



THE ATTORNEY GENERAL
OF TEXAS

AUSTIN 11, TEXAS

JOHN BEN SHEPPERD
ATTORNEY GENERAL

May 24, 1954

Honorable E. H. Thornton, Jr., Chairman
State Highway Commission
Austin, Texas

Letter Opinion No. MS-132

Re: Whether under Article 1436b,
V.C.S., Texas Highway Department
is required to provide use of
Highway bridges to Gas Pipeline
Companies for support of gas pipe-
lines in crossing public waters of
this State.

Dear Mr. Thornton:

In your recent request for an opinion of this office, you ask what responsibility you have, if any, under Article 1436b, Vernon's Civil Statutes, to persons, firms or corporations engaged in the business of transporting or distributing gas in the matter of providing Highway bridges for use of such companies when constructing their pipelines over and across public waters of this State.

Section 1 of Article 1436b, Vernon's Civil Statutes, reads in part as follows:

"Any person, firm or corporation or incorporated city or town engaged in the business of transporting or distributing gas for public consumption shall have the power to lay and maintain pipes, mains, conductors, and other facilities used for conducting gas through under, along, across and over all public highways, public roads, public streets and alleys, and public waters within this state; . . ."

In Jones v. Keith, 37 Tex. 394, Judge Walker, in quoting Angell on Highways, at page 401, states:

"The term highway does not import a bridge; and in any case where there is an occasion to notice any of the differences which exist between highways generally, and bridges, it is indispensable that the difference should be marked by terms appropriate to each"

Hon. E. H. Thornton, Jr., page 2 (MS-132)

Because of the obvious and inherent difference between a highway and a bridge when considered in respect to laying pipelines through, under, along and across them, respectively, we are of the opinion that under Art. 1436b, V.C.S., the Legislature did not intend that State Highway bridges be used for carrying gas pipelines across public waters. Should the Legislature have so intended, it would have inserted the word "bridges" after the word "highway" in the fifth line of Section 1 of Art. 1436b, V.C.S.

Yours very truly,

JOHN BEN SHEPPERD
Attorney General of Texas

By
Milton Richardson
Assistant

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