QUESTIONS

1. [redacted] will not be subject to Oklahoma sales and use tax on the purchase of the natural gas from a vendor based on the sale for resale exemption provided in 68 O.S. § 1357(3).
2. [redacted] will not be subject to Oklahoma sales and use tax on the purchase of the electricity from a third party based on the sale for resale exemption provided in 68 O.S. § 1357(3).

RESPONSE

The sale of tangible personal property in Oklahoma, unless specifically exempted by the provisions of the Oklahoma Sales Tax Code, is subject to the levy of sales tax. 68 O.S. § 1354(A)(1).
Section 1357(3) of Title 68 of the Oklahoma Statutes, exempts from sales tax, " sales for resale to persons engaged in the business of reselling the articles purchased, whether within or without the state, provided that such sales to residents of this state are made to persons to whom sales tax permits have been issued as provided in the Oklahoma Sales Tax Code."

While the primary focus of [redacted] operation is the manufacture and sale of electricity, a related component part of its operations includes the described tolling agreement which involves the purchase of natural gas by [redacted] When reselling the natural gas to the third pay, [redacted] may purchase, pursuant to its Manufacturer Exemption Sales Tax Permit ("MSEP") which also serves as a sales tax permit, the natural gas exempt from sales/use tax. In turn, [redacted] would be required to collect and remit sales tax on any taxable sales made in Oklahoma. The proper documentation that [redacted] must obtain and maintain when making a sale to a person claiming a manufacturing or resale exemption is outlined in OAC 710:65-7-9 and OAC 710:65-7-8, respectively, copies enclosed. Likewise, pursuant to its MSEP, [redacted] may purchase the electricity produced by third party exempt from sales/use tax for resale to its customers.

This response applies only to the circumstances discussed in your written request of January 16, 2014. Pursuant to Oklahoma Administrative Code 710:1-3-73(e), this Letter Ruling may be generally relied upon only by the entity to whom it is issued, assuming that all pertinent facts have been accurately and completely stated, and there has been no change in applicable law.

Sincerely,

OKLAHOMA TAX COMMISSION

Tony Mastin
Executive Director

Enclosures: OTC Rules & Okla. Statutes