

1-1 By: Armbrister S.B. No. 1271  
1-2 (In the Senate - Filed March 12, 2003; March 19, 2003, read  
1-3 first time and referred to Committee on Natural Resources;  
1-4 April 14, 2003, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 6, Nays 0; April 14, 2003,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1271 By: Armbrister

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to incentives to encourage gas utilities to invest in new  
1-11 infrastructure.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 104, Utilities Code, is amended by  
1-14 adding Subchapter G to read as follows:

1-15 SUBCHAPTER G. INTERIM COST RECOVERY AND RATE ADJUSTMENT

1-16 Sec. 104.301. INTERIM ADJUSTMENT FOR CHANGES IN INVESTMENT.

1-17 (a) A gas utility that has filed a rate case under Subchapter C  
1-18 within the preceding two years may file with the regulatory  
1-19 authority a tariff or rate schedule that provides for an interim  
1-20 adjustment in the utility's monthly customer charge or initial  
1-21 block rate to recover the cost of changes in the investment in  
1-22 service for gas utility services. The adjustment shall be  
1-23 allocated among the gas utility's classes of customers in the same  
1-24 manner as the cost of service was allocated among classes of  
1-25 customers in the utility's latest effective rates for the area in  
1-26 which the tariff or rate schedule is implemented. The gas utility  
1-27 shall file the tariff or rate schedule, or the annual adjustment  
1-28 under Subsection (c), with the regulatory authority at least 60  
1-29 days before the proposed implementation date of the tariff, rate  
1-30 schedule, or annual adjustment. The gas utility shall provide  
1-31 notice of the tariff, rate schedule, or annual adjustment to  
1-32 affected customers by bill insert or direct mail not later than the  
1-33 45th day after the date the utility files the tariff, rate schedule,  
1-34 or annual adjustment with the regulatory authority. During the  
1-35 60-day period, the regulatory authority may act to suspend the  
1-36 implementation of the tariff, rate schedule, or annual adjustment.  
1-37 After the issuance of a final order or decision by a regulatory  
1-38 authority in a rate case that is filed after the implementation of a  
1-39 tariff or rate schedule under this section, any change in  
1-40 investment that has been included in an interim adjustment in  
1-41 accordance with the tariff or rate schedule under this section  
1-42 shall no longer be subject to subsequent review for reasonableness  
1-43 or prudence. Until the issuance of a final order or decision by a  
1-44 regulatory authority in a rate case that is filed after the  
1-45 implementation of a tariff or rate schedule under this section, all  
1-46 amounts collected under the tariff or rate schedule before the  
1-47 filing of the rate case are subject to refund.

1-48 (b) The amount the gas utility shall adjust the utility's  
1-49 rates upward or downward under the tariff or rate schedule each  
1-50 calendar year is based on the difference between the value of the  
1-51 invested capital for the preceding calendar year and the value of  
1-52 the invested capital for the calendar year preceding that calendar  
1-53 year. The value of the invested capital is equal to the original  
1-54 cost of the investment at the time the investment was first  
1-55 dedicated to public use minus the accumulated depreciation related  
1-56 to that investment.

1-57 (c) The interim adjustment shall be recalculated on an  
1-58 annual basis in accordance with the requirements of Subsection (b).  
1-59 The gas utility may file a request with the regulatory authority to  
1-60 suspend the operation of the tariff or rate schedule for any year.  
1-61 The request must be in writing and state the reasons why the  
1-62 suspension is justified. The regulatory authority may grant the  
1-63 suspension on a showing by the utility of reasonable justification.

2-1 (d) A gas utility may only adjust the utility's rates under  
2-2 the tariff or rate schedule for the return on investment,  
2-3 depreciation expense, ad valorem taxes, revenue related taxes, and  
2-4 incremental federal income taxes related to the difference in the  
2-5 value of the invested capital as determined under Subsection (b).  
2-6 The return on investment, depreciation, and incremental federal  
2-7 income tax factors used in the computation must be the same as the  
2-8 factors reflected in the final order issued by or settlement  
2-9 agreement approved by the regulatory authority establishing the gas  
2-10 utility's latest effective rates for the area in which the tariff or  
2-11 rate schedule is implemented.

2-12 (e) A gas utility that implements a tariff or rate schedule  
2-13 under this section shall file with the regulatory authority an  
2-14 annual report describing the investment projects completed and  
2-15 placed in service during the preceding calendar year and the  
2-16 investments retired or abandoned during the preceding calendar  
2-17 year. The annual report shall also state the cost, need, and  
2-18 customers benefited by the change in investment.

2-19 (f) In addition to the report required under Subsection (e),  
2-20 the gas utility shall file with the regulatory authority an annual  
2-21 earnings monitoring report demonstrating the utility's earnings  
2-22 during the preceding calendar year.

2-23 (g) If the gas utility is earning a return on invested  
2-24 capital, as demonstrated by the report filed under Subsection (f),  
2-25 of more than 75 basis points above the return established in the  
2-26 latest effective rates approved by a regulatory authority for the  
2-27 area in which the tariff or rate schedule is implemented under this  
2-28 section, the gas utility shall file a statement with that report  
2-29 stating the reasons why the rates are not unreasonable or in  
2-30 violation of law.

2-31 (h) If a gas utility that implements a tariff or rate  
2-32 schedule under this section does not file a rate case under  
2-33 Subchapter C before the fifth anniversary of the date on which the  
2-34 tariff or rate schedule takes effect, the gas utility shall file a  
2-35 rate case under that subchapter not later than the 180th day after  
2-36 that anniversary in relation to any rates subject to the tariff or  
2-37 rate schedule.

2-38 (i) This section does not limit the power of a regulatory  
2-39 authority under Section 104.151.

2-40 SECTION 2. This Act takes effect September 1, 2003.

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