

BILL ANALYSIS

C.S.H.B. 1575

By: Ritter

Energy Resources

Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, state agencies have the right to receive cost-based transportation rates for natural gas pursuant to Texas Utilities Code, Section 104.201. Many utilities claim that giving this rate to state agencies means it must be given to all member of the class. The utilities claim that not doing so would raise the possibility of rate discrimination claims by the non-agency customers. Currently, gas utilities put public retail customers in the commercial class of customers which raises the specter of intra-class discrimination with private commercial customers.

The Legislature has already created a special gas transportation class for school districts in Utilities Code Section 104.2545. Expanding this class to include all public retail customers as defined in Utilities Code Section 35.101 will eliminate this claim and unify the General Land Office gas and electric program. Also, by referencing the rate case procedures of Subchapter E, the General Land Office can seek cost-based gas transportation rates for all public retail customers.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Section 104.2545, Utilities Code amends the following:

Section 104.2545 changes the title of the section from school district to read: REQUIRED SERVICE TO PUBLIC RETAIL CUSTOMER.

(a) Defines "service site" as facilities or buildings operated by the public retail customer or a group of adjacent facilities or buildings operated by a public retail customer within one contiguous geographical area.

(b) Provides that a gas utility or municipally owned utility may not refuse to provide service to a public retail customer at a service, at rates established as provided by Subsection(c), unless the utility is prohibited by other law from providing service and if sufficient pipeline capacity is available on an existing facility of the utility to provide the service.

The following is a list describing what services the gas or municipally owned service cannot refuse a public retail customer, at rates established by Subsection (c), unless for reason specified in Subsection (b):

- (1) The sale of gas;
- (2) The transportation of an annual average of 25 million British thermal units or more each day of gas that is taken as royalty in kind; and owned by the state or managed by a marketing program operated by the state or by a state agency; (3) or a combination of the services described by Subdivisions (1) and (2).

(c) This requires a utility to provide a service described by Subsection(b) at rates provided by a written contract negotiated between the utility and state or state agency. If the utility and the state or state agency are not able to agree to a contract rate, a fair and reasonable rate may be determined for the public retail customer, as a rate for a separate class of service, by the Railroad Commission pursuant to this Chapter.

(d) Establishes a definition for public retail customer to have the meaning assigned by Section 35.101.

SECTION 2. Effective Date

This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, the Act takes effect September 1, 2003.

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COMPARISON OF ORIGINAL TO SUBSTITUTE

SECTION 1. Section 104.2545, Utilities Code.

Section 104.2545 (b)(2) changes the transportation of an annual average of British thermal units or more each day of gas from 10 million British thermal units to 25 million British thermal units.

Section 104.2545(c) changes “pursuant to Subchapter E of this Chapter” to “pursuant to this Chapter”.

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The Legislature has already created a special gas transportation class for school districts in Utilities Code Section 104.2545. Expanding this class to include all public retail customers as defined in Utilities Code Section 35.101 will eliminate this claim and unify the General Land Office gas and electric program. Also, by referencing the rate case procedures of Subchapter E, the General Land Office can seek cost-based gas transportation rates for all public retail customers.

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(a) Defines "service site" as facilities or buildings operated by the public retail customer or a group of adjacent facilities or buildings operated by a public retail customer within one contiguous geographical area.

(b) Provides that a gas utility or municipally owned utility may not refuse to provide service to a public retail customer at a service, at rates established as provided by Subsection(c), unless the utility is prohibited by other law from providing service and if sufficient pipeline capacity is available on an existing facility of the utility to provide the service.

The following is a list describing what services the gas or municipally owned service cannot refuse a public retail customer, at rates established by Subsection (c), unless for reason specified in Subsection (b):

- (1) The sale of gas;
- (2) The transportation of an annual average of 25 million British thermal units or more each day of gas that is taken as royalty in kind; and owned by the state or managed by a marketing program operated by the state or by a state agency; (3) or a combination of the services described by Subdivisions (1) and (2).

(c) This requires a utility to provide a service described by Subsection(b) at rates provided by a written contract negotiated between the utility and state or state agency. If the utility and the state or state agency are not able to agree to a contract rate, a fair and reasonable rate may be determined for the public retail customer, as a rate for a separate class of service, by the Railroad Commission pursuant to this Chapter.

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