

ENGROSSED SENATE  
BILL NO. 959

By: Easley and Muegge of the  
Senate

and

Rice of the House

[ natural gas - codification - 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 160.10 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Natural Gas Competitiveness Act of 1996".

B. It is declared to be the policy of the State of Oklahoma to encourage and promote competition in the transportation and sale of natural gas for the benefit of municipalities, public trusts and authorities and industrial end-users and to rely upon market-based rates established in a competitive environment.

C. The Corporation Commission shall have no jurisdiction over or authority to regulate:

1. The transportation of natural gas for ultimate delivery to or the sale of natural gas to:

- a. a municipality or any public trust or authority, whether for its own use or for resale and distribution, or

- b. any industrial end-user of natural gas, if competitive conditions exist at the time the contract for such transportation or sale is entered into; or

2. Any facilities used for such transportation or sale.

For the purposes of this act, "competitive conditions" include, but are not limited to, the existence of another transporter or supplier of natural gas, including a natural gas company or public service corporation, capable of providing such transportation or supplying such natural gas.

D. No person shall become a public utility as defined by Section 151 of Title 17 of the Oklahoma Statutes, or a transportation company, transmission company or a public service corporation as defined by Section 34 of Article IX of the Oklahoma Constitution, or shall be considered to be engaged in the conduct of a public business as defined by Section 4 of Title 79 of the Oklahoma Statutes, or to be engaged in an activity or business affected with a public interest by reason of the transportation or sale of natural gas in accordance with subsection C of this section. To the extent required to effectuate this act, this act shall be deemed to be a constitutional amendment by the Legislature as authorized by Section 35 of Article IX of the Oklahoma Constitution.

E. The Corporation Commission shall have exclusive jurisdiction to determine whether any transportation or sale of natural gas is governed by subsection C of this section. A determination by the Corporation Commission that subsection C of this section applies shall not be required in order for any person to undertake the transportation or

sale of natural gas as authorized by the provisions of this act. However, any person who is a party, or intends to become a party, to a transportation or sale authorized by subsection C of this section, including a municipality, public trust or authority, or industrial end-user for whose direct benefit such transportation or sale is made, may, in anticipation of such a transaction or after such a transaction is commenced, seek a determination from the Commission that such transaction is governed by subsection C of this section. A transaction undertaken in reliance upon subsection C of this section, if so expressed in the applicable documents, shall create a presumption that competitive conditions exist. In such event, the burden of rebutting such presumption shall be borne by the person claiming the lack of competitive conditions; provided, the parties to such transaction, including a municipality, a public trust or authority, or industrial end-user for whose direct benefit such transaction is made, and the successors in interest and affiliates of such parties, shall have no standing to challenge the existence of competitive conditions or otherwise the applicability of subsection C of this section to such transaction, and the existence of competitive conditions and, to such persons, the applicability of subsection C of this section to such transaction shall be conclusively presumed.

F. The Corporation Commission shall have no jurisdiction or authority to regulate the continuance of any transportation or sale

made pursuant to subsection C of this section upon termination of such transportation or sale.

G. The Corporation Commission is hereby authorized to promulgate rules to administer the provisions of this act.

H. As used in this act, "person" means a natural person, corporation, company, partnership, joint venture, limited liability company, trust, trustee, receiver, lessee, and any unincorporated organization or association.

SECTION 2. 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 4th day of March, 1996.

President of the Senate

Passed the House of Representatives the \_\_\_\_ day of

\_\_\_\_\_, 1996.

Speaker of the House of Representatives