

By: Anchia

H.B. No. 4561

A BILL TO BE ENTITLED

AN ACT

relating to the powers and duties of the Railroad Commission of Texas; providing an administrative penalty.

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

Subchapter A, Chapter 81, Subtitle A, Title 3, Natural Resources Code, is amended to read as follows:

Sec. 81.058. ADMINISTRATIVE PENALTY FOR CERTAIN NATURAL GAS-RELATED ACTIVITIES.

(a) The commission, after notice and opportunity for hearing, may impose an administrative penalty against a purchaser, transporter, gatherer, shipper, or seller of natural gas, a person described by Section 81.051(a) or 111.081(a), or any other entity under the jurisdiction of the commission under this code that the commission determines has:

(1) violated a commission rule adopting standards or a code of conduct for entities in the natural gas industry prohibiting unlawful discrimination; or

(2) unreasonably discriminated against a seller of natural gas in the purchase of natural gas from the seller~~[-]~~ or

(3) sold natural gas used in the production and generation of electricity intended for sale and use on the Texas electric grid at an excessive price during a declared disaster.

(b) The commission, after notice and opportunity for hearing, may impose an administrative penalty against a purchaser,

1 transporter, or gatherer of natural gas if the commission
2 determines that the person engaged in prohibited discrimination
3 against a shipper or seller of natural gas because the shipper or
4 seller filed a formal or informal complaint with the commission
5 against the person relating to the person's purchase,
6 transportation, or gathering of the gas.

7 (c) The commission, after notice and opportunity for
8 hearing, may impose an administrative penalty against a purchaser,
9 transporter, gatherer, shipper, or seller of natural gas who is a
10 party to an informal complaint resolution proceeding and is
11 determined by the commission to have:

- 12 (1) failed to participate in the proceeding; or
13 (2) failed to provide information requested by a
14 mediator in the proceeding.

15 (d) An administrative penalty imposed under this section
16 may not exceed [~~\$5,000~~] \$250,000 a day for each violation. Each day
17 a violation continues or occurs is a separate violation for
18 purposes of imposing a penalty under this section.

19 (e) If the commission determines after notice and
20 opportunity for hearing that an entity has engaged in prohibited
21 discrimination for which a penalty may be imposed under this
22 section, the commission may issue any order necessary and
23 reasonable to prevent the discrimination from continuing.

24 (f) The remedy provided by this section is cumulative of any
25 other remedy the commission may order.

26 Sec. 81.061. AUTHORITY TO ESTABLISH MARKET-BASED RATES.

27 (a) This section does not apply to rates established under

1 Chapter 103, Utilities Code, or Subchapter C or G, Chapter 104, of
2 that code.

3 (b) The commission may use a cost-of-service method or a
4 market-based rate method in setting a rate in a formal rate
5 proceeding. If the rate case is the result of a complaint filed for
6 declared disaster excessive pricing, the commission must use an
7 average market price of the three months preceding the declared
8 disaster.

9 (c) On the filing of a complaint by a shipper or seller of
10 natural gas, the commission may set a transportation or gathering
11 rate in a formal rate proceeding if the commission determines that
12 the rate is necessary to remedy unreasonable discrimination in the
13 provision of transportation or gathering services. The commission
14 may set a rate regardless of whether the transporter or gatherer is
15 classified as a utility by other law.

16 (d) On the filing of a complaint of excessive price by a
17 power generation company acting as a purchaser of natural gas and
18 registered with the Texas Public Utility Commission under
19 Substantive Rule 25.5 (54), the commission shall set a rate in a
20 formal rate proceeding if the commission determines that the rate
21 is necessary to remedy excessive pricing during a declared
22 disaster period or shortage.

23 SECTION 2. This Act takes effect immediately if it receives
24 a vote of two-thirds of all the members elected to each house, as
25 provided by Section 39, Article III, Texas Constitution. If this
26 Act does not receive the vote necessary for immediate effect, this
27 Act takes effect September 1, 2021.