

HOUSE BILL NO. HB0078

Natural gas-taxation.

Sponsored by: Representative(s) Lubnau, Anderson, R. and
Roscoe and Senator(s) Schiffer

A BILL

for

1 AN ACT relating to taxation and revenue; providing for
2 valuation of natural gas as specified; providing
3 definitions; providing legislative findings; providing
4 applicability; and providing for an effective date.

5

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

7

8 **Section 1.** W.S. 39-14-201(a)(vii) and by creating a
9 new paragraph (xxxvii) and 39-14-203(b)(iv) are amended to
10 read:

11

12 **39-14-201. Definitions.**

13

14 (a) As used in this article:

15

1 (vii) "Dehydrator" or "dehydration facility"
2 means a facility, specialty equipment or device which
3 ~~removes~~ has as its primary purpose the removal of water
4 vapor that is commonly associated with raw natural gas. A
5 dehydration facility shall not be considered a processing
6 facility, regardless of the size or complexity of the
7 facility. The removal of water vapor from the raw natural
8 gas stream in a dehydration facility shall not constitute
9 processing;

10

11 (xxxvii) "Processing facility" means a facility
12 occurring downstream and following completion of all
13 gathering activities and dehydration, if any, and the
14 primary purpose of which is to perform processing.

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16 **39-14-203. Imposition.**

17

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

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20 (iv) The production process for natural gas is
21 completed after extracting from the well, gathering,
22 separating, injecting and any other activity which occurs
23 before the outlet of the initial dehydrator. Subject to
24 subparagraph (A) of this paragraph, when no dehydration is

1 performed, other than within a processing facility, the
2 production process is completed at the inlet to the
3 processing facility, transportation related compressor or
4 custody transfer meter, whichever occurs first. When
5 neither dehydration nor processing is performed, the
6 production process is completed at the inlet to the initial
7 transportation related compressor, or custody transfer
8 meter, ~~or processing facility,~~ whichever occurs first.†

9
10 (A) Notwithstanding the requirement for
11 processing to occur beyond the inlet to a natural gas
12 processing facility as provided in W.S.
13 39-14-201(a)(xviii), if processing occurs within the
14 initial dehydrator those processing costs occurring between
15 the inlet and outlet of the dehydration facility are
16 deductible in determining taxable value.

17
18 **Section 2.**

19
20 (a) The legislature finds that:

21
22 (i) Under certain unique circumstances, more
23 particularly described in *Exxon Mobil Corporation v.*
24 *Department of Revenue*, 2009 WY 139 (Wyo. 2009), raw natural

1 gas is produced by oil and gas producers, then gathered to
2 a centralized dehydration facility where the raw natural
3 gas stream is dehydrated by removing water vapor. However,
4 the producer also removes certain heavy hydrocarbons along
5 with a small percentage of certain components of the raw
6 natural gas stream as part of the dehydration process. The
7 dehydrated raw natural gas stream is then transported to a
8 processing facility where the component parts of the gas
9 stream are separated and prepared for sale or disposal.
10 Contrary to the intent of the legislature, the Wyoming
11 Supreme Court determined that an extraordinarily large and
12 complex dehydration facility was actually a processing
13 facility because certain heavy hydrocarbons were removed by
14 processing at the dehydration facility. It was further
15 determined that the terms "processing facility" and
16 "initial dehydrator," as used in the point of valuation
17 statute were ambiguous. It is the intent of the
18 legislature that the point of valuation is the outlet of
19 the initial dehydration facility, notwithstanding the size
20 or complexity of the facility, proximity to the wellhead,
21 unusual need for dehydration, environmental considerations,
22 or that some activities ancillary to dehydration may occur
23 in the dehydration facility;

24

1 (ii) These circumstances occur in cases where
2 there is a sour or sweet gas stream and the dehydration
3 facility is located at a separate location from the
4 processing facility;

5
6 (iii) Where the primary purpose of a facility is
7 dehydration, even if the facility is large and complex, the
8 point of valuation is intended to be the outlet of the
9 dehydration facility, and a dehydration facility cannot
10 also be classified as a processing facility for point of
11 valuation purposes. Where the primary purpose of a
12 facility is processing raw natural gas into its separate
13 component parts for sale, the facility is a processing
14 facility, and a processing facility cannot also be
15 classified as a dehydration facility for point of valuation
16 purposes. The Wyoming constitution, article 15, section 3,
17 provides that the minerals which are "or may be produced"
18 shall be taxed on the "gross product thereof, as may be
19 prescribed by law" and "in proportion to the value
20 thereof". Under certain unique circumstances, more
21 particularly described in *Exxon Mobil Corporation v.*
22 *Department of Revenue*, 2009 WY 139 (Wyo. 2009), the point
23 of value was moved upstream of the outlet of the
24 dehydration facility because activities ancillary to

1 dehydration, which could be considered to be "processing,"
2 occurred within the dehydration facility, which decision
3 does not reflect the intent of the legislature.

4

5 **Section 3.** This act shall apply to the natural gas
6 produced on or after July 1, 2011.

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8 **Section 4.** This act is effective July 1, 2011.

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10

(END)