

Sixtieth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1448

Introduced by

Representatives Skarphol, Wrangham

Senators Andrist, Wardner

1 A BILL for an Act to amend and reenact section 38-08-06.2 of the North Dakota Century Code,
2 relating to discrimination and unfair, unjust, or unreasonable charges and fees in purchasing
3 natural gas; and to declare an emergency.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 38-08-06.2 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **38-08-06.2. Discrimination and unfair, unjust, or unreasonable charges and fees**
8 **in the processing and purchasing of gas or refusing to purchase gas prohibited.** Gas
9 ~~produced in this state must be processed and purchased without discrimination between~~
10 ~~producers in the same reservoir, recognizing the right of the purchaser to establish reasonable~~
11 ~~quality standards for acceptance of gas, which must be applied without discrimination among~~
12 ~~producers. After notice and hearing, for good cause, the commission may relieve any person of~~
13 ~~the duty to process and purchase gas produced in this state without discrimination.~~

- 14 1. Every person now engaged or engaging after the effective date of this Act in the
15 business of purchasing gas in this state is a common purchaser of the gas.
16 2. Every common purchaser of gas, without discrimination in favor of one producer or
17 royalty owner as against another in the same marketing district as determined by
18 the commission and without any unfair, unjust, or unreasonable charges, fees, or
19 terms and conditions, shall purchase all gas tendered to the common purchaser
20 which has been lawfully produced, provided that a common purchaser may not be
21 required to purchase gas of inferior quality or grade, or which is unsuitable for its
22 operations.
23 3. Whenever a common purchaser is unable to purchase all of the gas tendered to
24 the common purchaser, the common purchaser shall purchase ratably from each

marketing district, field, pool, or well with respect to which the tenders are made.

As between wells, purchases must be considered ratable only if the purchases are made in proportion to the allowables which are or would be assigned to such wells under existing commission rules, and as, between marketing districts or fields or pools, purchases may be considered ratable if the purchases are made in proportion to the sum of the allowables which are or would be assigned to all wells from which tenders are made in each marketing district, field, or pool.

4. Every common purchaser of gas is expressly prohibited from discriminating in favor of its own production or that of an affiliate as against that of others, and the gas produced by the common purchaser or by an affiliate of the common purchaser must be treated as that of any other producer for purposes of ratable taking and purchased without any unfair, unjust, or unreasonable charges, fees, or terms and conditions.

5. It is unlawful for a common purchaser to include unfair, unjust, or unreasonable charges, fees, or terms and conditions in purchasing gas or to discriminate between or fail to accept gas tendered to the common purchaser in favor of one carrier as against another, and this section does not prevent a person from transporting gas from the wellhead to the common purchaser from properties to which the person may have an interest, and the person may not be deemed to be in the business of purchasing, or of purchasing and selling gas within the meaning of this section. This section does not prohibit a common purchaser from requiring that proper and reasonable facilities be erected and maintained by a person transporting gas, requiring that a surety bond be posted indemnifying the common purchaser from liability for the transporter's failure to properly account to the owners of the gas so transported, or posting a just and reasonable handling charge for accepting delivery at its point of acceptance.

6. This section covers the purchase or purchase and sale of gas. Gathering, handling, processing, marketing, and all other charges assessed by a common purchaser against gas produced within this state must be just and reasonable. The commission, after notice and hearing as provided in section 38-08-11, may determine the justness and reasonableness of charges to be assessed by a

1 common purchaser, fix fees, or set terms and conditions for services of the
2 common purchaser on its own motion or upon motion of an interested person. The
3 requirements of this subsection do not apply to charges, fees, or services of a
4 common purchaser that are governed by a contract in effect on the effective date
5 of this Act.

6 7. This section applies only to purchasing, gathering, processing, and treating of
7 natural gas produced in this state. This section does not apply to any other
8 transportation or sale of natural gas, to the local distribution of natural gas, or to the
9 facilities used for the local distribution which are otherwise subject to state or
10 federal regulation.

11 **SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.