

By: Lucio III

H.B. No. 3857

Substitute the following for H.B. No. 3857:

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C.S.H.B. No. 3857

A BILL TO BE ENTITLED

AN ACT

relating to periodic rate adjustments by water and sewer utilities.

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

SECTION 1. Subchapter F, Chapter 13, Water Code, is amended by adding Section 13.194 to read as follows:

Sec. 13.194. RATE ADJUSTMENTS FOR INFRASTRUCTURE PROJECTS.

(a) In this section, "infrastructure improvement project" means an engineering project to construct, improve, or renovate a facility used and useful for:

(1) the production, transmission, storage, distribution, or provision of potable or recycled water to the public; or

(2) the collection, transportation, treatment, or disposal of sewage.

(b) The commission, on the petition of a water and sewer utility, may approve a tariff or rate schedule that includes an adjustable rate or charge designed to increase or decrease, without the necessity of a contested case hearing, in proportion to the utility's amount of invested capital committed to infrastructure improvement projects to serve the utility's certificated service area.

(c) To be eligible for a tariff or rate schedule under this section, or to increase or decrease an adjustable rate or charge approved as part of a tariff or rate schedule under this section, a

1 water and sewer utility, not later than the 60th day before the  
2 proposed effective date, as applicable, of the tariff or rate  
3 schedule or of the increase or decrease of the adjustable rate or  
4 charge, must file with the executive director for review and  
5 approval a written petition that contains:

6 (1) the amount of the proposed rate or charge;

7 (2) the proposed implementation date for the proposed  
8 rate or charge;

9 (3) a list of completed, eligible capital projects and  
10 the depreciation and return on investment on the projects for which  
11 the utility seeks reimbursement through the proposed rate or  
12 charge;

13 (4) a computation of the projected total annual  
14 increase or decrease in revenue expected from the proposed rate or  
15 charge; and

16 (5) the cumulative annual amount the utility expects  
17 to recover from the proposed rate or charge.

18 (d) The executive director may not approve a rate or charge  
19 that allows a water and sewer utility to recover more than five  
20 percent of the utility's annual revenue. If a water and sewer  
21 utility regionalizes or consolidates into a single tariff under  
22 Section 13.145, the executive director may not approve a rate or  
23 charge that exceeds five percent of the utility's annual revenue  
24 from the region or single tariff.

25 (e) A water and sewer utility may not implement a rate or  
26 charge or an increase in a rate or charge under this section more  
27 than once in a calendar year.

1       (f) The commission by rule shall require the water and sewer  
2 utility:

3           (1) to apply a rate or charge to each customer included  
4 in the utility's tariff or rate schedule; and

5           (2) to provide to each customer written notice of the  
6 rate or charge on the initial tariff filing that proposes to  
7 implement the rate or charge.

8       (g) A water and sewer utility may not recover expenses  
9 related to the maintenance and operation of an infrastructure  
10 improvement project through a rate or charge under this section.

11       (h) A rate or charge approved by the commission under this  
12 section is subject to a true-up or reconciliation at the water and  
13 sewer utility's next general rate case under Section 13.187.

14       (i) A water and sewer utility that has filed four petitions  
15 under this section since the utility's most recent general rate  
16 case under Section 13.187 may not file another petition until after  
17 the utility's next general rate case under that section.

18       (j) Notwithstanding any other provision of this code, the  
19 implementation of a utility facilities construction and  
20 improvement charge or an increase in a utility facilities  
21 construction and improvement charge is not subject to a contested  
22 case hearing.

23       (k) The commission shall adopt rules to implement this  
24 section.

25       (l) A regulatory authority other than the commission shall  
26 allow a water and sewer utility to use an adjustable rate or charge  
27 in a manner consistent with this section and rules adopted under

1 this section.

2           SECTION 2. The commission or regulatory authority shall  
3 adopt all rules necessary to implement Section 13.194, Water Code,  
4 as added by this Act, not later than September 1, 2015.

5           SECTION 3. This Act takes effect September 1, 2013.