

Amend CSSB 655 (house committee printing) by adding the following appropriately numbered article to the bill and renumbering subsequent articles and sections of the bill accordingly:

ARTICLE \_\_\_\_\_. PROPANE GAS DISTRIBUTION RETAILERS

SECTION \_\_\_\_\_.01. Title 3, Utilities Code, is amended by adding Subtitle C to read as follows:

SUBTITLE C. PROPANE GAS DISTRIBUTION SYSTEMS

CHAPTER 141. STANDARDS FOR DISTRIBUTION SYSTEM RETAILERS

Sec. 141.001. DEFINITIONS. In this chapter:

(1) "Distribution system retailer":

(A) means a retail propane dealer that owns or operates for compensation in this state equipment and facilities connected to a contiguous piping system through which propane gas is supplied to at least 10 residential end users and:

(i) has a Class E license issued by the Gas Services Division of the License and Permit Section of the railroad commission, or is an active company representative or operations supervisor on file with the Section;

(ii) operates or manages a retail business, including a branch outlet, delivering odorized propane to consumers;

(iii) has completed and submitted the form prescribed by the commission for dealer participation in the commission's propane consumer rebate program; and

(iv) is a regular supplier or a potential regular supplier of propane to a consumer; and

(B) does not include a person that furnishes propane gas only to the person, to the person's employees, or to the person's tenants as an incident of employment or tenancy, if the service is not resold to commercial customers or other end users.

(2) "Railroad commission" means the Railroad Commission of Texas or the successor agency to that commission.

Sec. 141.002. APPLICABILITY. This chapter applies only to a distribution system retailer.

Sec. 141.003. MAXIMUM RATE AND ALLOWABLE FEES FOR SERVICE.

(a) A distribution system retailer may charge a customer a

recurring monthly fee to maintain an active gas service account with the distribution system retailer. The distribution system retailer may assess the fee without regard to a customer's actual gas usage. The recurring monthly fee may not exceed \$16 per month.

(b) A distribution system retailer may not charge a customer during any given calendar quarter a rate for gas that exceeds 105 percent of the actual average price charged, excluding price specials, for propane gas delivered to company-owned, individual propane tanks by traditional retail liquefied petroleum gas companies that provide service in the service area. The actual average price must be determined using independent objective market surveys taken on the second Tuesday of each calendar month from not fewer than five traditional liquefied petroleum gas companies. Each distribution system retailer each quarter shall supply the market surveys and report the gas rates the distribution system retailer charges to the commission.

(c) A distribution system retailer may charge reasonable fees for additional services the distribution system retailer renders.

Sec. 141.004. DISCONNECTION OF PROPANE GAS SERVICE. (a) A distribution system retailer may not disconnect propane gas service to a residential customer on a weekend day unless personnel of the distribution system retailer are available on that day to take payments and reconnect service.

(b) A distribution system retailer may not disconnect propane gas service to a residential customer during an extreme weather emergency, as defined by Section 104.258. The distribution system retailer shall defer collection of the full payment of bills that are due during an extreme weather emergency, as defined by Section 104.258, until after the emergency is over and shall offer non-disconnected customers a pay schedule for deferred bills.

Sec. 141.005. CONTINUITY OF SERVICE. (a) A distribution system retailer shall make all reasonable efforts to prevent interruptions of service. When an interruption occurs, the distribution system retailer shall reestablish service within the shortest possible time consistent with prudent operating principles so that the smallest number of customers are affected.

(b) Excluding service interruptions for nonpayment, a distribution system retailer shall keep complete records of all emergency and scheduled service interruptions lasting greater than four hours in duration and affecting more than two customers. The records must describe the cause of each interruption, the date, length, location, approximate number of customers affected by the interruption, and, in the case of an emergency interruption, the remedy and steps taken to prevent a recurrence, if applicable. The distribution system retailer shall submit copies of the records to the commission at least quarterly.

(c) The distribution system retailer shall notify the commission in writing not later than 48 hours after an interruption in service that affects the entire system and lasts more than four hours caused by a Grade I leak that represents an existing or probable hazard to persons or property and requires immediate repair or continuous action until the conditions are no longer hazardous. The notice shall include the distribution system retailer's assessment of the cause of the interruption. A written report of a service interruption in another form, including a part of a safety report, is sufficient to comply with this subsection.

(d) The commission shall establish a toll-free number to enable a customer of a distribution system retailer to notify the commission of a service interruption. The commission shall immediately investigate the cause of the service interruption.

(e) To restore and maintain service, the commission may assume temporary receivership of a system that experiences a service interruption:

- (1) exceeding 48 hours in duration;
- (2) more than three times in one month;
- (3) that is the result of the distribution system retailer's failure or refusal to replenish the primary propane tank; or
- (4) that demonstrates a distribution system retailer's repeated and wilful disregard of its customers.

(f) The commission may draw down all or part of the letter of credit posted under Section 141.009, as required, to restore and maintain service under Subsection (e).

(g) If the commission assumes temporary receivership of a system under Subsection (e), it shall notify the distribution system retailer and provide the distribution system retailer 72 hours to prepare and submit a plan to avoid receivership in the future.

(h) If a distribution system retailer's inability to fulfill its financial obligations is the cause of a service interruption described by Subsection (e), the commission may delegate the operation of the system to a homeowners' association or municipal utility district until another distribution system retailer can assume control over the system or until a court in bankruptcy proceedings instructs otherwise.

Sec. 141.006. GROUNDS FOR REFUSAL TO SERVE. (a) A distribution system retailer may refuse service to an applicant if:

(1) an applicant fails to pay fees, advances, contributions, or deposits required for service under the distribution system retailer's policies;

(2) an applicant fails to furnish a service or meter location specified for service by the distribution system retailer;

(3) the existence or repeated creation of an unsafe condition, such as impaired meter access or a leak in the applicant's piping system, may endanger life or property in the distribution system retailer's opinion;

(4) an applicant or service location owner is delinquent in payment for services provided by a distribution system retailer service location owner; or

(5) another current resident of the premises to receive service is delinquent in payment for services.

(b) The right to refuse service ends when the cause for the refusal to serve is corrected.

Sec. 141.007. REASONABLE TIME TO BEGIN SERVICE. A distribution system retailer may delay providing service following an application or execution of an agreement for service for a reasonable amount of time considering required approvals or permits, the extent of the facilities to be built, and the distribution system retailer's workload at the time.

Sec. 141.008. CUSTOMER COMPLAINTS. (a) A distribution

system retailer that receives a written complaint promptly and suitably shall investigate the complaint and advise the complainant of the results of the investigation. A distribution system retailer shall keep for at least four years after the final disposition of each complaint a record that includes each complainant's name and address, the date and nature of the complaint, and the adjustment or disposition of the complaint. A distribution system retailer is not required to keep a record of a complaint that does not require the distribution system retailer to take further action. A distribution system retailer shall notify each complainant of the right to file a complaint with the commission if the complainant is not satisfied by the distribution system retailer.

(b) On receipt of a complaint from the commission on behalf of a customer, a distribution system retailer promptly and suitably shall investigate and notify the commission and complainant of the results of the investigation. An initial response must be made not later than the third business day after the date the distribution system retailer receives the complaint. A distribution system retailer shall send a final and complete response to the commission and complainant not later than the 15th day after the date the complaint was received, unless the commission grants additional time before the expiration of the 15-day period.

(c) The commission may impose sanctions on a distribution system retailer if, after an investigation, the commission determines that the distribution system retailer has violated Section 141.003. Sanctions may include:

(1) ordering a distribution system retailer to refund the amounts of any overcharges to the distribution system retailer's customers;

(2) drawing all or a portion of the letter of credit for the purpose of refunding the amounts of any overcharges to the distribution system retailer's customers; or

(3) ordering a distribution system retailer to divest itself of the system, if the violation is particularly egregious.

Sec. 141.009. PERFORMANCE GUARANTEE. A distribution system retailer shall post, in favor of the commission, a separate letter

of credit for each system the distribution system retailer operates in an amount equal to \$3 multiplied by the number of gallons in a distribution system retailer's primary propane tank. The issuer of the letter of credit shall honor the letter of credit if the issuer receives from the commission notice that the letter of credit is due and payable. The commission may draw all or a portion of the letter of credit.

Sec. 141.010. RULES. (a) The commission shall adopt rules to implement this chapter, including procedures for:

(1) conducting market surveys;

(2) collecting data included in market surveys;

(3) calculating price ceilings;

(4) reporting market surveys and gas rates to the commission;

(5) addressing an unresolved complaint from a customer of a distribution system retailer; and

(6) establishing rates to apply to a retailer whose rates:

(A) exceed the applicable price ceiling; or

(B) are based on flawed market surveys.

(b) The commission may institute financial and nonfinancial resolutions.

SECTION \_\_\_\_\_.02. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2011.