

By: Workman

H.B. No. 3715

A BILL TO BE ENTITLED

AN ACT

relating to standards applicable to propane distribution system
retailers.

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

SECTION 1. Chapter 113, Natural Resources Code, is amended
by adding a new Subchapter C-1 as follows:

Subchapter C-1 STANDARDS FOR DISTRIBUTION SYSTEM RETAILERS

Sec. 113.060. APPLICABILITY. This subchapter applies only
to a propane distribution system retailer, defined as a propane
dealer, as that term is defined as of the effective date of this Act
in T.A.C. Title 16, Part 1, Rule 15.105(13), that owns or operates
for compensation in this state a system comprised of equipment and
facilities connected to a contiguous piping system through which
propane gas is supplied to ten or more residential end users. This
subchapter does not apply to a person who furnishes propane gas
service only to itself, its employees, or its tenants as an
incident of employment or tenancy, if the propane gas is not resold
to other end users or to commercial customers of Distribution
System Retailers otherwise covered by this chapter.

Sec. 113.061 DISCONNECTION OF PROPANE GAS SERVICE

(a) In this section "extreme weather emergency" means a
period during which the previous day's highest temperature did not
exceed 32 degrees Fahrenheit and the temperature is predicted to
remain at or below that level for the next 24 hours according to

1 reports from the nearest National Weather Service.

2 (b) A Distribution System Retailer may not disconnect
3 Propane gas service to a residential customer on a weekend day
4 unless personnel of the Distribution System Retailer are available
5 on that day to take payments and reconnect service.

6 (c) A Distribution System Retailer may not disconnect
7 Propane gas service to a residential customer during an extreme
8 weather emergency.

9 (d) A Distribution System Retailer shall offer non-
10 disconnected residential customers a pay schedule to defer
11 collection of the full payment of bills that are due during an
12 extreme weather emergency until after the extreme weather emergency
13 is over.

14 Sec. 113.062 SERVICE FAILURE

15 (a) A Distribution System Retailer shall notify the
16 commission of any service failure that continues for eighteen or
17 more consecutive hours and affects 75% or more of a system's
18 customers. Notice shall be made to the commission by telephone not
19 later than one hour after the qualifying service failure occurs.

20 (b) If a service failure continues for forty-eight or more
21 consecutive hours and affects 75% or more of a system's customers,
22 the commission may designate the failure a material service failure
23 if:

24 (1) the commission determines that the Distribution
25 System Retailer failed to comply with applicable laws or rules; or

26 (2) the commission determines that the Distribution
27 System Retailer acted negligently; or

1 (3) the commission determines that the Distribution
2 System Retailer failed to maintain the system's storage tanks at
3 adequate supply levels; and

4 (4) an occurrence as described in subsection (1), (2),
5 or (3) was the direct cause of the material service failure.

6 (c) If a system experiences a material service failure, the
7 commission may place the system into temporary conservatorship if
8 the commission reasonably determines the conservatorship would
9 likely bring about service restoration within a shorter time frame
10 than the Distribution System Retailer could reasonably be
11 anticipated to accomplish itself under the circumstances.

12 (d) The commission, if it opts to place a system into
13 temporary conservatorship, shall continue the conservatorship
14 until:

15 (1) the Distribution System Retailer is capable of
16 resuming management and control of the system; and

17 (2) service has been restored to all system customers.

18 (e) If the commission determines that a system is
19 experiencing a material service failure, it shall notify the
20 affected Distribution Service Retailer and include an explanation
21 of the basis of the determination, upon the earlier of:

22 (1) six hours before placing the system into temporary
23 conservatorship; or

24 (2) the sixtieth business day following the service
25 interruption.

26 (f) A Distribution System Retailer whose system has been
27 placed into temporary conservatorship by the commission shall

1 reimburse the commission for all costs incurred as a result of the
2 temporary conservatorship. The Distribution System Retailer must
3 reimburse the commission not later than the thirtieth day after the
4 date the Distribution System Retailer receives notice from the
5 commission of the amount of reimbursement due. A priority lien
6 shall encumber the system, including all its facilities and
7 equipment, upon placing the system into the temporary
8 conservatorship.

9 (g) If the commission determines that a system experiences a
10 material service failure within eighteen months of a previous
11 determination of a material service failure for that system, the
12 Distribution Service Retailer shall:

13 (1) provide a credit on the bill of each customer
14 served by the system in the amount of \$100 for each complete
15 twenty-four hour period during which the system did not provide
16 service to the customer; and

17 (2) pay an administrative penalty to the commission in
18 the amount of \$5,000.

19 Sec. 113.062 MAXIMUM RATE AND ALLOWABLE FEES FOR BASIC
20 SERVICE.

21 (a) A Distribution Service Retailer may charge a recurring
22 monthly fee in order for a customer to maintain an active gas
23 service account. The fee may be assessed regardless of a customer's
24 actual gas usage.

25 (1) The recurring monthly fee shall not exceed \$15 per
26 month as of the effective date of this Act.

27 (2) The monthly fee shall be adjusted annually upward

1 or downward thereafter based on changes in the U.S. Department of
2 Labor's Consumer Price Index - All Urban Consumers.

3 (b) A Distribution Service Retailer may pass through to its
4 residential customers the amount of a rate increase attributable to
5 any new fees, taxes, charges or assessments imposed by local, state
6 or federal law or rule, that are related to the ownership or
7 operation of a system, and that are created or result from a rate
8 increase after December 31, 2010. All sales, franchise, and margins
9 taxes may be passed through to the residential customers.

10 (c) The maximum gas rate that a Distribution System Retailer
11 may charge a customer shall not exceed the actual average cost per
12 gallon of liquid propane gas delivered to the system's storage
13 facilities during the billing period (or most recent billing period
14 in which a delivery was made if no deliveries were made in the
15 subject billing period), including any costs incurred relating to
16 the transportation and delivery of the liquid propane gas to the
17 system's storage facilities, plus a margin of \$1.35 per gallon,
18 which margin shall be adjusted annually upward or downward based on
19 changes in the U.S. Department of Labor's Consumer Price Index -
20 All Urban Consumers.

21 SECTION 2. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this
25 Act takes effect September 1, 2011.