

ENGROSSED HOUSE AMENDMENT

TO

ENGROSSED SENATE BILL NO. 1031

By: Easley of the Senate

and

Beutler of the House

( natural gas - gathering of natural gas - provisions -  
emergency )

AMENDMENT NO. 1. Strike the stricken title, enacting clause and  
entire bill and insert

"( natural gas - amending 52 O.S., Section 24.3 -  
prohibiting certain discriminatory terms - emergency )

SECTION 1. AMENDATORY Section 1, Chapter 340, O.S.L.  
1993, as amended by Section 2, Chapter 293, O.S.L. 1995 (52 O.S.  
Supp. 1997, Section 24.3), is amended to read as follows:

Section 24.3 A. No person gathering natural gas for hire, for  
compensation or otherwise shall charge any fee or require any terms  
and conditions for such service which is unduly discriminatory.  
Upon complaint of an aggrieved party, the Corporation Commission  
shall have the authority to remedy any unduly discriminatory fee or  
terms and conditions of service for gathering by ordering ~~an~~  
~~adjustment~~ a modification of the fee or terms and conditions of  
service as to the aggrieved party to the extent necessary to remove  
any unduly discriminatory portion ~~of such fee~~ thereof; provided, no  
person may challenge as unduly discriminatory a fee which such  
person is obligated to pay by existing contract.

B. No person gathering natural gas for hire, for compensation,  
or otherwise or gathering natural gas, in whole or in part, for such

person's own account, whether in connection with the purchase and resale of natural gas or otherwise, shall refuse to provide open access natural gas gathering for a fee for any person seeking such gathering unless:

1. The natural gas cannot be reasonably carried by such gatherer;
2. An extension or expansion of facilities would be required;
3. There is another gatherer of natural gas that is willing to gather or that can more conveniently gather such natural gas;
4. The gathering of such gas could reasonably be expected to have a material adverse affect on safety or on service to existing customers or on the operation of or recovery in any processing facility;
5. The gas does not satisfy minimum standards for quality or energy or recoverable hydrocarbon content consistently applied by the gatherer for that system;
6. Such gathering is inconsistent with an existing contract which governs the gas of the person seeking gathering; or
7. For such other good cause as the Corporation Commission may determine by rule or in the particular case.

Upon complaint of an aggrieved party, the Corporation Commission shall have authority to determine whether a gatherer is required by reason of this section to provide open access gathering to such party, and if so, and the parties are unable to agree upon a fee or terms and conditions of service for gathering, to fix a fee or terms and conditions of service for such gathering.

C. If a person engaged in the gathering of natural gas and a person seeking gathering are unable to agree upon a fee or other terms and conditions of service for such gathering, then upon complaint of the person seeking gathering, the Corporation Commission shall have the authority to determine a fee or terms and conditions of service for such gathering if:

1. The Corporation Commission makes a factual determination that competitive gathering conditions do not exist for the gathering of complainant's gas; and

2. The fee or terms and conditions of service for such gathering is not governed by a contract by which complainant is bound; and

3. If under subsection B of this section the complainant would be entitled to an order requiring the gatherer to provide the gathering service for which complainant seeks to fix a fee.

D. Any action by the Corporation Commission under this section shall be initiated by the filing of a complaint by the aggrieved party, following which 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. In fixing a fee under subsection B or C of this section for any gathering service, the Corporation Commission shall determine a fee which would result from arm's-length bargaining in good faith in a competitive market between parties of equal bargaining power. In determining such a fee, the Corporation Commission shall consider all economically significant factors which it determines to be relevant, which may include, but are not limited to:

1. The fees which said gatherer receives from other shippers;

2. The fees charged by other gatherers within a relevant area determined by the Corporation Commission;

3. The financial risks of installing such a gathering system;

4. The financial risks of operating such a gathering system;

5. The capital, operating and maintenance costs of such a gathering system; and

6. Such other factors which the Corporation Commission determines to be relevant;

provided, in no event is such fee to be computed on a utility rate of return basis.

E. Nothing in this section shall give the Corporation Commission jurisdiction over the purchase, processing or resale of natural gas or the price or other compensation for ~~or any of the other terms or conditions of~~ any such purchase, processing or resale.

F. The Corporation Commission is hereby authorized to promulgate rules to administer the provisions of this section.

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 House of Representatives the 2nd day of April, 1998.

Speaker of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 1998.

President of the Senate