

BILL ANALYSIS

C.S.S.B. 1271
By: Armbrister
Regulated Industries
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under their original jurisdiction, municipalities and the Railroad Commission regulate the rates of local distribution companies and pipelines, respectively. In setting rates, these regulators base those rates on the operating expenses of the utilities and a reasonable return on their investment in facilities. Rate Cases can cost \$2-4 million to prosecute. If a utility makes an investment after it has prepared a rate case, it must wait until the next case to begin recovering on that investment. With continuing growth in Texas and recent emphasis on replacing facilities to enhance safety, utilities face significant challenges in obtaining the capital necessary for these new investments. Under present law, this can only occur through a full rate case. This bill would permit the utility to begin recovery on new investments in the year following completion of construction. The bill provides monitoring mechanisms that would prevent utilities from earning more than allowed and would provide for periodic rate reviews.

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

This bill amends Subchapter G, Chapter 104, Utilities Code, by adding Subchapter G, Section 104.301, as follows:

Sec. 104.301. INTERIM ADJUSTMENT FOR CHANGES IN INVESTMENT.

(a) Provides that a gas utility may file a tariff with the appropriate regulatory authority for an adjustment to the utility's monthly customer charge to recover the cost of the invested capital placed in to service. A gas utility must have filed a rate case in the two years before implementing an adjustment. This adjustment is an interim rate, subject to a refund. It will decrease rates as well as increase rates. The adjustment will be allocated in the same manner as the latest rates and will be reviewed for reasonableness and prudence

(c). Requires the utility to file with a regulatory authority 60 days prior to implementation, for which the regulatory authority can be suspended during that 60 day period. Before implementing a adjustment a utility must give notice to the affected customers within 45 days following filing. Interim rates are subject to refund until a full rate case review.

(b) This subsection explicitly states that an adjustment can go up or down. It authorizes a gas utility to recover its invested capital during a calendar year based on the difference between the value of the invested capital in one year and the value of the invested capital in the year preceding that calendar year. The calculation of invested capital is equal to the original cost of the investment less the related accumulated depreciation.

(c) The interim adjustment shall be recalculated on an annual basis in accordance with the requirements of subsection (b). The gas utility may file a request with the regulatory authority to suspend the operation of the tariff or rate schedule for any year. The request must be in writing and state the reasons why the suspension is justified. The regulatory authority may grant the suspension on a showing by the utility of reasonable justification.

(d) Provides that the utility can only adjust the utility's rates under the tariff, the return on investment, depreciation expense, ad valorem taxes, revenue related taxes and the incremental federal income taxes related to the difference in value of the net invested capital determined in section (b). The factors used in calculations for adjustments of this subsection must be in a final order or settlement agreement.

(e) Requires the utility that implements a tariff under this provision to file with the proper regulatory authority an annual report describing the investment projects placed into service during the proceeding calendar year including any investment abandoned or retired during the reporting year. The annual report shall also state the cost, need, and customers benefits by the change in investment.

(f) Requires the utility that implements a tariff under this provision to file with the regulatory authority an annual earnings monitoring report demonstrating the utility's' earnings during the preceding calendar year.

(g) Provides an upper limit of 75 basis points above the return on investments established in the most recent rate case approved by the regulatory authority. If the utility exceeds the earning limit during the reporting year, the utility will be required to file a statement with the earnings monitoring report stating the reasons why the utility does not need to reduce rates.

(h) Requires the utility that utilizes a tariff under this section to file a rate case before the fifth anniversary of the date on which the tariff takes effect. The utility shall file the rate case with the proper authority no later than the 180th day after the anniversary date of the original implementation of the tariff.

(i) This subsection does not limit the power of a regulatory authority under Section 104.151.

(j) This subsection requires a gas utility implementing a tariff or rate schedule under this section to annually pay to the railroad commission the utility's proportionate share of the railroad commission's incremental costs related to the administration of the interim rate adjustment mechanism provided by this section.

EFFECTIVE DATE

September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The committee substitute to SB 1271 adds Subsection (j), dealing with the payment by a gas utility to the railroad commission for incremental costs related to the administration of the interim rate adjustment mechanism described in this section.