

AN ACT

relating to the authority of a natural gas local distribution company to offer energy conservation programs.

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

SECTION 1. Chapter 104, Utilities Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. NATURAL GAS ENERGY CONSERVATION PROGRAMS

Sec. 104.401. DEFINITIONS. In this subchapter:

(1) "Energy conservation program" means a program that promotes energy conservation or energy efficiency.

(2) "Local distribution company" means a gas utility that operates a retail gas distribution system.

Sec. 104.402. ENERGY CONSERVATION PROGRAM AUTHORITY. (a) A local distribution company may offer to customers and prospective customers and provide to customers an energy conservation program in the manner provided by this subchapter.

(b) The railroad commission has exclusive original jurisdiction over energy conservation programs implemented by local distribution companies.

(c) A political subdivision served by a local distribution company that implements an energy conservation program approved by the railroad commission under this subchapter may not limit, restrict, or otherwise prevent an eligible customer from participating in the energy conservation program based on the type

1 or source of energy delivered to the customer.

2 Sec. 104.403. ENERGY CONSERVATION PROGRAM COST RECOVERY.

3 (a) A local distribution company may recover costs of energy
4 conservation programs implemented under this subchapter if
5 approved by the railroad commission in the manner provided by this
6 subchapter. A local distribution company seeking to recover the
7 costs must apply to the railroad commission before beginning
8 recovery of the costs and at least once every three years after the
9 date the company first applies for the cost recovery.

10 (b) If the railroad commission approves the local
11 distribution company's application or approves the application
12 with modifications, the company may recover costs prudently
13 incurred to implement the energy conservation programs, including
14 costs incurred to design, market, implement, administer, and
15 deliver an energy conservation program.

16 (c) If the local distribution company provides an earnings
17 monitoring report for the preceding calendar year demonstrating
18 that the company did not earn above the rate of return established
19 in the latest effective rates approved by the railroad commission
20 for the company, the railroad commission may allow the company to
21 recover an amount equal to the reduction in the company's marginal
22 revenues due to lower sales or demand resulting from the energy
23 conservation program.

24 (d) The railroad commission by rule shall require a local
25 distribution company that implements an energy conservation
26 program under this subchapter to submit to the railroad commission
27 an annual report on:

1 (1) the performance of the company's energy
2 conservation programs for the preceding year; and

3 (2) the company's planned energy conservation programs
4 for the upcoming year.

5 (e) An application for cost recovery under Subsection (a)
6 must include:

7 (1) a summary of and objectives for the local
8 distribution company's energy conservation programs;

9 (2) a description of each program;

10 (3) a proposed budget for each program;

11 (4) the projected consumption reduction or cost
12 savings for each program; and

13 (5) any public input compiled by the local
14 distribution company on the proposed programs as required by the
15 railroad commission.

16 (f) The railroad commission by rule may:

17 (1) determine a cost recovery mechanism for timely
18 recovery of costs described by Subsection (a); and

19 (2) ensure that costs described by Subsection (a) are
20 allocated to the customer classes eligible for participation in the
21 energy conservation program.

22 (g) Energy conservation programs proposed under this
23 section may be combined in a portfolio to provide incentives and
24 services to encourage energy conservation. The portfolio:

25 (1) must be designed to overcome barriers to the
26 adoption of energy-efficient equipment, technologies, and
27 processes and be designed to change customer behavior as necessary;

1 and

2 (2) may include measures such as:

3 (A) direct financial incentives;

4 (B) technical assistance and information,
5 including building energy performance analyses performed by the
6 local distribution company or a third party approved by the
7 company;

8 (C) discounts or rebates for products; and

9 (D) weatherization for low-income customers.

10 (h) A proceeding filed under this section is not a
11 ratemaking proceeding for the purposes of Section 103.022.

12 (i) A local distribution company implementing an energy
13 conservation program under this subchapter shall reimburse the
14 railroad commission for the utility's proportionate share of the
15 railroad commission's costs related to administration of reviewing
16 and approving or denying cost recovery applications under this
17 subchapter.

18 SECTION 2. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2023.

H.B. No. 2263

President of the Senate

Speaker of the House

I certify that H.B. No. 2263 was passed by the House on May 4, 2023, by the following vote: Yeas 140, Nays 4, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2263 on May 25, 2023, by the following vote: Yeas 120, Nays 19, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2263 was passed by the Senate, with amendments, on May 22, 2023, by the following vote: Yeas 27, Nays 4.

Secretary of the Senate

APPROVED: _____

Date

Governor