

## **BILL ANALYSIS**

C.S.H.B. 2532  
By: Workman  
Energy Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

According to certain estimates, there are dozens of centralized propane systems operating as utilities and providing service to residential customers in Texas who have no access to free-market choices regarding a service provider. The parties note that while the Railroad Commission of Texas has jurisdiction over the licensing of and safety provisions for the propane storage tanks, as well as jurisdiction over the pipeline safety of the main and service lines, such propane systems are essentially unregulated, unlike natural gas and other utilities. The parties point out that there is no governmental entity overseeing the pricing, rate setting, rate increase appeal process, or the services provided by these propane systems. Therefore, the parties further note, a customer has few options for negotiating a contract or directing complaints about rates or service to an appropriate regulatory authority. In addition to those problems, there are reports that some of these systems have had problems ranging from bankruptcy to disruption of service during some of the coldest days of winter. To address these and other problems, C.S.H.B. 2532 seeks to establish standards and requirements for the regulation of the retail sale of propane gas by propane gas distribution system retailers.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Railroad Commission of Texas in SECTION 1 of this bill.

### **ANALYSIS**

C.S.H.B. 2532 amends the Utilities Code to establish provisions relating to standards for propane gas distribution system retailers applicable exclusively to a retail sale of propane gas made by a distribution system retailer through a propane gas system and not to any other retail or wholesale sale of propane gas. The bill defines, among other terms, "distribution system retailer" as a retail propane dealer that owns or operates for compensation in Texas a propane gas system and has a Category E or K license issued by the applicable license and permit section of the Railroad Commission of Texas. The bill excludes from the term 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 customers.

C.S.H.B. 2532 requires a distribution system retailer in each billing month to charge a customer a just and reasonable rate for propane gas provided through a propane gas system to the customer. The bill caps the just and reasonable rate at the allowable spot price plus the allowable markup and, for a customer's bill that contains days in more than one month, requires the month with the most days covered by the bill to be considered the billing month. The bill defines "allowable spot price" and "allowable markup" and provides for the price per gallon to be converted to the cubic foot rate.

C.S.H.B. 2532 authorizes a distribution system retailer, in addition to the just and reasonable rate, to charge customers special fees for services if the fees are reasonable and customary. The bill provides certain criteria for qualification of a fee as reasonable and customary, sets out

allowable fees for specified services and occurrences, and provides for certain adjustment of the fees. The bill establishes that its provisions relating to rate and fee ceilings do not limit a distribution system retailer's ability to pass through to a customer as a separate charge on a pro rata actual-cost basis a tax, other than taxes assessed on the basis of income, gross income, property, or margins, or an assessment, surcharge, levy, fee, or other charge imposed by a governmental entity, any one of which begins or is increased on or after January 1, 2013, either directly on a propane gas system or any portion or on a distribution system retailer by virtue of its ownership or operation of a propane gas system. The bill requires such a fee passed through to a customer to be passed through without any additional markup and to be identified as a separate item on a customer's bill. The bill exempts a new construction charge or an appliance repair charge from the bill's provisions.

C.S.H.B. 2532 requires personnel of a distribution system retailer to be available on a weekend day or official state holiday to receive payments and reconnect service in order for the distribution system retailer to be allowed to disconnect propane gas service to a residential customer on such a day. The bill prohibits a distribution system retailer from disconnecting propane gas service to a residential customer during an extreme weather emergency and requires the distribution system retailer to defer collection of the full payment of bills that are due during an extreme weather emergency until after the emergency is over.

C.S.H.B. 2532 requires a distribution system retailer to make all reasonable efforts to prevent interruptions of service and to reestablish service when an interruption occurs within the shortest possible time consistent with prudent operating principles so that the smallest number of customers are affected. The bill sets out recordkeeping and reporting requirements on a distribution system retailer relating to certain service interruptions and requires establishment and maintenance of a toll-free telephone number for customers to notify the railroad commission about certain customer issues. The bill requires the railroad commission to immediately investigate a notification.

C.S.H.B. 2532 authorizes the railroad commission, in order to restore and maintain service, to assume temporary receivership of a propane gas system that experiences a service interruption affecting the entire propane gas system that continues to affect the entire propane gas system after the distribution system retailer has had direct access to and control of the system for more than 48 hours after the service interruption began, occurs more than three times in one month, or is the result of the distribution system retailer's failure or refusal to replenish the primary propane tank for a reason other than a general local market disruption, a restriction on wholesale propane supplies, mechanical failure, criminal activity, or an act of God. The bill sets out provisions relating to such receivership, including related costs. The bill authorizes the railroad commission, if a distribution system retailer's inability to fulfill its financial obligations is the cause of such a service interruption, to delegate the operation of the propane gas system to a receiver who agrees to operate the system, and sets out related provisions, including related costs.

C.S.H.B. 2532 authorizes a distribution system retailer to refuse service to an applicant for new service or to an existing customer for continued service or reconnection under certain conditions and establishes that the right to refuse service ends when the cause for the refusal to serve is corrected. The bill authorizes a distribution system retailer to delay providing service following an application or execution of an agreement for service for a reasonable amount of time considering required approvals, inspections, or permits, the extent of the facilities to be built, and the distribution system retailer's workload at the time.

C.S.H.B. 2532 requires a distribution system retailer that receives a written complaint to promptly and suitably investigate the complaint and to notify each complainant of the right to file a complaint with the railroad commission if the complainant is not satisfied by the distribution system retailer's resolution of the matter and sets out related provisions. The bill authorizes the railroad commission to impose sanctions on a distribution system retailer if the railroad commission determines after an investigation that the distribution system retailer has

violated the bill's provisions relating to rate and fee ceilings. The bill sets out the authorized sanctions.

C.S.H.B. 2532 requires a distribution system retailer to post financial surety in favor of the railroad commission in the form of a letter of credit, bond, or other acceptable form of financial surety with the railroad commission in an amount equal to the lesser of \$3 multiplied by the number of gallons of aggregate storage capacity in all of the propane gas systems operated by the distribution system retailer or \$50,000. The bill requires the issuer of the financial surety used to meet this requirement to honor the financial surety if the issuer receives from the railroad commission notice that the financial surety is due and payable. The bill authorizes the railroad commission to draw down all or a portion of the financial surety, requires the distribution system retailer to provide the railroad commission with verification of the adequacy of the financial surety, and authorizes the railroad commission to order the distribution system retailer to adjust the amount of the financial surety annually.

C.S.H.B. 2532 requires the railroad commission to adopt rules necessary to implement the bill's provisions and provides for a certain disclosure to homeowners of information relating to such provisions and certain other information. The bill sets out related provisions regarding a certain required notice to a purchaser of real property located in a propane gas system service area owned by a distribution system retailer. The bill sets out provisions related to the recording in a county's real property records of a distribution system retailer's service map.

### **EFFECTIVE DATE**

September 1, 2013.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2532 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### **INTRODUCED**

SECTION 1. 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:

**No equivalent provision.**

**No equivalent provision.**

#### **HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. 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) "Allowable markup" means the two-  
calendar-year rolling average of the  
differences between the monthly reported  
E.I.A. retail prices per gallon during those  
two calendar years and the corresponding  
spot prices per gallon reported for the same  
two calendar years. The allowable markup  
for 2013 is \$1.48 per gallon.

(2) "Allowable spot price" means the  
average of the spot prices for the two months

(1) "Commission" means the Railroad Commission of Texas or its successor agency.

(2) "Customer" means a retail customer of propane gas purchased from and delivered by a distribution system retailer through a propane gas system.

(3) "Distribution system retailer":

(A) means a retail propane dealer that:

(i) owns or operates for compensation in this state a propane gas system; and

(ii) has a Class E license issued by the Gas Services Division of the license and permit section of the commission or is an active company representative or operations supervisor on file with the section; 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 customers.

(4) "Markup" means the retail price for a period divided by the spot price for that period.

No equivalent provision.

(5) "Propane gas" means propane gas vapor, but does not include liquefied petroleum gas as described by Chapter 113, Natural Resources Code.

(6) "Propane gas system" means a system that supplies propane gas and includes equipment and facilities connected to a contiguous piping system through which propane gas is supplied by a distribution system retailer to at least 10 customers.

(7) "Rate" means the price per cubic foot of gas passing through the meter levied, charged, or collected by a distribution system retailer from a customer for propane

preceding the billing month. For the billing month of January 2013, the allowable spot price was \$0.844 per gallon. The commission shall identify the allowable spot price each month and publish that price on the commission's website.

(3) "Commission" means the Railroad Commission of Texas or its successor agency.

(4) "Customer" means a retail customer of propane gas purchased from and delivered by a distribution system retailer through a propane gas system.

(5) "Distribution system retailer":

(A) means a retail propane dealer that:

(i) owns or operates for compensation in this state a propane gas system; and

(ii) has a Category E or K license issued by the applicable license and permit section of the commission; 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 customers.

No equivalent provision.

(6) "E.I.A. retail price" means the monthly U.S. Propane Residential Price as reported by the United States Energy Information Administration in dollars per gallon. In January 2013, the E.I.A. retail price was \$2.449 per gallon.

(7) "Propane gas" means a normally gaseous hydrocarbon defined as propane by the United States Energy Information Administration.

(8) "Propane gas system" means one or more propane storage containers, equipment, and facilities connected to a contiguous piping system through which propane gas is supplied by a distribution system retailer to at least 10 customers.

(9) "Rate" means the price per cubic foot of gas passing through the meter levied, charged, or collected by a distribution system retailer from a customer for propane gas

gas provided through a propane gas system to the customer exclusive of any fees, taxes, or other charges. A conversion factor of 36.4 cubic feet of propane gas per gallon shall be used for purposes of determining a rate.

(8) "Retail price" means the U.S. Propane Residential Price as reported by the United States Energy Information Administration.

(9) "Spot price" means the Mont Belvieu, TX Propane Spot Price FOB as reported by the United States Energy Information Administration.

#### Sec. 141.002. APPLICABILITY.

Sec. 141.003. RATE AND FEE CEILINGS. (a) A distribution system retailer may not charge a customer for propane gas provided through a propane gas system to the customer a rate that exceeds the three-month rolling average of the spot price per gallon at the Mont Belvieu supply point multiplied by the rolling three-year average markup of retail price to spot price as reported by the United States Energy Information Administration. The allowable markup (three-year average) as of January 2013 is 2.1780 times spot. The commission shall change the markup in January of each year by adding the average annual markup, as determined by the average of the six monthly reporting periods of a calendar year from the United States Energy Information Administration, of the three preceding years and dividing by three.

The price per gallon shall be converted to cubic foot rate by dividing the price per gallon by 36.4.

(b) A distribution system retailer may charge customers special fees for services, including connection, disconnection, account maintenance, late fees, and reconnection fees, if the fees are reasonable and customary.

No equivalent provision.

provided through a propane gas system to the customer exclusive of any fees, taxes, or other charges. A conversion factor of 36.4 cubic feet of propane gas per gallon shall be used for purposes of determining a rate.

No equivalent provision.

(10) "Spot price" means the Mont Belvieu, TX monthly Propane Spot Price FOB per gallon as reported by the United States Energy Information Administration in dollars per gallon. In January 2013, the spot price was \$0.838 per gallon.

#### Sec. 141.002. APPLICABILITY.

Sec. 141.003. RATE AND FEE CEILINGS. (a) In each billing month, a distribution system retailer shall charge a customer a just and reasonable rate for propane gas provided through a propane gas system to the customer. The just and reasonable rate may not exceed the allowable spot price plus the allowable markup. For a customer's bill that contains days in more than one month, the month with the most days covered by the bill shall be considered the billing month.

The price per gallon shall be converted to the cubic foot rate by dividing the price per gallon by 36.4.

(b) In addition to the rate authorized by Subsection (a), a distribution system retailer may charge customers special fees for services, including connection, disconnection, account maintenance, late fees, and reconnection fees, if the fees are reasonable and customary.

If a distribution system retailer charges a customer a fee for a service or occurrence

No equivalent provision.

No equivalent provision.

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No equivalent provision.

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(c) Nothing in this section limits a distribution system retailer's ability to pass through to a customer on a pro-rata actual-

described by this subsection that does not exceed the fees allowed for the services and occurrences described in Subdivisions (1)-(9), the amount of the fees shall qualify as reasonable and customary for the purposes of this section. The services and occurrences and related allowable fees are as follows:  
(1) a recurring monthly fee of \$12.50 to maintain an active gas service account with the distribution system retailer to be charged to a customer at a service address where the propane gas usage history during the preceding 12-month period exceeded 99 gallons;  
(2) a recurring monthly fee of \$17.50 to maintain an active gas service account with the distribution system retailer to be charged to a customer at a service address where the propane gas usage history during the preceding 12-month period did not exceed 99 gallons;  
(3) a fee of \$15 for a late payment received by the distribution system retailer, provided the bill was mailed or electronically transmitted 15 days before the date payment is due;  
(4) a fee of \$25 to disconnect or terminate service from an active or delinquent account;  
(5) a fee of \$65 for standard next available reconnect service for an active or delinquent account;  
(6) a fee of \$125 for accelerated reconnect service;  
(7) a fee of \$30 for a dishonored or canceled payment received;  
(8) a fee of \$75 to initiate service to a new customer; and  
(9) a fee of \$225 plus charges for the estimated amount of gas consumed and damages for attempted unauthorized gas consumption or diversion.  
(c) The distribution system retailer may adjust the fee limits described by Subsection (b) up or down based on the 12-month changes in the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items, CPI-U, Not Seasonally Adjusted, published by the Bureau of Labor Statistics of the United States Department of Labor or a similar index if that index is unavailable. For calculation purposes, the beginning base month is December 2012.  
(d) Nothing in this section limits a distribution system retailer's ability to pass through to a customer as a separate charge on

cost basis:

(1) a fee, including the actual cost of the performance guarantee;

(2) a fee increase; or

(3) a tax, other than taxes assessed on the basis of income, gross income, property or margins, assessment, surcharge, levy, or other charge imposed by a governmental entity either:

(A) directly on a propane gas system or any portion; or

(B) on a distribution system retailer by virtue of its ownership or operation of a propane gas system.

(d) A fee passed through to a customer shall be:

(1) passed through without any additional markup; and

(2) identified as a separate item on a customer's bill.

No equivalent provision.

#### Sec. 141.004. DISCONNECTION OF PROPANE GAS SERVICE.

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 is affected.

(b) Excluding service interruptions under Section 141.006, a distribution system retailer shall keep complete records of all emergency and scheduled service interruptions lasting more than six hours and affecting more than two customers. The records must describe the cause, date, length, and location of each interruption, the 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 service interruption records to the

a pro rata actual-cost basis:

(1) a tax, other than taxes assessed on the basis of income, gross income, property, or margins; or

(2) an assessment, surcharge, levy, fee, or other charge imposed by a governmental entity, any one of which begins or is increased on or after January 1, 2013, either:

(A) directly on a propane gas system or any portion; or

(B) on a distribution system retailer by virtue of its ownership or operation of a propane gas system.

(e) A fee passed through to a customer under Subsection (d) shall be:

(1) passed through without any additional markup; and

(2) identified as a separate item on a customer's bill.

(f) Notwithstanding any other provision in this section, this subtitle does not apply to a new construction charge or an appliance repair charge.

#### Sec. 141.004. DISCONNECTION OF PROPANE GAS SERVICE.

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 under Section 141.006, a distribution system retailer shall keep complete records of all emergency and scheduled service interruptions lasting more than six hours and affecting more than two customers. The records must describe the cause, date, length, and location of each interruption, the 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 service interruption records to the commission quarterly.

commission 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 propane gas system, lasts more than four hours, 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 report of a service 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 to notify the commission of a service interruption that does not involve a refusal to serve under Section 141.006 and to notify the commission that the customer believes the distribution system retailer is charging an amount greater than allowed by law. The commission shall immediately investigate the notification.

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

(1) lasts more than 48 hours;

(2) occurs more than three times in one month; or

(3) is the result of the distribution system retailer's failure to replenish the primary propane tank for a reason other than a general local market disruption, a restriction on wholesale propane supplies, or criminal activity.

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

(g) If the commission assumes temporary receivership of a propane gas system under

(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 propane gas system, lasts more than four hours, 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 report of a service 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 and maintain a toll-free telephone number to enable a customer to notify the commission of a service interruption that does not involve a refusal to serve under Section 141.006 and to notify the commission that the customer believes the distribution system retailer is charging an amount greater than allowed by law. The commission shall immediately investigate the notification. A distribution system retailer shall notify the customer of the commission phone number on each billing statement.

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

(1) continues to affect the entire propane gas system after the distribution system retailer has had direct access to and control of the system for more than 48 hours after the service interruption began;

(2) occurs more than three times in one month; or

(3) is the result of the distribution system retailer's failure or refusal to replenish the primary propane tank for a reason other than a general local market disruption, a restriction on wholesale propane supplies, mechanical failure, criminal activity, or an act of God.

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

(g) If the commission assumes temporary receivership of a propane gas system under



Subsection (e), it shall notify the distribution system retailer and shall take whatever action is necessary and appropriate to reestablish service to affected customers. The commission shall provide the distribution system retailer 72 hours to prepare and submit a plan to avoid continuing receivership.

(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 propane gas system to a qualified homeowners' association or municipal utility district until another distribution system retailer can assume control over the propane gas system or until a court in bankruptcy proceedings instructs otherwise.

(i) If the commission determines that the distribution system retailer is able to resume operations of the system, the commission shall notify the distribution system retailer of its determination and allow the resumption of operation after the distribution system retailer replaces the amount of the financial surety that was used in receivership. The distribution system retailer shall reimburse the commission for direct costs the commission may have incurred as a result of receivership.

Subsection (e), it shall notify the distribution system retailer and shall take whatever action is necessary and appropriate to reestablish service to affected customers. The commission shall provide the distribution system retailer 72 hours to prepare and submit a plan to avoid continuing receivership.

(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 propane gas system to a receiver who agrees to operate the system. The receiver shall operate the system until relieved by order of the commission. A receiver ordered by the commission to assume operational control over a system shall operate the system in accordance with law. The commission shall, from the proceeds of the financial surety and no other source, and to the extent available, pay the receiver all reasonable costs, including reasonable legal fees, associated with accepting the assignment and the resumption and stabilization of system operations plus a markup of 50 percent. Upon assuming operational control of the system, the receiver shall earn, accrue, and receive all gas system revenues pertaining to propane gas service provided to system customers accruing from that date until the date it relinquishes operational control of the system. The receiver is not liable for debt associated with the propane gas system that was incurred before the date the receiver assumed operational control of the system or debt the relieved distribution system retailer incurred before the date the receiver assumed operational control of the system.

(i) If the commission determines that the distribution system retailer is able to resume operation of the system, the commission shall notify the distribution system retailer of its determination and allow the resumption of operation after the distribution system retailer replaces the amount of the financial surety that was used in receivership. The distribution system retailer, or a party claiming title to the system by, through, or under the retailer, shall reimburse the commission for direct costs the commission may have incurred as a result of receivership and all unpaid money accrued or owed to the receiver under this section.

Sec. 141.006. GROUNDS FOR REFUSAL TO SERVE.

Sec. 141.007. REASONABLE TIME TO BEGIN SERVICE.

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 three 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 specific 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's resolution of the matter.

(b) On receipt of a written 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 electronically delivered to a minimum of two electronic addresses designated by the distribution system retailer. 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

Sec. 141.006. GROUNDS FOR REFUSAL TO SERVE.

Sec. 141.007. REASONABLE TIME TO BEGIN SERVICE.

Sec. 141.008. CUSTOMER COMPLAINTS. (a) A distribution system retailer that receives a written complaint shall promptly and suitably investigate the complaint and advise the complainant of the results of the investigation. A distribution system retailer shall keep for at least three 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 specific 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's resolution of the matter.

(b) On receipt of a written 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 electronically delivered to a minimum of two electronic addresses designated by the distribution system retailer. 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

to refund the amounts of any overcharges to the distribution system retailer's customers; or

(2) drawing all or a portion of the financial surety for the purpose of refunding the amounts of any overcharges to the distribution system retailer's customers not refunded before the 61st day after the date the commission orders a refund.

Sec. 141.009. PERFORMANCE GUARANTEE. A distribution system retailer shall post, in favor of the commission, financial surety in the form of a letter of credit or cash deposited with the commission in an amount equal to the lesser of \$3 multiplied by the number of gallons of aggregate storage capacity in all of the propane gas systems operated by the distribution system retailer or \$250,000. The issuer of a letter of credit used to meet this requirement 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 financial surety. The commission shall verify and adjust the amount of the financial surety annually.

#### Sec. 141.010. RULES.

Sec. 141.011. DISCLOSURE TO HOMEOWNERS. (a) A distribution system retailer shall provide to a homeowners' association or municipal utility district with jurisdiction over property that receives service from a distribution system retailer, or to the distribution system retailer's customers if there is no homeowners' association or municipal utility district, a disclosure that includes a physical or digital copy or website posting of:

(1) a copy of this chapter or a summary of the customers rights under this chapter; and  
(2) for development agreements entered into after September 1, 2013, a statement disclosing the existence of a financial interest that a homeowners' association, municipal utility district, or developer

refund the amounts of any overcharges to the distribution system retailer's customers; or

(2) drawing down all or a portion of the financial surety for the purpose of refunding the amounts of any overcharges to the distribution system retailer's customers not refunded before the 61st day after the date the commission orders a refund.

Sec. 141.009. PERFORMANCE GUARANTEE. A distribution system retailer shall post, in favor of the commission, financial surety in the form of a letter of credit, bond, or other acceptable form of financial surety with the commission in an amount equal to the lesser of \$3 multiplied by the number of gallons of aggregate storage capacity in all of the propane gas systems operated by the distribution system retailer or \$50,000. The issuer of the financial surety used to meet this requirement shall honor the financial surety if the issuer receives from the commission notice that the financial surety is due and payable. The commission may draw down all or a portion of the financial surety. The distribution system retailer shall provide the commission with verification of the adequacy of the financial surety, and the commission may order the distribution system retailer to adjust the amount of the financial surety annually.

#### Sec. 141.010. RULES.

Sec. 141.011. DISCLOSURE TO HOMEOWNERS. (a) A distribution system retailer shall record in the real property records of each county in which the distribution system retailer owns or operates a propane gas system a notice of disclosure of the existence of the propane gas system and the service the retailer provides. The notice shall include:

(1) a service map reflecting the location of the subdivisions or areas the distribution system retailer serves in the county;  
(2) a copy of this chapter or a summary of the customer's rights under this chapter; and  
(3) for development agreements entered into after September 1, 2013, a statement disclosing the existence of any financial interest held by a homeowners' association, municipal utility district, or developer in the

holds in the propane gas system.

(b) A homeowners' association or municipal utility district that has jurisdiction over real property that receives service from a distribution system retailer shall provide the disclosure described by Subsection (a) to all homeowners along with a list of the homeowners' covenants and deed restrictions. The homeowners' association or municipal utility district shall post the information required to be disclosed under this subsection on the homeowners' association's or municipal utility district's website.

No equivalent provision.

propane gas system.

No equivalent provision.

(b) If a person proposes to sell or convey real property located in a propane gas system service area owned by a distribution system retailer, the person must give to the purchaser written notice as prescribed by this subsection. The notice must include a copy of the notice recorded in the real property records as required by Subsection (a), must be executed by the seller, and must read as follows: "The real property, described below, that you are about to purchase may be located in a propane gas system service area, which is authorized by law to provide propane gas service to the properties in the area pursuant to Chapter 141, Utilities Code. If your property is located in a propane gas system service area, there may be special costs or charges that you will be required to pay before you can receive propane gas service. There may be a period required to construct lines or other facilities necessary to provide propane gas service to your property. You are advised to determine if the property is in a propane gas system service area and contact the distribution system retailer to determine the cost that you will be required to pay and the period, if any, that is required to provide propane gas service to your property. "The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in the notice or at closing of purchase of the real property.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Purchaser"

No equivalent provision.

(c) Each county shall accept and record in its real property records a distribution system retailer's service map presented to the county clerk under this section if the map meets filing requirements, does not exceed 11 inches by 17 inches in size, and is accompanied by the appropriate fee. The recording required by this section must be completed not later than the later of January 1, 2014, or the 90th day after the date a distribution system retailer completes construction of a new propane gas system in the county.

SECTION 2. This Act takes effect September 1, 2013.

SECTION 2. Same as introduced version.