

## BILL ANALYSIS

Senate Research Center

C.S.S.B. 1271  
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Natural Resources  
4/11/2003  
Committee Report (Substituted)

### DIGEST AND PURPOSE

Currently, 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. However, utilities are facing some challenges in obtaining the necessary capital for new investments to meet the continuing growth in Texas and to replace facilities to enhance safety. C.S.S.B. 1271 permits utility companies to begin recovery on new investment in the year following completion of construction.

### RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 104, Utilities Code, by adding Subchapter G, as follows:

#### SUBCHAPTER G. INTERIM COST RECOVERY AND RATE ADJUSTMENT

Sec. 104.301. INTERIM ADJUSTMENT FOR CHANGES IN INVESTMENT. (a) Authorizes a gas utility that has filed a rate case under Subchapter C within the preceding two years to file with the regulatory authority a tariff or rate schedule that provides for an interim adjustment in the utility's monthly customer charge or initial block rate to recover the cost of changes in investment in service for gas utility services. Requires the adjustment to be allocated among the gas utility's classes of customers in the same manner as the cost of service was allocated among the classes of customers in the utility's latest effective rates for the area in which the tariff is implemented. Requires the gas utility to file the tariff or rate schedule, or the annual adjustment under Subsection (c), with the regulatory authority at least 60 days before the proposed implementation date of the tariff, rate schedule, or annual adjustment. Requires the gas utility to provide notice of the tariff, rate schedule, or annual adjustment to affected customers by bill insert or direct mail by the 45th day after the date the utility files the tariff, rate schedule or annual adjustment with the regulatory authority. Authorizes the regulatory authority, during the 60-day period, to act to suspend the implementation of the tariff, rate schedule, or annual adjustment. Requires, after the issuance of a final order or decision by a regulatory authority in a rate case that is filed after the implementation of a tariff or rate schedule under this section, any change in investment that has been included in an interim adjustment in accordance with tariff or rate schedule under this section to no longer be subject to subsequent review for reasonableness or prudence. Provides that until the issuance of a final order or decision by a regulatory authority in a rate case that is filed after the implementation of a tariff or rate schedule under this section, all amounts collected under the tariff or rate schedule before the filing of the rate case are subject to refund.

(b) Provides that the amount the gas utility shall adjust the utility's rates upward or downward under the tariff or rate schedule each calendar year is based on the difference between the value of the invested capital for the preceding calendar year and the value of the invested capital for the calendar year preceding that calendar year. Establishes that the value of the invested capital is equal to the

original cost of the investment at the time the investment was first dedicated to public use minus the accumulated depreciation related to that investment.

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

(d) Authorizes a gas utility to only adjust the utility's rate under the tariff or rate schedule for the return on investment, depreciation expense, ad valorem taxes, revenues related taxes, and incremental federal income taxes related to the difference in the value of the invested capital as determined under Subsection (b). Requires the return on investment, depreciation, and incremental federal income tax used in the computation to be same as the factors reflected in the final order issued by or settlement agreement approved by the regulatory authority establishing the gas utility's latest effective rates for the area in which the tariff or rate schedule is implemented.

(e) Requires a gas utility that implements a tariff or rate schedule under this section to file with the regulatory authority an annual report describing the investment projects completed and placed in service during the preceding calendar year and the investments retired or abandoned during the preceding calendar year. Requires the annual report to also state the cost, need, and customers benefited by the change in investment.

(f) Requires the gas utility, in addition to the report required under Subsection (e), to file with the regulatory authority an annual earnings monitoring report demonstrating the utility's earnings during the preceding calendar year.

(g) Requires a gas utility, if it is earning a return on invested capital, as demonstrated by the report filed under Subsection (f), of more than 75 basis points above the return established in the latest effective rates approved by a regulatory authority for the area in which the tariff or rate schedule is implemented under this section, to file a statement with that report stating the reasons why the rates are not unreasonable or in violation of law.

(h) Requires a gas utility, if it implements a tariff or rate schedule under this section but does not file a rate case under Subchapter C before the fifth anniversary of the date on which the tariff or rate schedule takes effect, to file a rate case under that subchapter by the 180th day after that anniversary in relation to any rates subject to the tariff or rate schedule.

(i) Provides that this section does not limit the power of a regulatory authority under Section 104.151.

SECTION 2. Effective date: September 1, 2003.