

ENROLLED SENATE
BILL NO. 294

By: Easley of the Senate

and

Rice and Johnson (Rob) of
the House

An Act relating to oil and gas; amending Section 8, Chapter 190, O.S.L. 1992 (52 O.S. Supp. 1992, Section 570.8), which relates to the Production Revenue Standards Act; modifying certain notices and reporting requirements; allowing reliance on certain notifications; permitting effect to be retroactive by agreement; providing for certain remedies; providing that certain obligations not be changed without agreement of the parties; clarifying language; prohibiting persons gathering natural gas for hire from charging certain fees; providing for aggrieved persons to file complaint before the Corporation Commission; directing Corporation Commission to conduct hearing, take evidence, give notice and have authority to make certain orders; providing for codification; repealing 52 O.S. 1991, Sections 42 and 43, which relate to the minimum charge prohibition by natural gas furnishers and certain penalties; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 24.3 of Title 52, unless there is created a duplication in numbering, reads as follows:

No person gathering natural gas for hire shall charge any fee for such service which is unjustly or unlawfully discriminatory. Any person seeking any gathering service who is aggrieved by reason of the imposition of any unjustly or unlawfully discriminatory fee for gathering may file a complaint before the Corporation Commission. The Corporation Commission shall conduct a hearing and take evidence as is necessary to determine the complaint. Notice shall be given to the gatherer at least ten (10) days prior to such hearing. Upon such hearing, the Corporation Commission shall have authority to order the remediation of any unjustly or unlawfully discriminatory fee for gathering to the extent necessary for the remediation of such fees as to the aggrieved person for the particular service involved.

SECTION 2. AMENDATORY Section 8, Chapter 190, O.S.L. 1992 (52 O.S. Supp. 1992, Section 570.8), is amended to read as follows:

Section 570.8 A. Within sixty (60) days after receiving a written request from the operator, each working interest owner in a

well producing gas shall furnish or cause to be furnished to the operator a written statement showing the name, address, royalty interest, taxpayer identification number and payment status of owners of royalty interest to which such working interest is subject. Thereafter, each working interest owner shall furnish or cause to be furnished to the operator a written statement showing:

1. Changes in the above specified information within sixty (60) days of receipt of notification thereof; or

2. Changes in its working interests within sixty (60) days of the ~~occurrence~~ receipt of notice of the change.

B. Each producing owner of gas from a well shall provide to the operator no later than five (5) business days prior to the month in which the nomination is to be effective, but earlier if required by the first purchaser or transporter, ~~prior to the end of the month prior to the month in which the producing owner's nomination is to be effective~~, the name of the first purchaser or shipper and the volumes of gas nominated for production for such producing owner's account. The term "shipper", as used in this section, shall include ~~producers, pipeline companies, local distribution companies, consumers, marketers, gatherers and gas processing plants~~. ~~If a nomination is not timely received by the operator it shall have the right, but not the obligation, to confirm zero volume of gas sales for such noncomplying producing owner~~ any entity who contracts with a transporter to move gas through the transporter's system. The owner of the gas meter shall confirm all nominations with the operator of the well no later than the last business day prior to the month in which production occurs.

C. Within sixty (60) days after the end of the month of production, each producing owner shall report and account to the operator of the well, the identity of the first purchaser or shipper of the gas and the information specified in Section ~~12~~ 570.12 of this ~~act~~ title. Within thirty (30) days after receiving notice of any retroactive gas volume adjustment, each producing owner shall furnish, or cause to be furnished, notice of such retroactive adjustment to the operator of the well.

D. Within fifteen (15) days after the end of the month of production, each owner of a gas meter taking gas solely from a gathering system shall provide upon first request by the owner of such gathering system and thereafter, the gross volume of gas measured by such meter both in MCF and British Thermal Unit equivalent.

Within ~~sixty (60)~~ twenty (20) days after the end of the month of production, each owner of a gas meter shall provide or cause to be provided in writing to the operator of the well, the gross volume of gas measured by such meter, both in MCF and British Thermal Unit equivalent, and the volume allocation supplied of gas allocated at the meter to each entity that shipped gas first purchaser or shipper and each contracted producing owner that sold gas to the owner of the gas meter. Each meter owner shall, within the same time period, furnish each first purchaser or shipper the volume of gas allocated at the meter to that first purchaser or shipper. However, in the event a gas processing plant operator is performing the allocations, within ten (10) days after the end of the production month, the pipeline residue gas meter owner shall provide, upon first request by the processing plant operator and thereafter, the volume and British Thermal Unit equivalent measured through its meter as required by the gas processing plant operator for its allocations under this subsection.

The owner of a gas meter who has a gas contract, whether one or more, with one or more producing owners covering all of the gas

flowing through its gas meter, may, as an alternative to supplying the operator with the information stated in this subsection, furnish monthly volume statements to the operator of the well, provided it has already furnished the operator with the names of the producing owners and the decimal interest owned by each such producing owner or any method other than by decimal interest then in effect for allocating gas among the producing owners. Thereafter, the owner of the gas meter shall only be required to supply the operator with changes to the name of a producing owner, the decimal interest owned by a producing owner or the method, other than by decimal interest, for allocating gas among the producing owners within thirty (30) days after receiving notice of such change.

Within thirty (30) days after receiving notice of any retroactive gas volume adjustment, each owner of a gas meter shall furnish notice of such retroactive adjustment to the operator of the well.

E. Within ~~sixty (60)~~ thirty-five (35) days after the end of the month of production each first purchaser or shipper of gas from a gas meter shall furnish or cause to be furnished to the operator of the well, a volume allocation statement showing the volume of gas purchased from or shipped for each contracted producing owner. Within thirty (30) days after making any retroactive gas volume adjustment for such well, the first purchaser or shipper shall furnish notice of such retroactive gas volume adjustment to the operator of the well.

F. Any owner of a gas meter, first purchaser, or any gas shipper that does not provide the information required under subsection D or E of this section shall ~~be subject to a penalty assessment, payable to the operator of the well, of One Hundred Dollars (\$100.00) per violation. The operator of the well shall promptly serve notice of such noncompliance, by certified mail, to each noncomplying party.~~

~~The penalty assessment shall be due and payable within fifteen (15) days after receipt of such notice, unless the noncomplying party provides the operator of the well with the required volume allocation statement within said fifteen-day period. No penalty shall be assessed against a party that provides the volume allocation statement to the operator within said fifteen-day period. The assessment shall be promptly paid to the operator of the well by each noncomplying party.~~

~~Any noncomplying party that disagrees with the information contained in the required notice of noncompliance shall have the right to challenge such noncompliance notice under subsection J of this section. the producing owner or owners contracted to such entity to the same remedies available to the operator under subsection H of this section, as if such producing owner or owners are in noncompliance with subsections A and C of this section.~~

G. For production occurring after August 31, 1992, each person distributing proceeds to a royalty interest owner shall maintain for a period of not less than five (5) years:

1. Copies of information furnished to the operator pursuant to the Production Revenue Standards Act; and
2. A record of receipts and payments of proceeds which have occurred pursuant to the Production Revenue Standards Act.

Such records shall be available for inspection upon reasonable notice by any affected royalty interest owner in the well.

H. The Production Revenue Standards Act shall not supersede or limit the operator's right to control gas nominations and allocations pursuant to the provisions of any joint operating agreement, gas balancing agreement or other agreement then in effect

between the operator of the well and any producing owner, or any order of the Oklahoma Corporation Commission. If the operator of the well is not provided with the information set forth in subsections A and C of this section within the sixty-day period set forth in each said subsection, the operator of the well shall have the right, but not the obligation, to confirm zero volume of gas sales for such noncomplying producing owner and to make available for nomination and sale to the producing owners in the well then in compliance with the provisions of subsections A and C of this section, all of the noncomplying producing owner's share of production for the next subsequent calendar month of production and for each and every month thereafter during which such producing owner is in noncompliance with provisions of subsections A and C of this section. If the operator elects to make the noncomplying producing owner's share of production available for nomination and sale, the operator shall immediately notify the noncomplying producing owner, by certified mail, that it shall no longer have the right to nominate any volume of gas until it is in compliance with the provisions of subsections A and C of this section, or its first purchaser, shipper or owner of the gas meter are in compliance with subsections D and E of this section. Such notice shall contain the following information:

1. Lease or well identification;
2. Legal location; and
3. Production months of noncompliance with subsections A ~~and~~, C, D or E of this section.

The operator shall then immediately notify each producing owner then in compliance with subsections A and C of this section that additional gas may be available for nomination and sale. The operator shall also immediately notify in writing the noncomplying producing owner's first purchaser or shipper and the owner of the gas meter that the ~~noncomplying producing owner, first purchaser, shipper or owner of the gas meter~~ is in noncompliance with the provisions of subsections A ~~and~~, C, D or E of this section and thus does not have the right to nominate and sell or transport any volume of gas until it is in compliance with ~~subsections A and C~~ of this section.

~~The noncomplying producing owner shall have ten (10) days after receipt of the notice sent by the operator within which to provide the operator with all unsatisfied information required pursuant to subsections A and C of this section for the relevant time period covered in the notice. If the required information is provided to the operator within the ten-day period specified by this subsection, the noncomplying producing owner's gas volume nomination will be reestablished and the operator shall immediately notify the shipper, the owner of the gas meter, and all producing owners then in compliance that the noncomplying producing owner has fully complied with subsections A and C of this section.~~

The first purchaser or shipper and the owner of the gas meter shall be entitled to rely on and shall incorporate on a prospective basis any nomination or allocation changes pursuant to such notification from the operator under this section. Changes pursuant to such notification can be made on a retroactive basis if so agreed to by the operator, owner of the meter, and first purchaser or shipper.

As soon as a noncomplying ~~producing owner party~~ is in compliance with the provisions of ~~subsections A and C~~ of this section, but no sooner than the next production month unless otherwise agreed to, the operator of the well shall give ~~such~~ the affected producing owner the opportunity to ~~make-up, through~~ nominate and sell gas

~~subject to existing agreements or by common practice within the oil and gas industry, the volume of gas it did not receive as a consequence of the actions taken by the operator pursuant to this subsection.~~

Any noncomplying party that disagrees with the information contained in the operator's written notice required under this subsection shall have the right to challenge the operator's actions pursuant to the provisions of subsection J of this section.

I. All elections and notices given pursuant to the provisions of the Production Revenue Standards Act shall become effective as of the first day of the month following the end of any time period specified in the Production Revenue Standards Act.

~~J. Any noncomplying party that disagrees with the action taken by the operator of the well pursuant to subsections F and H of this section may seek relief in the district courts of Oklahoma or before the Oklahoma Corporation Commission. An action before the Commission shall be commenced by filing an application in the secretary's office. Notice that an application has been filed shall be published by the applicant in a newspaper of general circulation in Oklahoma County and published in a newspaper of general circulation in the county in which the well is located. Notice shall be served by the applicant by regular mail upon the operator of the well. Notice shall be given not less than fifteen (15) days prior to the date of the hearing. Until such application is resolved through administrative or judicial hearings, the operator of the well shall have the continuing right to allocate zero gas sales to the noncomplying producing owner~~ The remedies provided for in this section shall not preclude any party from pursuing the remedies available to it through the district courts, as provided by existing law, including the right to offset.

~~K. The remedies provided for in this section shall not preclude any party from pursuing the remedies available to it through the district courts, as provided by existing law, including the right of offset~~ Nothing contained in the Natural Gas Market Sharing Act shall change the obligations of a purchaser under an existing gas contract unless otherwise agreed to by the parties.

SECTION 3. REPEALER 52 O.S. 1991, Sections 42 and 43, are hereby repealed.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 21st day of May, 1993.

President of the Senate

Passed the House of Representatives the 25th day of May, 1993.

Speaker of the House of Representatives

