, that is excluded from  
1-48 regulation as a gas utility by Section 121.008.

1-49 SECTION 2. Subchapter A, Chapter 121, Utilities Code, is  
1-50 amended by adding Section 121.008 to read as follows:

1-51 Sec. 121.008. CERTAIN STORAGE FACILITIES OWNED BY ELECTRIC  
1-52 COOPERATIVES EXCLUDED. An electric cooperative, as that term is  
1-53 defined by Section 11.003, or its subsidiary, that sells  
1-54 electricity at wholesale is not a gas utility or subject to  
1-55 regulation as a gas utility solely because it provides gas storage  
1-56 services for hire if the gas storage facility is predominantly  
1-57 operated to support the integration of renewable resources. Such a  
1-58 gas storage facility may not have a working gas capacity of greater  
1-59 than five billion cubic feet.

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  
1-64 petroleum storage tanks or storage facilities for the public for

2-1 hire, either in connection with a pipeline, pipelines, or  
2-2 otherwise. The term does not include an electric cooperative, as  
2-3 that term is defined by Section 11.003, Utilities Code, or its  
2-4 subsidiary, that sells electricity at wholesale and that owns or  
2-5 operates an underground storage facility and provides gas storage  
2-6 services to the public for hire if the gas storage facility is  
2-7 predominantly operated to support the integration of renewable  
2-8 resources. Such a gas storage facility may not have a working gas  
2-9 capacity of greater than five billion cubic feet.

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 predominantly operated to  
2-19 support the integration of renewable resources. Such a gas storage  
2-20 facility may not have a working gas capacity of greater than five  
2-21 billion cubic feet.

2-22 SECTION 5. This Act takes effect immediately if it receives  
2-23 a vote of two-thirds of all the members elected to each house, as  
2-24 provided by Section 39, Article III, Texas Constitution. If this  
2-25 Act does not receive the vote necessary for immediate effect, this  
2-26 Act takes effect September 1, 2011.

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