

By: Miller of Comal

H.B. No. 2741

A BILL TO BE ENTITLED

AN ACT

relating to allowing a water and sewer utility to assess a system construction and improvement surcharge to recover certain costs associated with certain construction and improvement projects.

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

SECTION 1. Subchapter F, Chapter 13, Water Code, is amended by adding Section 13.193 to read as follows:

Sec. 13.193. SYSTEM CONSTRUCTION AND IMPROVEMENT SURCHARGE. (a) A utility may charge a system construction and improvement surcharge to recover the depreciation and pre-tax return costs of a project that is:

(1) completed and placed into service between two consecutive rate cases; and

(2) related to a:

(A) distribution system;

(B) collection system; or

(C) treatment works project.

(b) The commission by rule shall:

(1) adopt standards regarding the types of projects for which a utility may assess a surcharge under this section;

(2) require a utility that proposes to assess a surcharge under this section to file a tariff establishing the manner in which the utility intends to assess the surcharge, which may include:

1 (A) a sliding scale of utility rates; or
2 (B) an alternative method of automatic rate
3 adjustments; and

4 (3) adopt standards and procedures to be followed in
5 establishing the method by which the surcharge is assessed and the
6 amount of the surcharge.

7 (c) In adopting rules under Subsection (b), the commission
8 shall ensure that:

9 (1) the utility is required to submit to the executive
10 director for review and approval a proposed capital budget that
11 specifies the projects and related depreciation and pre-tax return
12 costs in relation to which the utility wants to impose the
13 surcharge;

14 (2) the total amount the utility is authorized to
15 recover annually through the surcharge and the amount the utility
16 actually recovers are subject to annual audit by the executive
17 director;

18 (3) the amount the utility recovers from the surcharge
19 includes an amount necessary to ensure that the surcharge yields a
20 rate of return on invested capital that is equal to the rate of
21 return approved for the utility in the utility's most recent
22 approved base rate application;

23 (4) the amount the utility recovers from the surcharge
24 each year does not exceed an amount equal to 10 percent of the
25 utility's annual revenue;

26 (5) the utility does not implement an increase under
27 this section more often than once each calendar quarter;

1 (6) the surcharge is applied to the customers of each
2 system that is included on a combined tariff authorized under
3 Section 13.145; and

4 (7) the utility provides to each customer written
5 notice of the surcharge and any increase in the surcharge before the
6 surcharge or increase is implemented.

7 (d) The implementation of a surcharge or an increase in a
8 surcharge is not a rate change for purposes of Section 13.187.

9 SECTION 2. The changes in law made by Section 13.193, Water
10 Code, as added by this Act, apply only to a project that is
11 completed and placed into service on or after the effective date of
12 this Act. A project that is completed and placed into service before
13 the effective date of this Act is subject to the law in effect at
14 that time, and that law is continued in effect for that purpose.

15 SECTION 3. The Texas Commission on Environmental Quality
16 shall adopt rules consistent with Section 13.193, Water Code, as
17 added by this Act, not later than December 1, 2009.

18 SECTION 4. This Act takes effect September 1, 2009.