

104TH CONGRESS
1ST SESSION

H. R. 2342

To authorize associations of independent producers of natural gas.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 1995

Mr. SMITH of Texas (for himself and Mr. BRYANT of Texas) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To authorize associations of independent producers of natural gas.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Natural Gas Competi-
5 tiveness Act of 1995”.

6 **SEC. 2. ASSOCIATIONS OF INDEPENDENT PRODUCERS OF**
7 **NATURAL GAS.**

8 (a) ACTIVITIES.—(1) Subject to sections 3 and 4,
9 independent producers of natural gas may act together in
10 associations, corporate or otherwise, with or without cap-
11 ital stock, in collectively producing, gathering, transport-

1 ing, processing, storing, handling, and marketing in intra-
2 state, interstate, and foreign commerce, natural gas (in-
3 cluding natural gas liquids) produced in the United States.

4 (2) For purposes of paragraph (1)—

5 (A) such associations may have marketing
6 agencies in common, and

7 (B) such associations and members of such as-
8 sociations may make the necessary contracts and
9 agreements to carry out the activities described in
10 such paragraph,

11 if such associations are operated for the mutual benefit
12 of the members thereof and comply with subsection (b).

13 (b) REQUIREMENTS.—For purposes of subsection
14 (a)(2), an association shall—

15 (1) not deal in natural gas (including natural
16 gas liquids) produced by nonmembers in an amount
17 greater in volume than $\frac{1}{2}$ of the volume of natural
18 gas (including natural gas liquids) that is produced
19 by members of the association and handled by the
20 association for such members, and

21 (2) in any calendar year not deal in natural gas
22 (including natural gas liquids) in an amount greater
23 in volume than 20 percent of the volume of natural
24 gas (including natural gas liquids) produced in the
25 United States in the preceding calendar year.

1 **SEC. 3. TERMINATION OF ACTIVITY.**

2 (a) COMPLAINT.—If the Attorney General of the
3 United States has reason to believe that an association
4 to which section 2(a) applies, monopolizes or restrains
5 trade in intrastate, interstate, or foreign commerce to such
6 an extent that the price of natural gas or natural gas liq-
7 uids is unduly enhanced by reason of the activity of the
8 association, the Attorney General shall serve upon the as-
9 sociation a complaint that—

10 (1) states a claim in that respect,

11 (2) contains a notice of hearing on such claim
12 to be held at a place and on a date (not less than
13 30 days after the service of the complaint) specified
14 in the complaint, and

15 (3) requires the association to show cause why
16 the Attorney General should not issue an order re-
17 quiring the association to cease and desist from the
18 monopolization or restraint of trade.

19 (b) HEARING.—At the hearing referred to in sub-
20 section (a), the association that is the subject of such
21 hearing may show cause why such order should not be en-
22 tered. Evidence taken at such hearing shall be taken under
23 such rules as the Attorney General may issue, shall be re-
24 duced to writing, and shall be made a part of the record
25 of the proceeding on the complaint containing the notice
26 of such hearing.

1 (c) ORDER.—If, based on the hearing referred to in
2 subsection (b), the Attorney General determines that such
3 association monopolizes or restrains trade in intrastate,
4 interstate, or foreign commerce to the extent that the price
5 of natural gas, or natural gas liquids, is unduly enhanced,
6 the Attorney General shall issue and cause to be served
7 upon the association an order reciting the facts found by
8 the Attorney General and directing such association to
9 cease and desist from monopolization or restraint of trade.

10 (d) REVIEW.—(1) On the request of the association
11 that is subject to an order issued under subsection (c) or
12 if the association fails or neglects for 30 days to obey such
13 order, the Attorney General shall file in the district court
14 of the United States for the judicial district in which the
15 association has its principal place of business a petition
16 for enforcement of such order, together with a certified
17 copy of the order and the record of the proceedings on
18 the complaint on which the order is based.

19 (2) The court shall have jurisdiction to affirm, mod-
20 ify, or set aside the order, or to enter such other order
21 as the court may deem equitable.

22 (3) The facts found by the Attorney General and set
23 forth in the order issued by the Attorney General shall
24 be prima facie evidence of such facts, but either party may
25 adduce additional evidence.

1 (4) During the pendency of the petition, the court
2 may issue a preliminary injunction forbidding such asso-
3 ciation from violating all or part of such order.

4 **SEC. 4. LIMITATION.**

5 Nothing in this Act shall restrict the right of a person
6 or State to assert any claims against an association which
7 may accrue under—

8 (1) section 2 of the Sherman Act (15 U.S.C. 2)
9 for the monopolization of trade by the association to
10 such an extent that the price of natural gas is un-
11 duly depressed or unduly enhanced by reason thereof
12 or by reason of a denial of access to essential facili-
13 ties,

14 (2) section 2 of the Clayton Act (15 U.S.C. 13)
15 for undue discrimination in price by the association,

16 (3) section 3 of the Clayton Act (15 U.S.C. 14)
17 for imposition of exclusive dealing arrangements by
18 the association, or

19 (4) any State common purchaser law, State
20 common carrier law, or State law enacted to prevent
21 discrimination as to price or access to market.

22 **SEC. 5. DEFINITION OF INDEPENDENT PRODUCER OF NAT-**
23 **URAL GAS.**

24 The term “independent producer of natural gas”
25 means a person who produces natural gas (including natu-

1 ral gas liquids), but excludes a person with respect to
2 whom section 613A(c) of the Internal Revenue Code of
3 1986 is inapplicable by reason of the operation of para-
4 graph (2) or (4) of section 613A(d) of such Code.

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