

NATURAL RESOURCES CODE

TITLE 3. OIL AND GAS

SUBTITLE D. REGULATION OF SPECIFIC BUSINESSES AND OCCUPATIONS

CHAPTER 111. COMMON CARRIERS, PUBLIC UTILITIES, AND COMMON

PURCHASERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 111.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Public utility" means a person, association of persons, or corporation that owns, operates, or manages crude petroleum storage tanks or storage facilities for the public for hire, either in connection with a pipeline, pipelines, or otherwise. The term does not include an electric cooperative, as that term is defined by Section 11.003, Utilities Code, or its subsidiary, that sells electricity at wholesale and that owns or operates an underground storage facility and provides gas storage services to the public for hire if the gas storage facility is predominantly operated to support the integration of renewable resources. Such a gas storage facility may not have a working gas capacity of greater than five billion cubic feet.

Acts 1977, 65th Leg., p. 2578, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 4 (S.B. 312), Sec. 3, eff. April 21, 2011.

Sec. 111.002. COMMON CARRIERS UNDER CHAPTER. A person is a common carrier subject to the provisions of this chapter if it:

(1) owns, operates, or manages a pipeline or any part of a pipeline in the State of Texas for the transportation of crude petroleum to or for the public for hire, or engages in the business of transporting crude petroleum by pipeline;

(2) owns, operates, or manages a pipeline or any part of a pipeline in the State of Texas for the transportation of crude

petroleum to or for the public for hire and the pipeline is constructed or maintained on, over, or under a public road or highway, or is an entity in favor of whom the right of eminent domain exists;

(3) owns, operates, or manages a pipeline or any part of a pipeline in the State of Texas for the transportation of crude petroleum to or for the public for hire which is or may be constructed, operated, or maintained across, on, along, over, or under the right-of-way of a railroad, corporation, or other common carrier required by law to transport crude petroleum as a common carrier;

(4) under lease, contract of purchase, agreement to buy or sell, or other agreement or arrangement of any kind, owns, operates, manages, or participates in ownership, operation, or management of a pipeline or part of a pipeline in the State of Texas for the transportation of crude petroleum, bought of others, from an oil field or place of production within this state to any distributing, refining, or marketing center or reshipping point within this state;

(5) owns, operates, or manages, wholly or partially, pipelines for the transportation for hire of coal in whatever form or of any mixture of substances including coal in whatever form;

(6) owns, operates, or manages, wholly or partially, pipelines for the transportation of carbon dioxide or hydrogen in whatever form to or for the public for hire, but only if such person files with the commission a written acceptance of the provisions of this chapter expressly agreeing that, in consideration of the rights acquired, it becomes a common carrier subject to the duties and obligations conferred or imposed by this chapter; or

(7) owns, operates, or manages a pipeline or any part of a pipeline in the State of Texas for the transportation of feedstock for carbon gasification, the products of carbon gasification, or the derivative products of carbon gasification, in whatever form, to or for the public for hire, but only if the person files with the commission a written acceptance of the provisions of this chapter expressly agreeing that, in consideration of the rights acquired, it becomes a common carrier subject to the duties

and obligations conferred or imposed by this chapter.

Acts 1977, 65th Leg., p. 2579, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 2692, ch. 871, art. II, Sec. 2, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 199, ch. 93, Sec. 1, eff. Aug. 31, 1981; Acts 1991, 72nd Leg., ch. 689, Sec. 1, eff. Sept. 1, 1991.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 22 (H.B. 1967), Sec. 1, eff. September 1, 2007.

Sec. 111.003. APPLICABILITY OF CHAPTER. (a) The provisions of this chapter do not apply to pipelines that are limited in their use to the wells, stations, plants, and refineries of the owner and that are not a part of the pipeline transportation system of a common carrier as defined in Section 111.002 of this code.

(b) The provisions of this chapter do not apply to any property of a common carrier, as defined in Section 111.002 of this code, that is not a part of or necessarily incident to its pipeline transportation system.

(c) The provisions of this chapter, and any common law requirements or limitations applicable to a common carrier, do not apply to an underground storage facility owned or operated by an electric cooperative, as that term is defined by Section 11.003, Utilities Code, or its subsidiary, that sells electricity at wholesale and offers or provides gas storage services to the public for hire if the gas storage facility is predominantly operated to support the integration of renewable resources. Such a gas storage facility may not have a working gas capacity of greater than five billion cubic feet.

Acts 1977, 65th Leg., p. 2579, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 4 (S.B. 312), Sec. 4, eff. April 21, 2011.

Sec. 111.004. GENERAL RESTRICTION ON TRANSPORTATION OF OIL.

No person, including a common carrier, may transport crude oil or petroleum in this state unless the crude oil or petroleum has been produced or purchased or both in accordance with the laws of this state or a rule of the commission made under those laws, or both.

Acts 1977, 65th Leg., p. 2579, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

#### SUBCHAPTER B. COMMON CARRIERS

Sec. 111.011. REGULATION IN PUBLIC INTEREST. The operation of common carriers covered by this chapter is a business in which the public is interested and is subject to regulation by law.

Acts 1977, 65th Leg., p. 2579, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.012. GENERAL JURISDICTION OF COMMISSION. Particular powers granted to the commission by the provisions of this chapter do not limit the general powers conferred by other laws.

Acts 1977, 65th Leg., p. 2579, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.013. CONTROL OF PIPELINES. A pipeline subject to the provisions of this chapter not exempt under Section [111.003](#), which is used in connection with the business of purchasing or purchasing and selling crude petroleum, or in the business of transporting coal, carbon dioxide, hydrogen, feedstock for carbon gasification, the products of carbon gasification, or the derivative products of carbon gasification in whatever form by pipeline for hire in Texas, shall be operated as a common carrier and shall be subject to the jurisdiction of the commission.

Acts 1977, 65th Leg., p. 2579, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 2692, ch. 871, art. II, Sec. 2, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 199, ch. 93, Sec. 1, eff. Aug. 31, 1981; Acts 1991, 72nd Leg., ch. 689, Sec. 2, eff. Sept. 1, 1991.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 22 (H.B. 1967), Sec. 2, eff. September 1, 2007.

Sec. 111.014. PUBLICATION OF TARIFFS. Common carriers shall make and publish their tariffs under rules prescribed by the commission.

Acts 1977, 65th Leg., p. 2580, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.015. TRANSPORTATION WITHOUT DISCRIMINATION. Subject to the law and the rules prescribed by the commission, a common carrier shall receive and transport crude petroleum delivered to it for transportation and perform its other related duties without discrimination.

Acts 1977, 65th Leg., p. 2580, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.016. DISCRIMINATION BETWEEN SHIPPERS. (a) A common carrier in its operations as a common carrier shall not discriminate between or against shippers with regard to facilities furnished, services rendered, or rates charged under the same or similar circumstances in the transportation of crude petroleum.

(b) A common carrier shall not discriminate in the transportation of crude petroleum produced or purchased by itself directly or indirectly.

(c) In this connection, a pipeline is a shipper of the crude petroleum produced or purchased by itself directly or indirectly and handled through its facilities.

Acts 1977, 65th Leg., p. 2580, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.017. EQUAL COMPENSATION FOR LIKE SERVICE. (a) No common carrier in its operations as a common carrier may charge, demand, collect, or receive either directly or indirectly from anyone a greater or lesser compensation for a service rendered than from another for a like and contemporaneous service.

(b) The provisions of Subsection (a) of this section do not

limit the right of the commission to prescribe rules and rates from or to some places that are different from rules or rates for transportation from or to other places.

Acts 1977, 65th Leg., p. 2580, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.018. EFFECT OF COMMISSION ORDER. A common carrier is not guilty of discrimination when obeying an order of the commission.

Acts 1977, 65th Leg., p. 2580, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.019. RIGHT OF EMINENT DOMAIN. (a) Common carriers have the right and power of eminent domain.

(b) In the exercise of the power of eminent domain granted under the provisions of Subsection (a) of this section, a common carrier may enter on and condemn the land, rights-of-way, easements, and property of any person or corporation necessary for the construction, maintenance, or operation of the common carrier pipeline.

(c) Upon written request by a resident or owner of land crossed by a common carrier pipeline, the common carrier must disclose material data safety sheets concerning the commodities transported by the common carrier required by the commission and the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. Section 11001 et seq.). Such disclosure must be in writing and must be mailed or delivered to the resident or landowner within 30 days of receipt of the request.

Acts 1977, 65th Leg., p. 2580, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1993, 73rd Leg., ch. 630, Sec. 1, eff. Sept. 1, 1993.

Sec. 111.0191. COSTS OF RELOCATION OF PROPERTY. In the event a common carrier pipeline in the exercise of the power of eminent domain or police power or any other power granted under this chapter makes necessary the relocation, raising, lowering, rerouting, or changing the grade of, or altering the construction

of any railroad, electric transmission, telegraph or telephone lines, properties and facilities, or pipeline, all such relocation, raising, lowering, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of such common carrier pipeline. The term "sole expense" means the actual cost of the relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of the facilities, after deducting therefrom the net salvage value derived from the old facility.

Acts 1977, 65th Leg., p. 2694, ch. 871, art. II, Sec. 4, eff. Sept. 1, 1977.

Sec. 111.0192. LIMITATIONS ON THE POWERS OF EMINENT DOMAIN IN CERTAIN SITUATIONS. (a) The right of eminent domain granted under this chapter to any pipelines transporting coal in whatever form shall not include and cannot be used to condemn water or water rights for use in the transportation of coal by pipeline, and no Texas water from any source shall be used in connection with the transportation, maintenance, or operation of a coal slurry pipeline (except water used for drinking, toilet, bath, or other personal uses at pumping stations or offices) within the State of Texas unless the Texas Natural Resource Conservation Commission shall determine, after public hearing, that the use will not be detrimental to the water supply of the area from which the water is sought to be extracted.

(b) The right of eminent domain granted under this chapter to any pipeline transporting coal in whatever form shall not include the power to take land or any interest in land, by exercise of the power of eminent domain, for the purpose of drilling for, mining, or producing any oil, gas, geothermal, geothermal/geopressured, lignite, coal, sulphur, uranium, plutonium, or other mineral, but this provision does not impair the right of any such entity to acquire title to real property for pipelines, including cooling ponds and related surface installations and equipment.

Acts 1977, 65th Leg., p. 2694, ch. 871, art. II, Sec. 6, eff. Sept. 1, 1977. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.271, eff.

Sept. 1, 1995.

Sec. 111.0193. RESTORATION OF PROPERTY. Every condemnation award granted under this chapter shall require that the condemnor restore the property which is the subject of the award to its former condition as near as reasonably practicable.

Acts 1977, 65th Leg., p. 2695, ch. 871, art. II, Sec. 7, eff. Sept. 1, 1977.

Sec. 111.0194. PIPELINE EASEMENTS. (a) Unless the terms of the grant or the condemnation judgment expressly provide otherwise, or the easement rights otherwise prescriptively owned through actual use are greater, an easement created through grant or through the power of eminent domain for the benefit of a single common carrier pipeline for which the power of eminent domain is available under Section 111.019 of this code as of January 1, 1994, is presumed to create an easement in favor of the common carrier pipeline, or a successor in interest to the common carrier pipeline, that extends only a width of 50 feet as to each pipeline laid under the grant or judgment in eminent domain prior to January 1, 1994.

(b) The presumption in Subsection (a) of this section is not applicable to pipeline easements of a common carrier pipeline granted under the terms of an oil and gas lease or oil, gas, and mineral lease, or to any easement which authorizes the construction of gathering lines.

(c) The presumption set out in Subsection (a) of this section on the limitation of width may be rebutted by evidence on behalf of the common carrier pipeline that a greater width is reasonably needed for purposes of operation, construction of additional lines under the grant or judgment in an eminent domain proceeding, maintenance, repair, replacement, safety, surveillance, or as a buffer zone for protection of the safe operation of the common carrier pipeline, together with such other evidence as a court may deem relevant to establish the extent of an easement in excess of 50 feet in width.

(d) The presumption in Subsection (a) of this section shall



apply separately as to each pipeline under a grant or judgment which allows more than one pipeline on the subservient estate.

(e) This section shall not be deemed to limit any rights of ingress to or egress from easements that may exist under the original grant, prescriptive rights, or common law.

(f) This section does not limit or otherwise affect the rights of parties engaged in litigation before January 1, 1994.

Added by Acts 1993, 73rd Leg., ch. 787, Sec. 1, eff. Jan. 1, 1994.

Sec. 111.020. PIPELINE ON PUBLIC STREAM OR HIGHWAY. (a) Subject to the provisions of Subsection (b) of this section, all common carriers are entitled to lay, maintain, and operate along, across, or under a public stream or highway in this state pipelines, together with telegraph and telephone lines incidental to and designed for use only in connection with the operation of the pipelines.

(b) The right to run a pipeline or telegraph or telephone line along, across, or over a public road or highway may be exercised only on condition that:

(1) it does not interfere with traffic on the road or highway;

(2) the road or highway is promptly restored to its former condition of usefulness;

(3) the restoration of the road or highway is subject also to the supervision of the commissioners court or other proper local authority; and

(4) no pipes or pipelines are laid parallel with and on a public highway closer than 15 feet from the improved section of the highway except with the approval and under the direction of the commissioners court of the county in which the public highway is located.

(c) The common carrier shall compensate the county or road district, respectively, for any damage done to the public road in the exercise of the privileges conferred.

(d) A person may acquire the right conferred in this section by filing with the commission a written acceptance of the provisions of this chapter expressly agreeing that, in

consideration of the rights acquired, it becomes a common carrier subject to the duties and obligations conferred or imposed by this chapter.

Acts 1977, 65th Leg., p. 2580, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.021. PIPELINE UNDER RAILROAD, STREET RAILROAD, OR CANAL. A common carrier is entitled to lay its pipe or pipeline under any railroad, railroad right-of-way, street railroad, or canal in this state.

Acts 1977, 65th Leg., p. 2581, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.022. RIGHT TO USE STREET OR ALLEY IN CITY OR TOWN. The provisions of this chapter do not grant a pipeline company the right to use a public street or alley in an incorporated or unincorporated city or town except with express permission of the governing body of the city or town or the right to lay its pipes or pipelines along and under a street or alley in an incorporated city or town except with the consent and under the direction of the governing body of the city or town.

Acts 1977, 65th Leg., p. 2581, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.023. EXCHANGE OF FACILITIES. (a) A common carrier shall exchange crude petroleum tonnage with each like common carrier.

(b) When a necessity exists, the commission may require connections and facilities for the interchange of crude petroleum tonnage to be made at every locality reached by both pipelines, subject to the rules and rates made by the commission.

(c) A common carrier pipeline under like rules shall be required to install and maintain facilities for the receipt and delivery of crude petroleum of patrons at all points on the pipeline.

Acts 1977, 65th Leg., p. 2581, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.024. LIMIT ON AMOUNT OF OIL CARRIED. No common carrier may be required at any time to receive for shipment from any person more than 3,000 barrels of petroleum in any one day.  
Acts 1977, 65th Leg., p. 2581, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.025. ABANDONING CONNECTIONS. (a) No common carrier may abandon any of its connections or lines except under authority of a permit granted by the commission or with written consent of the owner or duly authorized agent of the wells to which connections are made.

(b) Before granting a permit to abandon any connection, the commission shall issue proper notice and hold a hearing as provided by law.  
Acts 1977, 65th Leg., p. 2581, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

#### SUBCHAPTER C. PUBLIC UTILITIES

Sec. 111.051. APPLICABILITY OF STATUTE TO PUBLIC UTILITIES. A public utility is subject to the provisions of this subchapter and other provisions of this chapter relating to public utilities.  
Acts 1977, 65th Leg., p. 2582, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.052. DISCRIMINATION BY PUBLIC UTILITY. No public utility in its operations as a public utility may discriminate between or against its patrons in regard to facilities furnished or services rendered, or rates charged under the same or similar circumstances, in the storage of crude oil.  
Acts 1977, 65th Leg., p. 2582, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.053. BOND OF PUBLIC UTILITY. (a) Before engaging in business as a public utility, a person, association, or corporation that is to engage in business as a public utility shall

file a bond in an amount not to exceed \$25,000 that is properly executed and made payable to the State of Texas with the amount of the bond and the sureties on the bond subject to the approval of the commission.

(b) In lieu of a bond as required by Subsection (a), a person, association, or corporation may deposit with the commission:

(1) bonds of the United States;

(2) certificates of indebtedness issued by the United States secretary of the treasury;

(3) bonds of this state or a county, municipality, or school district of this state; or

(4) shares or share accounts of savings and loan associations organized under the laws of this state or federal savings and loan associations domiciled in this state, if the shares or share accounts are insured by the Federal Deposit Insurance Corporation.

(c) The bond or securities in lieu of the bond as provided by Subsection (b) shall be approved by the commission before the bond is filed or the securities deposited.

(d) After proper notice and hearing as provided by law, the amount of the bond may be changed from time to time by order of the commission, according to the volume of business done or to be done by the public utility.

(e) The bond shall be conditioned that the public utility will observe the applicable provisions of this subchapter and chapter and the rules of the commission insofar as its business is regulated and controlled by the commission and that the public utility will exercise ordinary care in the storage, preservation, handling, and delivery of petroleum products entrusted to it and shall guarantee the classification, measurements, and grades made by it under its authority and in conformity herewith.

(f) The bond shall be for the benefit of the patrons of the public utility and their assignees as though they were named obligees in the bond and they shall severally have the right of suit on the bond.

Acts 1977, 65th Leg., p. 2582, ch. 871, art. I, Sec. 1, eff. Sept. 1,

1977. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.107, eff. Sept. 1, 2001.

Sec. 111.054. LIEN FOR STORAGE CHARGES. A public utility shall have a lien on the commodity in its possession to secure it in the payment of all proper storage charges against the commodity or the transportation charges accrued to or paid or advanced by it or both and the lien is superior to all other liens on the commodity except a lien for taxes.

Acts 1977, 65th Leg., p. 2582, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

#### SUBCHAPTER D. COMMON PURCHASERS

Sec. 111.081. DEFINITION OF COMMON PURCHASER. (a) In this subchapter, "common purchaser" means:

(1) every person that purchases crude oil or petroleum produced within the limits of this state and that is affiliated through stock ownership, common control, contract, or in any other manner with a common carrier by pipeline or is itself a common carrier;

(2) every person, gas pipeline company, or gas purchaser that claims or exercises the right to carry or transport natural gas by pipeline or pipelines for hire, compensation, or otherwise within the limits of this state or that engages in the business of purchasing or taking natural gas, residue gas, or casinghead gas thereof;

(3) every person that operates a crude oil gathering system, whether by pipeline or truck, that may purchase crude oil or petroleum in this state, whether or not it is a common carrier or affiliated with a common carrier; and

(4) the business of purchasing or of purchasing and selling crude petroleum by the use of a gathering system for crude petroleum, whether by pipeline or by truck.

(b) The persons covered by Subdivision (3), Subsection (a) of this section do not include persons transporting only crude oil from property in which they own an operating interest.

(c) The operation of a crude oil gathering system by a person, association of persons, or corporation transporting only crude oil from property in which it owns an operating interest shall not be considered to be included in Subdivision (4) of Subsection (a) of this section.

Acts 1977, 65th Leg., p. 2582, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.082. PURPOSE FOR INCLUDING CERTAIN ENTITIES UNDER REGULATION AS COMMON PURCHASERS. Persons, gas pipeline companies, and gas purchasers claiming or exercising the right to carry or transport natural gas by pipeline or pipelines for hire, compensation, or otherwise within the limits of this state are regulated as common purchasers under this subchapter for the purpose of further conserving the natural gas resources of this state.

Acts 1977, 65th Leg., p. 2583, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.083. DUTY OF CERTAIN COMMON PURCHASERS. A common purchaser as defined in Subdivision (2), Subsection (a), Section [111.081](#) of this code shall purchase or take the natural gas purchased or taken by it as a common purchaser under rules prescribed by the commission in the manner, under the inhibitions against discriminations, and subject to the provisions applicable under this chapter to common purchasers of oil.

Acts 1977, 65th Leg., p. 2583, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.084. OPERATION OF GATHERING SYSTEMS FOR CRUDE PETROLEUM. The operation of gathering systems for crude petroleum by pipeline or by truck in connection with the purchase or purchase and sale of crude petroleum is a business in the mode of the conduct of which the public is interested, and as such is subject to regulation by law. Therefore, it is provided that the business of purchasing or of purchasing and selling crude petroleum by the use of a gathering system for crude petroleum, whether by pipeline or by

truck, shall not be conducted unless the person operating the gathering system being used in this manner in connection with this business is a common purchaser under this law and subject to the jurisdiction conferred on the commission over common purchasers.

Acts 1977, 65th Leg., p. 2583, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.085. APPLICABILITY OF RATE PROVISIONS TO CERTAIN COMMON PURCHASERS. Common purchasers as defined in Subdivision (3), Subsection (a), Section [111.081](#) of this code are subject to the same regulation concerning rates and charges for gathering, transporting, loading, and delivering crude petroleum as set out in Subchapter F of this chapter.

Acts 1977, 65th Leg., p. 2583, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.086. DISCRIMINATION BETWEEN PERSONS AND FIELDS.

(a) A common purchaser shall purchase oil offered to it for purchase without discrimination in favor of one producer or person against another producer or person in the same field and without unjust or unreasonable discrimination between fields in this state.

(b) A question of justice or reasonableness under this section shall be determined by the commission taking into consideration the production and age of wells in respective fields and all other proper factors.

Acts 1977, 65th Leg., p. 2584, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.087. CONDITIONS IN TAKING PRODUCTION. (a) No common purchaser may discriminate between or against crude oil or petroleum of a similar kind or quality in favor of its own production, or production in which the common carrier may be directly or indirectly interested in whole or part.

(b) For the purpose of prorating the purchase of crude oil or petroleum to be marketed, the production shall be taken in like manner as that of any other person or producer and shall be taken in the ratable proportion that the production bears to the total

production offered for market in the field.

Acts 1977, 65th Leg., p. 2584, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.088. COMMISSION RELIEF. After proper notice and hearing as provided by law, the commission may relieve any common purchaser from the duty of purchasing petroleum of inferior quality or grade.

Acts 1977, 65th Leg., p. 2584, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.089. DISCRIMINATION AS TO ROYALTY OIL. (a) In making purchases of royalty oil, a common purchaser shall comply with the provisions of this subchapter, Subchapters C, F, and G of this chapter, and Sections [111.004](#), [111.025](#), [111.131](#) through [111.133](#), [111.136](#), [111.137](#), and [111.140](#) of this code, and shall not discriminate between royalty owners or landowners or both in making those purchases.

(b) No common purchaser may unreasonably delay payments to a royalty owner or landowner or both in purchases of said oil or gas.

(c) In addition to other penalties, the royalty owner or landowner or both have a cause of action for violation of this section against the common purchaser for damages and may file suit for damages in any court of competent jurisdiction in the county in which the royalty lies.

Acts 1977, 65th Leg., p. 2584, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.090. COMPLIANCE BY COMMON PURCHASERS. The commission shall enforce compliance with this subchapter, Subchapters C, F, and G of this chapter, and Sections [111.004](#), [111.025](#), [111.131](#) through [111.133](#), [111.136](#), [111.137](#), and [111.140](#) of this code and after notice and hearing, may make rules and orders defining the distance that extensions or gathering lines shall be made to all oil or gas wells and other rules or orders that may be necessary to carry out those provisions cited in this section and to prevent discrimination.



Acts 1977, 65th Leg., p. 2584, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.091. PREVENTION OF DISCRIMINATION. (a) The commission shall make inquiry in each field concerning the connection of various producers, and if discrimination is found to be practiced by a common purchaser, the commission shall issue an order to the common purchaser to make any reasonable extensions of its lines, reasonable connections, and ratable purchases that will prevent the discrimination.

(b) The commission may issue a show cause order to any common purchaser requesting it to appear and show cause why it should not purchase the allowable production of any producer discriminated against under Subsection (a) of this section.

Acts 1977, 65th Leg., p. 2584, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.092. INJUNCTION TO PREVENT DISCRIMINATION. On information that discrimination is practiced in its purchases by a common purchaser, the commission shall request the attorney general to bring a mandatory injunction suit against the common purchaser to compel the reasonable extensions that are necessary to prevent discrimination.

Acts 1977, 65th Leg., p. 2585, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.093. FORFEITURE OF CHARTER OF DOMESTIC CORPORATION. (a) If a domestic corporation that is a common purchaser violates any provision of this subchapter, Subchapter C, F, or G of this chapter, or Sections [111.004](#), [111.025](#), [111.131](#) through [111.133](#), [111.136](#), [111.137](#), or [111.140](#) of this code or any valid rule promulgated by the commission under those provisions, the attorney general may bring suit in a district court in Travis County against the corporation to forfeit the charter of the corporation and enjoin and forever prohibit the corporation from doing business in this state.

(b) If the corporation is found guilty by the court before

whom the action is brought under this section, the charter of the corporation may be forfeited and the injunction may be granted, provided that the forfeiture and injunction are in addition to all other penalties.

Acts 1977, 65th Leg., p. 2585, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.094. FORFEITURE OF CHARTER OF FOREIGN CORPORATION.

(a) If a foreign corporation that is a common purchaser violates a provision of this subchapter, Subchapter C, F, or G of this chapter, or Sections 111.004, 111.025, 111.131 through 111.133, 111.136, 111.137, or 111.140 of this code or a valid rule promulgated by the commission under these provisions, the attorney general may bring suit in a district court of Travis County to cancel the permit of the corporation and enjoin and forever prohibit the corporation from doing business in this state.

(b) If the corporation is found guilty by the court before whom the action is brought, the permit may be cancelled and the injunction may be granted, provided the cancellation and injunction are in addition to all other penalties.

Acts 1977, 65th Leg., p. 2585, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.095. ACTION FOR DAMAGES. (a) If a person is discriminated against by a common purchaser in favor of the production of the common purchaser, the person may bring an action for damages against the common purchaser.

(b) An action for damages under this section may be brought in any court of competent jurisdiction in the county in which the damage occurred.

Acts 1977, 65th Leg., p. 2585, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.096. DUTIES AND RESPONSIBILITIES OF COMMON PURCHASERS, PURCHASERS, GATHERERS, AND TRANSPORTERS. Notwithstanding the provisions of any statute or law including the provisions of this subchapter, Subchapters C, F, and G of this

chapter, and Sections 111.004, 111.025, 111.131 through 111.133, 111.136, 111.137, and 111.140 of this code, none of the provisions of Sections 111.081, 111.084, 111.085, and 111.091 of this code shall increase or decrease the duties or responsibilities of any common purchaser, purchaser, gatherer, or transporter of natural gas, residue gas, or casinghead gas.

Acts 1977, 65th Leg., p. 2585, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.097. ANTITRUST LAWS UNAFFECTED. (a) No provision of this subchapter may be construed as modifying, limiting, changing, repealing, or affecting in any manner any part of the present law of this state defining and regulating trusts, monopolies, and conspiracies in restraint of trade.

(b) No provision of this subchapter may be construed as authorizing any agreement or combination or both of capital, skill, and acts or any of these and any combination or consolidation now prohibited by the antitrust laws of this state or laws of this state prohibiting trusts, monopolies, and conspiracies in restraint of trade or both.

(c) No provision of this subchapter is intended or may be construed as authorizing any agreement, act, combination, consolidation, or other arrangement that is now prohibited under the antitrust laws of this state or the laws prohibiting and defining trusts, monopolies, and conspiracies in restraint of trade or both.

Acts 1977, 65th Leg., p. 2586, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

#### SUBCHAPTER E. POWERS AND DUTIES OF THE COMMISSION

Sec. 111.131. COMMISSION RULES FOR COMMON CARRIERS. The commission shall establish and promulgate rules for gathering, transporting, loading, and delivering crude petroleum by common carriers in this state and for use of storage facilities necessarily incident to this transportation and shall prescribe and enforce rules, in the manner provided by law, for the government and

control of common carriers with respect to their pipelines and receiving, transferring, and loading facilities.

Acts 1977, 65th Leg., p. 2586, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.132. COMMISSION RULES FOR PUBLIC UTILITIES. (a) The commission shall establish and enforce rules governing:

(1) the character of facilities to be furnished by public utilities;

(2) the forms of receipts to be issued by public utilities; and

(3) the rates, charges, and rules for the storage of crude petroleum by public utilities in respect to their storage facilities and for the inspection, grading, measurement, deductions for waste or deterioration, and the delivery of their products.

(b) The commission also shall exercise its authority to establish and enforce rules governing public utilities on petition of an interested person.

Acts 1977, 65th Leg., p. 2586, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.133. ENFORCEMENT BY COMMISSION. The commission may make rules for the enforcement of the provisions of Subchapters C, D, and F of this chapter and Sections [111.004](#), [111.025](#), [111.131](#) through [111.132](#), [111.136](#), [111.137](#), and [111.140](#) of this code.

Acts 1977, 65th Leg., p. 2586, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.134. NOTICE AND HEARING. No order of the commission establishing, prescribing, or modifying rules or rates may be made except after a hearing and after not less than 10 days nor more than 30 days notice to the person, firm, corporation, partnership, joint stock association, or association owning or controlling and operating the pipeline or pipelines affected.

Acts 1977, 65th Leg., p. 2586, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.135. VALIDITY OF COMMISSION ORDERS. Until set aside or vacated by an order or decree of a court of competent jurisdiction, all orders of the commission relating to any matter within its jurisdiction shall be accepted as prima facie evidence of their validity.

Acts 1977, 65th Leg., p. 2587, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.136. REVIEW OF ORDERS. A person affected by an order of the commission adopted under the authority of this chapter is entitled to judicial review of that order in a manner other than by trial de novo.

Acts 1977, 65th Leg., p. 2587, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.137. ENLARGEMENT AND EXTENSION OF FACILITIES. On its own initiative without complaint, and after proper notice and hearing, as provided by law the commission may authorize or require by order any common carrier owning or operating pipelines in this state or owning, operating, or managing crude petroleum storage tanks or facilities for the public for hire, to extend or enlarge those pipelines or storage facilities if the extension or enlargement is found to be reasonable and required in the public interest and the expense involved will not impair the ability of the common carrier or public utility to perform its duty to the public.

Acts 1977, 65th Leg., p. 2587, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.138. BOOKS AND RECORDS. The commission may investigate the books and records kept by any common carrier in connection with its business.

Acts 1977, 65th Leg., p. 2587, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.139. REPORTS. (a) The commission shall require each common carrier to make reports including duly verified monthly

reports of:

(1) the total quantities of crude petroleum owned by the common carrier in the state;

(2) the total quantities of crude petroleum held by the common carrier in storage for others in the state; and

(3) the common carrier's unfilled storage capacity.

(b) The commission shall give no publicity to the stock of crude petroleum on hand of any particular common carrier, but the commission may, in its discretion, make public the aggregate amounts held by all common carriers making reports and their aggregate storage capacity.

(c) The commission shall require each common carrier to mail, return receipt requested, a copy of all spill or leak reports required by the commission to residents or owners of land upon which a spill or leak has occurred within 30 days of filing the report with the commission. If a resident or owner of land has not registered with the commission, the common carrier is relieved of the requirement to mail copies of spill or leak reports to the resident or landowner. The commission shall provide a procedure for residents and owners of land crossed by a common carrier pipeline to voluntarily register their names and mailing addresses with the commission.

Acts 1977, 65th Leg., p. 2587, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1993, 73rd Leg., ch. 630, Sec. 2, eff. Sept. 1, 1993.

Sec. 111.140. FILING MONTHLY STATEMENTS. (a) On or before the 20th day of each calendar month, every common carrier in this state and every public utility shall file with the commission and shall post in a conspicuous place accessible to the general public in its principal office and each of its division offices in this state a statement, duly verified, containing information concerning its business during the preceding calendar month as follows:

(1) the amount of crude or refined petroleum in the actual and immediate custody of the common carrier or public utility at the beginning and close of the month and the location or

holding point of this petroleum, including the location and designation of each plant or place of deposit and the name of its owner;

(2) the amount of crude or refined petroleum received by the common carrier or public utility during the month;

(3) the amount of crude or refined petroleum that was delivered by the common carrier or public utility during the month;

(4) the amount of crude or refined petroleum held by the common carrier or public utility for itself or parent or affiliated organizations; and

(5) the available empty storage owned or controlled by the common carrier or public utility and its location.

(b) The information to be provided under Subsection (a) of this section shall be set out separately as to crude petroleum and each refined product of crude petroleum in each statement.

Acts 1977, 65th Leg., p. 2587, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.141. GRADES OF OIL. (a) The commission shall make rules for:

(1) the ascertainment of the amount of water and other foreign matter in oil tendered for transportation;

(2) deduction for water and other foreign matter; and

(3) the amount of deduction to be made for temperature, leakage, and evaporation.

(b) No common carrier may be required to receive or transport any crude petroleum except that which is marketable under rules prescribed by the commission.

Acts 1977, 65th Leg., p. 2588, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.142. EQUITABLE APPORTIONMENT OF EXCESSIVE AMOUNT OF CRUDE PETROLEUM. If more crude petroleum is offered for transportation by a common carrier than can be transported immediately, it shall be apportioned equitably, and the commission may make and enforce general or specific rules for equitable apportionment.

Acts 1977, 65th Leg., p. 2588, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

#### SUBCHAPTER F. RATES

Sec. 111.181. ESTABLISHING AND PROMULGATING RATES. The commission shall establish and promulgate rates of charges for gathering, transporting, loading, and delivering crude petroleum by common carriers in this state and for use of storage facilities necessarily incident to this transportation.

Acts 1977, 65th Leg., p. 2588, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.182. ITEMS INCLUDED IN RATES. The rates established and promulgated by the commission shall include both single- and joint-line transportation, deduction for evaporation and shrinkage, demurrage, storage, and overage charges and all other similar items.

Acts 1977, 65th Leg., p. 2588, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.183. BASIS FOR RATE. The basis of the rates shall be an amount that will provide a fair return on the aggregate value of the property of a common carrier used and useful in the services performed after providing reasonable allowance for depreciation and other factors and for reasonable operating expenses under honest, efficient, and economical management.

Acts 1977, 65th Leg., p. 2588, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.184. DISCRETION OF COMMISSION. The commission has reasonable latitude in establishing and adjusting competitive rates.

Acts 1977, 65th Leg., p. 2588, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.185. TEMPORARY RATES. If a common carrier makes



application or files a tariff to establish a new rate on either a new or old line, a temporary rate may be placed into effect immediately on filing the tariff with the commission.

Acts 1977, 65th Leg., p. 2588, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.186. REPARATION AND REIMBURSEMENT. If rates have been filed, each shipper who pays these filed rates is entitled to reparation or reimbursement of all excess rates or transportation charges paid over and above the rate that is finally determined on the shipments.

Acts 1977, 65th Leg., p. 2589, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.187. REIMBURSEMENT OF EXCESS CHARGES. If a rate is filed by a common carrier and complaint against the rate or petition to reduce the rate is filed by a shipper, and the complaint is sustained in whole or part, all shippers who have paid the rates filed by the common carrier are entitled to reparation or reimbursement of all excess transportation charges paid over and above the proper rate as finally determined on all shipments made after the date of the filing of the complaint.

Acts 1977, 65th Leg., p. 2589, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.188. ANNUAL RATE HEARING. The commission shall hold a general hearing once each year for the purpose of adjusting rates to conform to the basis of rates and charges provided in this subchapter.

Acts 1977, 65th Leg., p. 2589, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.189. HEARING AND DETERMINATION OF RATES. If a person at interest files an application for a change in a rate or rates, the commission shall call a hearing and immediately after the hearing shall establish and promulgate a rate or rates in accordance with the basis provided in this subchapter.

Acts 1977, 65th Leg., p. 2589, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.190. HEARINGS TO ADJUST RATES. On its own motion or on motion of any interested person, the commission shall hold a hearing to adjust, establish, and promulgate a proper rate or rates if it has reason to believe that any rate or rates do not conform to the basis provided in this subchapter.

Acts 1977, 65th Leg., p. 2589, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

#### SUBCHAPTER G. ENFORCEMENT

Sec. 111.221. COMPLAINTS; JURISDICTION TO HEAR COMPLAINTS. Any person or the attorney general on behalf of the state may institute proceedings before the commission or apply for a hearing before the commission on any question relating to the enforcement of Subchapters C, D, and F of this chapter and Sections [111.004](#), [111.025](#), [111.131](#) through [111.133](#), [111.136](#), [111.137](#), and [111.140](#) of this code, and the commission has jurisdiction to hear and determine these questions after giving proper notice as provided by law.

Acts 1977, 65th Leg., p. 2589, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.222. APPLICATION FOR RECEIVERSHIP. If a rule or order promulgated by the commission under Subchapter C, D, or F of this chapter or Section [111.004](#), [111.025](#), [111.131](#) through [111.133](#), [111.136](#), [111.137](#), or [111.140](#) of this code is found by a court to be valid in whole or part in a suit to which the commission is a party, and if another party to the suit or other proceedings violates the rule, order, or judgment or allows any property owned or controlled by him to be used in violation of the rule, order, or judgment, the commission shall make application to the judge of the trial court setting out the rule, order, or judgment and that the party subsequent to the date of the judgment violated or is violating the rule, order, or judgment and requesting a receiver be appointed as

provided in Section [111.223](#) of this code.

Acts 1977, 65th Leg., p. 2589, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.223. APPOINTMENT OF RECEIVER. On application by the commission and after notice and hearing, the judge of the trial court may appoint a receiver of the property involved in violating the rule, order, or judgment and shall set a proper bond for the receiver.

Acts 1977, 65th Leg., p. 2590, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.224. DUTIES AND RESPONSIBILITIES OF RECEIVER. As soon as the receiver has qualified, he shall take possession of the property and shall perform his duties as receiver of the property under the orders of the court, strictly observing the rule, order, or judgment.

Acts 1977, 65th Leg., p. 2590, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.225. MOTION TO DISSOLVE RECEIVERSHIP. A party whose property has been placed in the hands of a receiver may move to dissolve the receivership and discharge the receiver only on showing that the party has not wilfully violated nor allowed property owned or controlled by him to be used in violating the rule, order, or judgment or on other good cause shown.

Acts 1977, 65th Leg., p. 2590, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.226. BOND. (a) Before dissolving the receivership or discharging the receiver, the court, in its discretion, may require the party applying for the dissolution or discharge to give bond with good and sufficient sureties in an amount to be fixed by the court, sufficient reasonably to indemnify all persons who may suffer damage by reason of the violation of the rule or order judged to be valid.

(b) In determining the amount of the bond, the judge shall

take into consideration all the facts and circumstances surrounding the parties that he considers necessary to determine the reasonableness of the amount of the bond.

(c) If the bond is made by a bonding or surety company, it shall be made by a company authorized to do business in this state.

(d) The bond shall be made payable to and be approved by the judge of the court and shall be for the use and benefit of and may be sued on by all persons who suffer damage by reason of any further violation by the party giving the bond and who brings suit on the bond.

(e) From time to time on motion, the court may increase or decrease the amount of the bond and may require new or additional sureties as the facts may warrant or justify.

Acts 1977, 65th Leg., p. 2590, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.227. PROVISIONS APPLICABLE TO ENFORCEMENT. The provisions of Title 102, Revised Civil Statutes of Texas, 1925, as amended, including provisions of this code formerly included in that title, apply in the enforcement of Subchapters C, D, and F of this chapter and Sections [111.004](#), [111.025](#), [111.131](#) through [111.133](#), [111.136](#), [111.137](#), and [111.140](#) of this code.

Acts 1977, 65th Leg., p. 2590, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

#### SUBCHAPTER H. PENALTIES

Sec. 111.261. PENALTY RECOVERABLE BY STATE. A common carrier under this chapter is subject to a penalty of not less than \$100 nor more than \$1,000 for each offense, recoverable in the name of the state, if the common carrier:

(1) violates Section [111.013](#) through [111.024](#), [111.134](#), [111.135](#), [111.138](#), [111.139](#), [111.141](#), or [111.142](#) of this code or a valid order of the commission; or

(2) fails to perform a duty imposed by Section [111.013](#) through [111.024](#), [111.134](#), [111.135](#), [111.138](#), [111.139](#), [111.141](#), or [111.142](#) of this code.

Acts 1977, 65th Leg., p. 2591, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.262. PENALTY RECOVERABLE BY AGGRIEVED PARTY. A common carrier is subject to a penalty of not less than \$100 nor more than \$1,000 for each offense of unlawful discrimination as defined in Sections 111.015 through 111.017 of this code. The suit shall be brought in the name of and for the use of the aggrieved person, corporation, or association of persons.

Acts 1977, 65th Leg., p. 2591, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 111.263. PENALTY RECOVERABLE BY STATE AND AGGRIEVED PARTY. (a) Any person who violates a provision of Subchapter C, D, F, or G of this chapter or Section 111.004, 111.025, 111.131 through 111.133, 111.136, 111.137, or 111.140 of this code, a rule promulgated under these subchapters or sections, or an order passed by the commission under these subchapters or sections or one of these rules, on violation, is subject to a penalty of not less than \$100 nor more than \$1,000 for each offense recoverable in the name of the state in a district court in Travis County. Each day a violation continues constitutes a separate offense.

(b) One-half of the penalty may be recovered by and for the use of any person against whom there is an unlawful discrimination as defined in Subchapter D of this chapter, and this suit shall be brought in the name of and for the use of the party or parties aggrieved.

Acts 1977, 65th Leg., p. 2591, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

#### SUBCHAPTER I. COMMON CARRIER COAL PIPELINES

Sec. 111.301. CERTIFICATE REQUIRED. A person that is a common carrier under Subsection (5), Section 111.002 of this code must apply for and be issued a certificate of public convenience and necessity from the commission pursuant to the commission's authority to issue certificates under Section 111.302 of this code

if the commission finds after a hearing that the public convenience and necessity will be served by the construction and operation of the pipeline.

Acts 1977, 65th Leg., p. 2692, ch. 871, art. II, Sec. 3, eff. Sept. 1, 1977.

Sec. 111.302. COMMISSION AUTHORITY TO ISSUE CERTIFICATES.

(a) The commission is further authorized, empowered, and directed to issue certificates of public convenience and necessity to pipelines transporting coal in whatever form or mixture for hire in Texas if the commission finds that the public convenience and necessity will be served in that existing facilities will not be able to provide the transportation as economically or efficiently as the proposed pipeline.

(b) In exercising its powers and duties under this section, the commission may not issue a permit for or attempt to regulate in any manner the condemnation, appropriation, or acquisition of surface or ground water in Texas.

(c) The commission shall not issue a permit, certificate, or any authority to any applicant whose rates and charges are not regulated by government authority, either state or federal, and that state or federal regulations insure to the public and to the ultimate electric consumer that the contracts, rates, and charges shall be just and reasonable, nondiscriminatory, and offering no preference or advantage to any person, corporation, entity, or group.

(d) The commission shall not issue a permit, certificate, or any authority to any applicant whose pipeline transporting coal in whatever form unless the pipeline transporting coal in whatever form is to be buried at least 36 inches below the surface, except in such instances in which the commission specifically exempts the 36-inch depth requirement and unless the pipeline transporting coal in whatever form conforms to all applicable state or federal regulations concerning the operation, maintenance, and construction of that same pipeline.

(e) The commission shall condition the issuance of a certification upon the requirement that the pipeline company shall

take no more than 50 feet in width of right-of-way under the power of eminent domain, except for temporary work areas adjacent to the right-of-way and then not to exceed 100 feet in width for the duration of the construction period only; and provided that any condemnation award granted under this chapter shall take into account the damages to the remainder caused by the exercise of eminent domain for the temporary work areas.

Acts 1977, 65th Leg., p. 2693, ch. 871, art. II, Sec. 3, eff. Sept. 1, 1977.

Sec. 111.303. CERTIFICATION PROCEDURE. (a) The coal pipeline applicant shall publish, in accordance with regulations promulgated by the commission and existing law, a notice that it has filed an application for a certificate of public convenience and necessity under this Act in a newspaper of general circulation in each county in which the project will be located. The notice shall, among other things, specify to the extent practicable the land which would be subject to the power of eminent domain.

(b) The commission shall then conduct public hearings in areas of the state along the prospective pipeline right-of-way as it shall determine shall be necessary to give property owners an opportunity to be heard. The commission is vested with authority to alter the right-of-way to meet with local objections.

Acts 1977, 65th Leg., p. 2693, ch. 871, art. II, Sec. 3, eff. Sept. 1, 1977.

Sec. 111.304. TRANSPORTATION CONTRACT. No common carrier pipeline transporting coal in whatever form shall contract or otherwise agree to transport coal for a term in excess of three years without prior approval of that contract or agreement by the commission which approval shall be given on determination that the contract or agreement is in the public interest in which case the contract or agreement shall be enforceable.

Acts 1977, 65th Leg., p. 3693, ch. 871, art. II, Sec. 3, eff. Sept. 1, 1977.

Sec. 111.305. OTHER AGENCIES. (a) The commission shall

seek and act on the recommendations of the Texas Natural Resource Conservation Commission, the Governor's Energy Advisory Council, or their successors responsible for environmental determinations and shall specify the proper use and disposal of nondischARGEABLE water.

(b) Neither the authority conveyed to the commission by this subchapter to issue certificates and to promulgate rules governing pipelines transporting coal in whatever form nor the powers and duties conveyed on those pipelines by this chapter shall affect, diminish, or otherwise limit the jurisdiction and authority of the Texas Natural Resource Conservation Commission to regulate by applicable rules the acquisition, use, control, disposition, and discharge of water or water rights in Texas.

Acts 1977, 65th Leg., p. 2694, ch. 871, art. II, Sec. 3, eff. Sept. 1, 1977. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.272, eff. Sept. 1, 1995.

#### SUBCHAPTER J. WELL WASTEWATER CORPORATION

Sec. 111.401. DEFINITION. In this subchapter, "well wastewater" means water containing salt or other substances produced during drilling or operating oil and other types of wells. Added by Acts 1997, 75th Leg., ch. 166, Sec. 6, eff. Sept. 1, 1997.

Sec. 111.402. CREATION OF WELL WASTEWATER CORPORATION. A well wastewater corporation may be created to gather, store, and impound well wastewater and to prevent the flow of the well wastewater into a stream when the stream may be used for irrigation. Added by Acts 1997, 75th Leg., ch. 166, Sec. 6, eff. Sept. 1, 1997.

Sec. 111.403. CORPORATION POWERS. In addition to the general powers conferred to a private corporation, a well wastewater corporation may acquire, own, and operate a ditch, canal, pipeline, levee, or reservoir, and an associated appliance as appropriate to gather, impound, or store well wastewater and to protect a reservoir from inflow or damage by surface water.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 6, eff. Sept. 1, 1997.



Sec. 111.404. CONDEMNATION. (a) A well wastewater corporation may condemn land or a property right necessary for a purpose of the corporation.

(b) A well wastewater corporation's ditch, canal, or pipeline may cross under a highway, canal, pipeline, railroad, or tram or logging road if the use of the highway, canal, pipeline, railroad, or tram or logging road is not impaired except for the time necessary to construct the crossing.

(c) Without the consent of the appropriate authority, a well wastewater corporation's ditch, canal, or pipeline may not:

- (1) pass through a cemetery;
- (2) pass under a residence or public building; or
- (3) cross a street or alley of a municipality.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 6, eff. Sept. 1, 1997.

Sec. 111.405. SERVICE TO WELL WASTEWATER PRODUCERS. (a) A well wastewater corporation shall serve all well wastewater producers in the area in which the corporation operates to the extent the corporation has adequate facilities to gather, impound, and store well wastewater.

(b) A well wastewater corporation:

- (1) shall serve a well wastewater producer in proportion to the needs of all of the producers in the area;
- (2) shall charge a fair and reasonable fee for its services; and
- (3) may not discriminate between different producers under similar conditions.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 6, eff. Sept. 1, 1997.

Sec. 111.406. OWNERSHIP OF STOCK. A corporation interested in the proper disposition of well wastewater may purchase, own, or vote stock in a well wastewater corporation.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 6, eff. Sept. 1, 1997.