HOUSE BILL NO. HB0095

Taxation of oil & gas-valuation.

Sponsored by: Representative(s) Stafford, Boswell, Childers, Cohee, Deegan and Hines and Senator(s) Anderson, J., Boggs, Decaria, Hawks, Peck and Youngbauer

A BILL

for

AN ACT relating to taxation and revenue; providing for the valuation of certain oil and natural gas for taxation purposes; providing definitions; 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 (xxxix) and 39-14-203(b)(iv) and (vi)(A) through (C) and by creating a new paragraph (xii) are amended to read:

39-14-201. Definitions.

(a) As used in this article:

(xxxiii) "Plant inlet" means the physical point or place where a natural gas stream enters a processing plant or facility, but shall not include any in-field compressor or dehydrator;

(xxxiv) "Plant or facility depreciation" means the annual expense associated with the amortization of the capitalized cost of a plant or facility, calculated based upon the units of production basis and used by the taxpayer for financial statement purposes in accordance with generally accepted accounting principles;

(xxxv) "Plant outlet" means the physical point or place where separate and distinct gas plant products leave the gas plant site, but shall not include any point or place where sulfur or natural gas liquids are delivered to market, stored or loaded in trucks, railcars or pipelines;

(xxxvi) "Plant turnaround costs" means all costs that are expensed, not capitalized, associated with the periodic and scheduled plant shutdowns for maintenance, repair, installation and reconditioning of the processing facility. The expensed costs shall be normalized over the period of time between turnaround by dividing the expensed cost by the scheduled period of time before the next turnaround;

(xxxvii) "Rate of return" means the industrial rate associated with the Standard and Poor's BB rating, and shall be the monthly average as published in the Standard and Poor's Bond Guide for the first month of the calendar year in which production commenced and shall be used for the remainder of the year. The yearly rate shall be determined at the beginning of each subsequent calendar year;

(xxxviii) "Return on investment" means the product of the rate of return multiplied by the average undepreciated asset balance on the books and records of the taxpayer. The average undepreciated asset balance shall be calculated as the balances at January 1 plus December 31 of the production year, divided by two (2);

(xxxix) "Total direct processing costs" means costs incurred by the producer or processor between the plant inlet and plant outlet attributable to processing the natural gas stream into separate and distinct products. The costs shall include direct salaries and benefits, contract labor, repairs and maintenance, plant turnaround costs, fuel, power, utilities, chemicals, plant premise lease costs paid to nonaffiliated parties, waste water treatment and disposal, safety, environmental compliance, laboratory, a share of distributive control system directly related to processing functions, ad valorem taxes on real and tangible personal property excluding the gross products tax, and plant depreciation.

39-14-203. Imposition.

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

(iv) The production process for natural gas is completed after extracting from the well, gathering, separating, injecting and any other activity which occurs before the outlet of the initial dehydrator. When no dehydration is performed, other than within a processing facility, the production process is completed at the inlet to the initial transportation related compressor, custody transfer meter or processing facility, whichever occurs first. For each producer-owned processing plant, there shall be one (1) point of valuation for all interest owners in the plant, and that point shall be the inlet of the plant as defined by W.S. 39-14-201(a);

(vi) 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:

(A) Comparable sales - The fair market value is the representative arms-length market price for minerals of like quality and quantity used or sold at the point of valuation provided in paragraphs (iii) and (iv) of this subsection taking into consideration the location, terms and conditions under which the minerals are being used or sold. Determination of the taxable value of natural gas, which is processed by the producer of the natural gas, shall be restricted to only the methodologies set forth in subparagraph (C) of this paragraph or paragraph (xii) of this subsection;

(B) Comparable value - The fair market value is the arms-length sales price less processing and transportation fees charged to other parties for minerals of like quantity, taking into consideration the quality, terms and conditions under which the minerals are being processed or transported. Determination of the taxable value of natural gas, which is processed by the producer of the natural gas, shall be restricted to only the methodologies set forth in subparagraph (C) of this paragraph or paragraph (xii) of this subsection;

(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~~ In determining the taxable value of natural gas when it is processed by the producer, the fair market value is the sales price 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. The plant operator shall submit to each interest owner the owner's total direct processing costs by February 15 of each year for the previous production year;

(xii) In no event and under no circumstances shall the taxable value, determined in paragraph (vi) of this subsection, be less than the producer's actual total direct costs of producing the mineral. For the purposes of this subsection, "direct costs of producing" means all direct costs incurred prior to the point of valuation that are specifically attributable to producing the mineral product. This includes preparation of the well site; tangible and intangible drilling costs; dry hole expense for wells drilled within the same existing property; labor costs for field and production personnel directly responsible for extracting the mineral; the costs of all materials, equipment and supplies used for and during production; cost of fuel, power and other utilities for production and maintenance; depreciation expense of all production equipment; gathering and transportation expenses to the point of valuation, and all production taxes and nonexempt royalties.

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

Section 3. This act shall apply to all production on and after January 1, 2002.

Section 4. This act is effective January 1, 2002.

(END)