HOUSE BILL NO. 339

INTRODUCED BY M. MILLER

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE PROCEDURE FOR DETERMINING THE GROSS VALUE OF OIL AND NATURAL GAS FOR PURPOSES OF THE OIL AND NATURAL GAS PRODUCTION TAX; AMENDING SECTION 15-36-305, MCA; AND PROVIDING A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-36-305, MCA, is amended to read:

"15-36-305. Determination of gross value of product. (1) The total gross value of all oil or natural gas produced and sold each quarter must be determined by taking the total number of barrels or cubic feet of oil or natural gas produced and sold each month at the average value at the mouth of the well during the month that the oil or natural gas is produced and sold, as ~~determined by the department~~ <u>specified in this section</u>. However, in computing the total number of barrels of oil or cubic feet of gas produced and sold, there must be deducted the amount of oil or gas used by the person in connection with the operation of the well from which the oil or gas is produced or for pumping the oil or gas from the well to a tank or pipeline.

<u>(2) The gross value at the mouth of the well for oil or natural gas is the price paid under an arm's-length contract between the producer and the purchaser less transportation costs associated with moving the oil or natural gas from the point of production to the point of sale, as provided in the contract, and any natural gas processing costs.</u>

<u>(3) (a) In the absence of an arm's-length contract, the gross value at the mouth of the well for oil or natural gas is the value of oil or natural gas of like kind, character, and quality in the same field or, if none, in an adjacent field as established by whichever of the following methods is first applicable:</u>

<u>(i) the price paid under an arm's-length contract to which the person paying the tax is a party; or</u>

<u>(ii) the price paid under an arm's-length contract between parties other than the person paying the tax.</u>

<u>(b) When determining the gross value under subsection (3)(a), transportation costs associated with moving the oil or natural gas from the point of production to the point of sale and natural gas processing costs are deducted from the gross value.</u>

<u>(c) If subsections (2) and (3)(a) do not apply, the gross value is determined by considering the posted</u>

price relevant in valuing oil or natural gas of like kind, character, and quality in the same field or, if none, in an adjacent field with adjustments for transportation costs that reflect the difference between the value at the point of production and the value at the location reflected in the posted price. Natural gas processing costs must also be deducted from the gross value.

(4) (a) When the transportation or natural gas processing is provided by a facility owned by the producer responsible for payment of the tax or an entity affiliated with the producer responsible for payment of the tax, the transportation or gas processing costs must include allowances for:

(i) depreciation on the investment in the facility;

(ii) a reasonable return on the investment;

(iii) property tax payments; and

(iv) all operating and maintenance costs, including but not limited to direct and indirect labor costs and overhead directly attributable to transportation or natural gas processing.

(b) An "entity affiliated with the producer" means an affiliate as defined in 30 CFR, chapter VII, subpart C.

~~(2)~~(5) For the purposes of determining average value at the mouth of a well, a fee of up to 25 cents a barrel paid to the operator or producer to administer royalty payments, whether or not the fee is payable on a per barrel basis, may not be considered a part of the value of the oil."

NEW SECTION. **Section 2. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to all quarterly periods for which deficiencies, credits, or refunds are not precluded by the provisions of 15-36-321.

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