HOUSE BILL NO. HB0043

Natural gas valuation.

Sponsored by: Joint Revenue Interim Committee

A BILL

for

AN ACT relating to taxation and revenue; providing for the valuation of certain natural gas for taxation purposes; providing definitions; requiring a report; specifying applicability; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 39-14-201(a) by creating new paragraphs (xxxiii) through (xxxvi) and 39-14-203(b)(vi)(intro), (C) and by creating new subparagraphs (E) and (F) are amended to read:

39-14-201. Definitions.

(a) As used in this article:

(xxxiii) For the purposes of W.S. 39-14-203(b)(vi)(E), "rate of return" means the rate of ten and twenty-five hundredths percent (10.25%) per annum;

(xxxiv) For the purposes of W.S. 39-14-203(b)(vi)(E), "return on investment" means the product of the rate of return multiplied by the gross capital investment relating to the processing facility on the financial records of the taxpayer;

(xxxv) For the purposes of W.S. 39-14-203(b)(vi)(E), "total direct processing costs" means costs incurred within the processing facility. The costs include salaries and benefits; contract labor; repairs and maintenance including processing facility turnarounds; fuel, power and utilities; chemicals; processing facility premise lease costs to nonaffiliated parties; waste water treatment; disposal of byproduct and waste products; safety; costs of environmental permitting and monitoring, federal and state environmental compliance fees, and remediation of environmental accidents; laboratory; distributive control system; and ad valorem taxes on real and tangible personal property excluding the gross products tax. The producer-processor shall be entitled to its proportionate share of the total direct processing costs as measured by its percentage of inlet volumes;

(xxxvi) For the purposes of W.S. 39-14-203(b)(vi)(E), "gross capital investment" means the total gross capitalized investment in the processing facility and shall be determined in accordance with generally accepted accounting principles. The gross capital investment shall be calculated based on the company's books and records as of January 1 plus December 31 of the production year, divided by two (2). For purposes of this paragraph, gross capital investment shall not include any investment that is not utilized as a functional component of the facility. However, gross capital investment shall include nonfunctioning items which are under repair but are required and currently functioning items that are not in continuous operation because they are redundant components required for emergency or auxiliary purposes.

39-14-203. Imposition.

(b) Basis of tax. The following shall apply:

(vi) Except as otherwise provided in subparagraph (E) of this paragraph and paragraph (vii) of this subsection, in the event the crude oil, lease condensate or natural gas production as provided by paragraphs (iii) and (iv) of this subsection is not sold at or prior to the point of valuation by bona fide arms-length sale, or, except as otherwise provided, if the production is used without sale, the department shall identify the method it intends to apply under this paragraph to determine the fair market value and notify the taxpayer of that method on or before September 1 of the year preceding the year for which the method shall be employed. The department shall determine the fair market value by application of one (1) of the following methods:

(C) Netback - The fair market value is the sales price minus expenses incurred by the producer for transporting produced minerals to the point of sale and third party processing fees;~~. The netback method shall not be utilized in determining the taxable value of natural gas which is processed by the producer of the natural gas;~~

(E) Netback - Producer/processor: the fair market value of natural gas which is processed in a processing facility owned in part or in total by the producer of the natural gas being processed shall be:

(I) The total amount received from the sale of the natural gas minus the total direct processing costs, return on investment and transportation expenses incurred by the producer-processor from the point of valuation to the point of sale;

(II) There shall be one (1) point of valuation for all interest owners of the processing facility in accordance with paragraph (iv) of this subsection;

(III) A minimum fair market value shall be established for each production year. The minimum fair market value shall be the producer's variable direct costs of producing the natural gas, which shall mean all direct expenditures incurred prior to the point of valuation that are specifically attributable to producing the natural gas which was produced during the production year. Variable direct costs of producing include labor costs for field and production personnel directly responsible for extracting the minerals; the costs of all materials, equipment and supplies used for and during production; repairs and maintenance on the wells; cost of fuel, power and other utilities used for production and maintenance; and gathering and transportation expenses to the point of valuation. As used in this subdivision, "variable direct costs of producing" shall not include any costs which the producer has expended or committed to expend prior to the production year or which are not specifically related to physically producing the natural gas during the production year, including preparation of the well site; tangible and intangible drilling costs; dry hole expense; depreciation, depletion and amortization of wells and well equipment; ad valorem property taxes; royalties or any production taxes.

(F) Effective January 1, 2006, the department shall apply the netback method as provided in subparagraph (E) of this paragraph to any producer-processor not otherwise qualifying for the comparable value method as provided by subparagraph (B) of this paragraph.

Section 2. W.S. 39-14-203(b)(vi)(D) and (ix) is repealed.

Section 3. The department shall report to the governor and the joint revenue interim committee on the operation of the netback method, the taxable values generated by the netback method and compare the taxable values generated by the netback method with those that would have been generated by use of the comparable value method and proportionate profits method. The report shall be submitted not later than October 1, 2008.

Section 4. This act shall apply to all production on and after January 1, 2006.

Section 5. This act is effective January 1, 2006.

(END)