

House Bill 2263
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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 or source of energy delivered to the customer.

Sec. 104.403. ENERGY CONSERVATION PROGRAM COST RECOVERY.

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(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 or source of energy delivered to the customer.

Sec. 104.403. ENERGY CONSERVATION PROGRAM COST RECOVERY. (a) A local distribution company may recover costs of energy conservation programs implemented under this subchapter if approved by the railroad commission in the manner provided by this subchapter. A local distribution company seeking to recover the costs must apply to the railroad commission before beginning recovery of the

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(a) The railroad commission shall allow a local distribution company to recover:

(1) costs prudently incurred to implement one or more energy conservation programs, including costs incurred to design, market, implement, administer, and deliver an energy conservation program; and

(2) if the company provides an earnings monitoring report for the preceding calendar year demonstrating that the company did not earn above the rate of return established in the latest effective rates approved by the railroad commission for the company, an amount equal to the reduction in the company's marginal revenues due to lower sales or demand resulting from the energy conservation program.

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

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

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

(c) An application for cost recovery under Subsection (a) must include:

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

(2) a description of each program;

(3) a proposed budget for each program;

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costs and at least once every three years after the date the company first applies for the cost recovery.

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

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

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

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

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

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

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

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(4) the projected consumption reduction or cost savings for each program; and
(5) any public input compiled by the local distribution company on the proposed programs as required by the railroad commission.
(d) The railroad commission by rule may:
(1) determine a cost recovery mechanism for timely recovery of costs described by Subsection (a); and
(2) ensure that costs described by Subsection (a) are allocated to the customer classes eligible for participation in the energy conservation program.
(e) Energy conservation programs proposed under this section may be combined in a portfolio to provide incentives and services to encourage energy conservation. The portfolio:
(1) must be designed to overcome barriers to the adoption of energy-efficient equipment, technologies, and processes and be designed to change customer behavior as necessary; and
(2) may include measures such as:
(A) direct financial incentives;
(B) technical assistance and information, including building energy performance analyses performed by the local distribution company or a third party approved by the company;
(C) discounts or rebates for products; and
(D) weatherization for low-income customers.
(f) A proceeding filed under this section is not a ratemaking proceeding for the purposes of Section 103.022.
(g) A local distribution company implementing an energy conservation program under this subchapter shall reimburse the railroad commission for the utility's proportionate share

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(4) the projected consumption reduction or cost savings for each program; and
(5) any public input compiled by the local distribution company on the proposed programs as required by the railroad commission.
(f) The railroad commission by rule may:
(1) determine a cost recovery mechanism for timely recovery of costs described by Subsection (a); and
(2) ensure that costs described by Subsection (a) are allocated to the customer classes eligible for participation in the energy conservation program.
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of the railroad commission's costs related to administration of reviewing and approving or denying cost recovery applications under this subchapter.

(h) A local distribution company recovering costs of an energy conservation program under Subsection (a) shall apply to the railroad commission at least once every three years under this subchapter for review and approval of the company's energy conservation programs.

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

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of the railroad commission's costs related to administration of reviewing and approving or denying cost recovery applications under this subchapter.

SECTION 2. Same as House version.

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