

By: Nixon

H.B. No. 1301

A BILL TO BE ENTITLED

AN ACT

relating to reimbursement of costs incurred in certain proceedings before the Railroad Commission of Texas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 81, Natural Resources Code, is amended by adding Section 81.058 to read as follows:

Sec. 81.058. REIMBURSEMENT OF CERTAIN COSTS. (a) To the extent provided by this section, in any proceeding brought under this code or the Utilities Code to set a transportation or gathering rate for natural gas, the commission may order a party or parties to reimburse another party for the amount of the reasonable costs the other party actually incurred and paid in relation to the proceeding. A party is eligible for reimbursement under this section only if the party requesting reimbursement, before the date the commission entered a final order in the proceeding, made a written settlement offer of terms to settle the dispute. A written settlement counteroffer made under this section is considered a written settlement offer for purposes of this section.

(b) The party to whom a written settlement offer is sent shall acknowledge in writing receipt of the offer not later than the third business day after the date the party receives the offer. If the receiving party does not provide a timely written acknowledgment, the offering party may notify the receiving party that the offering party intends to file the written settlement

1 offer in the records of the proceeding. The offering party must
2 provide that notice at least seven business days before the date the
3 party intends to file the written settlement offer. If the
4 receiving party acknowledges in writing the receipt of the written
5 settlement offer before the end of that seven-day period, the
6 offering party may not file the offer in the record of the
7 proceeding.

8 (c) A written settlement offer made under this section is
9 confidential and, except as provided by this subsection, may not be
10 disclosed to any other person during or after the conclusion of the
11 proceeding. The written settlement offer may be disclosed to the
12 commission as necessary for the commission to determine whether a
13 party is eligible to receive an award of costs under this section.
14 Disclosure to the commission does not affect the confidentiality of
15 the written settlement offer or make the offer subject to
16 disclosure under Chapter 552, Government Code.

17 (d) If the party that made a written settlement offer is a
18 gas utility and the transportation or gathering rate set by the
19 commission's final order is equal to or greater than the rate
20 contained in the offer, the commission shall issue an order
21 requiring a party or parties to reimburse the gas utility for the
22 utility's reasonable costs. The commission may not require
23 reimbursement under this subsection if the rate set in the final
24 order is lower than the rate contained in the gas utility's written
25 settlement offer.

26 (e) If the party that made a written settlement offer is a
27 person that filed a complaint relating to a gas utility's

1 transportation or gathering rate and the rate set by the
2 commission's final order is equal to or less than the rate contained
3 in the offer, the commission shall issue an order requiring a party
4 or parties to reimburse the complaining party for the complaining
5 party's reasonable costs. The commission may not require
6 reimbursement under this subsection if the rate set in the final
7 order is higher than the rate contained in the complaining party's
8 written settlement offer.

9 (f) Costs for which a party may receive reimbursement under
10 this section include any reasonable costs a party actually incurred
11 after the date the party made a written settlement offer and that
12 the party paid. Reimbursable costs include reasonable attorney's
13 fees but do not include an amount related to a contingency fee
14 agreed to by that party. This subsection does not affect the amount
15 of litigation expenses a party may be entitled to recover under any
16 other law or under a rule adopted by the commission.

17 (g) This section does not apply to a proceeding:

18 (1) initiated under Chapter 103, Utilities Code, or
19 Subchapter C or G, Chapter 104, Utilities Code; or

20 (2) regarding the rates, services, or practices of a
21 gas utility that is not docketed by the commission.

22 SECTION 2. This Act applies only to a proceeding in which
23 the Railroad Commission of Texas has not issued a final order before
24 the effective date of this Act.

25 SECTION 3. This Act takes effect September 1, 2005.