

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), (xviii) and by
9 creating a new paragraph (xxxvii) and 39-14-203(b)(iv) are
10 amended to read:

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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 impurities or other components of
8 the raw natural gas stream in a dehydration facility shall
9 not constitute processing, nor change a dehydration
10 facility to a processing facility for purposes of this
11 article;

12
13 (xviii) "Processing" means any activity
14 occurring ~~beyond~~ downstream of the inlet to a natural gas
15 processing facility; ~~that changes the well stream's~~
16 ~~physical or chemical characteristics, enhances the~~
17 ~~marketability of the stream, or enhances the value of the~~
18 ~~separate components of the stream. Processing includes, but~~
19 ~~is not limited to fractionation, absorption, adsorption,~~
20 ~~flashing, refrigeration, cryogenics, sweetening,~~
21 ~~dehydration within a processing facility, beneficiation,~~
22 ~~stabilizing, compression (other than production compression~~
23 ~~such as reinjection, wellhead pressure regulation or the~~

~~changing of pressures and temperatures in a reservoir) and
separation which occurs within a processing facility,~~

(xxxvii) "Processing facility" means a facility
occurring downstream and following completion of all
gathering activities and dehydration, other than
dehydration within a processing facility, and the
facility's primary purpose is to substantially change a
sweet or sour raw natural gas production stream into one
(1) or more of the following components for sale: methane,
ethane, propane, butane, gasoline, condensate, helium,
carbon dioxide, sulfur or nitrogen; through one (1) or more
of the following: fractionation, absorption, adsorption,
flashing, refrigeration, cryogenics, sweetening,
beneficiation or stabilizing. A facility shall not be
considered as a processing facility for purposes of this
article if its primary purpose is dehydration, separation
of water or water vapor, compression or pressure
regulation.

39-14-203. Imposition.

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

1 (iv) The production process for natural gas is
2 completed after extracting from the well, gathering,
3 separating, injecting and any other activity which occurs
4 before the outlet of the initial dehydrator. When no
5 dehydration is performed, other than within a processing
6 facility, the production process is completed at the inlet
7 to the processing facility, transportation related
8 compressor or custody transfer meter, whichever occurs
9 first. When neither dehydration nor processing is
10 performed, the production process is completed at the inlet
11 to the initial transportation related compressor, or
12 custody transfer meter, ~~or processing facility,~~ whichever
13 occurs first;

14

15 **Section 2.**

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17 (a) The legislature finds that:

18

19 (i) Under certain unique circumstances, more
20 particularly described in *Exxon Mobil Corporation v.*
21 *Department of Revenue*, 2009 WY 139 (Wyo. 2009), raw natural
22 gas is produced by oil and gas producers, then gathered to
23 a centralized dehydration facility where the raw natural
24 gas stream is dehydrated by removing water vapor. However,

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

21

22 (ii) These circumstances occur in cases where
23 there is a sour or sweet gas stream and the dehydration

1 facility is located at a separate location from the
2 processing facility;

3

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

1 occurred within the dehydration facility, which decision
2 does not reflect the intent of the legislature.

3

4 **Section 3.** This act shall apply to the natural gas
5 produced on or after January 1, 2010.

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7 **Section 4.** This act is effective immediately upon
8 completion of all acts necessary for a bill to become law
9 as provided by Article 4, Section 8 of the Wyoming
10 Constitution.

11

12 (END)