

By: Miller of Comal

H.B. No. 2895

A BILL TO BE ENTITLED

AN ACT

relating to rate proceedings before a regulatory authority regarding water utility rates.

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

SECTION 1. Section 13.182, Water Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) Except as provided by Subsection (b-1), rates may ~~Rates shall~~ not be unreasonably preferential, prejudicial, or discriminatory but shall be sufficient, equitable, and consistent in application to each class of consumers.

(b-1) In establishing a utility's rates, the regulatory authority may authorize reduced rates for a minimal level of service to be provided to a class or classes of low-income or elderly customers to ensure that members of the class or classes may receive that level of service at affordable rates. The regulatory authority shall allow the utility to recover the cost of providing the reduced rates through charges to the utility's other customer classes.

SECTION 2. Section 13.185, Water Code, is amended by amending Subsections (b) and (d) and adding Subsections (d-1) and (d-2) to read as follows:

(b) Utility rates shall be based on the original cost of property used by and useful to the utility in providing service and

1 ~~[, including, if necessary to the financial integrity of the~~  
2 ~~utility,]~~ construction work in progress at cost as recorded on the  
3 books of the utility. ~~[The inclusion of construction work in~~  
4 ~~progress is an exceptional form of rate relief to be granted only on~~  
5 ~~the demonstration by the utility by clear and convincing evidence~~  
6 ~~that the inclusion is in the ratepayers' best interest and is~~  
7 ~~necessary to the financial integrity of the utility.]~~ Construction  
8 work in progress may not be included in the rate base for major  
9 projects under construction to the extent that those projects have  
10 been inefficiently or imprudently planned or managed. Original  
11 cost is the actual money cost or the actual money value of any  
12 consideration paid, other than money, of the property at the time it  
13 shall have been dedicated to public use, whether by the utility that  
14 is the present owner or by a predecessor, less depreciation.  
15 Utility property funded by explicit customer agreements or customer  
16 contributions in aid of construction such as surcharges may not be  
17 included in invested capital.

18 (d) Net income is the total revenues of the utility less all  
19 reasonable and necessary expenses as determined by the regulatory  
20 authority. The regulatory authority shall determine expenses and  
21 revenues in a manner consistent with Subsections (d-1), (d-2), and  
22 (e) through (h) of this section.

23 (d-1) In Subsection (d-2):

24 (1) "Forward-looking test year" means a period of 12  
25 consecutive months that begins on or after the date a rate  
26 application is filed and ends not later than the second anniversary  
27 of the date the rate application is filed.

1           (2) "Historical test year" means a period of 12  
2 consecutive months that ends before the date a rate application is  
3 filed.

4           (d-2) The regulatory authority shall base a utility's  
5 expenses, at the utility's choice, on information from a historical  
6 test year or on information projected for a forward-looking test  
7 year, as provided by the filed rate application. The utility has  
8 the burden of proving to the commission that the chosen  
9 forward-looking or historical test year is reasonably  
10 representative of the utility's operations. For purposes of this  
11 subsection:

12           (1) a rate application filed for a forward-looking  
13 test year must provide projected information for the utility's  
14 revenue requirements for the period, based on information from 12  
15 months of the utility's historical experience, adjusted for known  
16 and measurable changes or estimates; and

17           (2) a rate application filed for a historical test  
18 year must provide information, adjusted for known and measurable  
19 conditions reasonably expected to occur after the end of the  
20 period, for the most recent 12-month period for which  
21 representative operating information is available and that ended  
22 less than 12 months before the date the rate application is filed.

23           SECTION 3. Section 13.189, Water Code, is amended by adding  
24 Subsection (c) to read as follows:

25           (c) For purposes of this section, a reduced rate authorized  
26 under Section 13.182(b-1) does not:

27           (1) make or grant an unreasonable preference or

1 advantage to any corporation or person;

2 (2) subject a corporation or person to an unreasonable  
3 prejudice or disadvantage; or

4 (3) constitute an unreasonable difference as to rates  
5 of service between classes of service.

6 SECTION 4. Subchapter F, Chapter 13, Water Code, is amended  
7 by adding Section 13.193 to read as follows:

8 Sec. 13.193. NONSERVICE CHARGES. The regulatory authority  
9 shall authorize nonservice charges of the following types and  
10 amounts to be included in a utility's tariff:

11 (1) customer deposits of not more than one-sixth of a  
12 customer's estimated annual billing, according to the customer's  
13 class;

14 (2) a one-time late-payment penalty for a bill that is  
15 not paid in full at the utility's business office before the close  
16 of business on the date the payment is due, in an amount equal to the  
17 greater of:

18 (A) 10 percent of the billed amount; or

19 (B) \$10;

20 (3) a one-time reconnection fee in an amount not to  
21 exceed \$50 for restoration of a customer's service that was  
22 disconnected for failure to pay a bill due; and

23 (4) a one-time penalty for tampering with, diverting,  
24 or damaging a water meter or sewer service connection or any  
25 appurtenance of a water meter or sewer service connection,  
26 including a lock, meter box, or sewer pump, in varying amounts of  
27 not less than \$50 and not more than \$800, according to the type and

1 extent of the tampering, diversion, or damage.

2 SECTION 5. Section 13.002(22), Water Code, is repealed.

3 SECTION 6. (a) The changes in law made by this Act apply  
4 only to proceedings before a regulatory authority regarding water  
5 utility rates concerning an application filed on or after January  
6 1, 2012. Proceedings before a regulatory authority regarding water  
7 utility rates concerning an application filed before January 1,  
8 2012, are governed by the law in effect when the application was  
9 filed, and the former law is continued in effect for that purpose.

10 (b) The Texas Commission on Environmental Quality or other  
11 regulatory authority shall adopt rules as necessary to implement  
12 the changes in law made by this Act not later than December 31,  
13 2011.

14 SECTION 7. This Act takes effect September 1, 2011.