

WILLIAMS MOBILE BAY
PRODUCER SERVICES, LLC
P.O. BOX 3102
TULSA, OK 74172,

Petitioner,

v.

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

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STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

DOCKET NO. S. 05-1286

FINAL ORDER

This case involves a denied utility tax exemption certificate requested by Williams Mobile Bay Producer Services, LLC ("Petitioner"). The Petitioner appealed to the Administrative Law Division pursuant to Code of Ala. 1975, §40-2A-8(a). A hearing was conducted on June 19, 2006. The Taxpayer's representative notified the Administrative Law Division that he would not attend the hearing. Assistant Counsel Duncan Crow represented the Department.

The Petitioner operates a natural gas processing facility in Mobile County, Alabama. The Petitioner uses electricity and natural gas to power equipment used in the process. Electricity and natural gas used in the production or processing of natural gas is exempt from the Alabama utility gross receipts tax levied at Code of Ala. 1975, §40-21-80, et seq., and also the utility service use tax levied at Code of Ala. 1975, §40-21-100, et seq. See, §§40-21-83(4) and 40-21-103(4), respectively.

The Petitioner applied to the Department for a utility tax exemption certificate. The Department denied the certificate because it claims that the Petitioner also uses electricity and natural gas for non-exempt purposes. The Department concedes that the natural gas used for an exempt purpose is separately metered, as required by the Alabama Supreme

Court's holding in *Shellcast Corp. v. White*, 277 So.2d 422 (Ala. 1985). It argues, however, that the electricity used for exempt and non-exempt purposes is not separately metered. Consequently, it claims that the exemption must be denied. It argues that instead of an exemption certificate, the Petitioner should obtain a utility tax direct pay permit. In that case, it could purchase all utilities tax free and then pay tax on only those separately metered utilities that were consumed for a taxable purpose.

The burden was on the Petitioner to prove that it is entitled to the exemption certificate. The Petitioner claimed in its appeal letter that all of the electricity and natural gas used at its facility was consumed for an exempt purpose. As indicated, however, the Petitioner failed to attend the June 19 hearing, and has otherwise failed to prove that it is entitled to the exemption certificate. Consequently, the Department's denial of the certificate must be affirmed.

This Final Order may be appealed to circuit court within 30 days pursuant to Code of Ala. 1975, §40-2A-9(g).

Entered June 22, 2006.

BILL THOMPSON
Chief Administrative Law Judge