

1-1 By: Eltife S.B. No. 403  
1-2 (In the Senate - Filed January 24, 2011; February 2, 2011,  
1-3 read first time and referred to Committee on Natural Resources;  
1-4 March 28, 2011, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; March 28, 2011,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 403 By: Eltife

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the consideration of pension and other postemployment  
1-11 benefits in establishing the rates of a gas utility.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter B, Chapter 104, Utilities Code, is  
1-14 amended by adding Section 104.059 to read as follows:

1-15 Sec. 104.059. PENSION AND OTHER POSTEMPLOYMENT BENEFITS.

1-16 (a) In establishing a gas utility's rates, the regulatory  
1-17 authority shall allow recovery of the gas utility's costs of  
1-18 pensions and other postemployment benefits, as determined by  
1-19 actuarial or other similar studies in accordance with generally  
1-20 accepted accounting principles, in amounts the regulatory  
1-21 authority finds reasonable and necessary.

1-22 (b) If a gas utility establishes one or more reserve  
1-23 accounts for the purpose of tracking changes in the costs of  
1-24 pensions and other postemployment benefits, the gas utility shall  
1-25 periodically record in a reserve account any difference between:

1-26 (1) the annual amount of pension and other  
1-27 postemployment benefits approved and included in the gas utility's  
1-28 then current rates or, if that annual amount cannot be determined  
1-29 from the regulatory authority's order, the amount recorded for  
1-30 pension and other postemployment benefits under generally accepted  
1-31 accounting principles during the first year that rates from the gas  
1-32 utility's last general rate proceeding were in effect; and

1-33 (2) the annual amount of costs of pensions and other  
1-34 postemployment benefits as determined by actuarial or other similar  
1-35 studies that would otherwise be recorded by the gas utility were  
1-36 this provision not applicable.

1-37 (c) The gas utility must:

1-38 (1) establish separate reserve accounts for pensions  
1-39 and for other postemployment benefits; and

1-40 (2) apply the same methodology to allocate pension and  
1-41 other postemployment benefits between capital and expense as in the  
1-42 gas utility's last rate case.

1-43 (d) A surplus in a reserve account exists if the amount of  
1-44 pension and other postemployment benefits under Subsection (b)(1)  
1-45 is greater than the amount determined under Subsection (b)(2). A  
1-46 shortage in a reserve account exists if the amount of pension and  
1-47 other postemployment benefits under Subsection (b)(1) is less than  
1-48 the amount determined under Subsection (b)(2).

1-49 (e) If the gas utility establishes reserve accounts for the  
1-50 costs of pensions and other postemployment benefits, the regulatory  
1-51 authority at a subsequent general rate proceeding shall:

1-52 (1) review the amounts recorded to each reserve  
1-53 account to determine whether the amounts are reasonable and  
1-54 necessary;

1-55 (2) determine in accordance with Subsection (d)  
1-56 whether each reserve account has a surplus or shortage; and

1-57 (3) subtract any surplus from or add any shortage to  
1-58 the gas utility's rate base, with the surplus or shortage amortized  
1-59 over a reasonable time.

1-60 SECTION 2. Subsections (b) through (e), Section 104.059,  
1-61 Utilities Code, as added by this Act, apply only in relation to a  
1-62 reserve account established by a gas utility on or after January 1,  
1-63 2012.

2-1 SECTION 3. This Act takes effect immediately if it receives  
2-2 a vote of two-thirds of all the members elected to each house, as  
2-3 provided by Section 39, Article III, Texas Constitution. If this  
2-4 Act does not receive the vote necessary for immediate effect, this  
2-5 Act takes effect September 1, 2011.

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