

AN ACT

relating to test years used for ratemaking purposes by certain 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 13.1831 to read as follows:

Sec. 13.1831. TEST YEAR. A regulatory authority shall fix rates for water and sewer services for a Class A, B, C, or D utility based on a test year the utility selects that:

(1) includes historic, future, or combined historic and future data;

(2) begins on the first day of a calendar or fiscal year quarter; and

(3) is a consecutive 12-month period that:

(A) begins not later than 18 months after the date the utility files the statement of intent to change rates; and

(B) ends not earlier than 18 months before the date the utility files the statement of intent to change rates.

SECTION 2. Section 13.183(a), Water Code, is amended to read as follows:

(a) In fixing the rates for water and sewer services, the regulatory authority shall fix its overall revenues at a level that will:

(1) permit the utility a reasonable opportunity to

1 earn a reasonable return on its invested capital used and useful in
2 rendering service to the public, based on test year information,
3 over and above its reasonable and necessary operating expenses; and

4 (2) preserve the financial integrity of the utility.

5 SECTION 3. Section 13.184, Water Code, is amended by
6 amending Subsection (a) and adding Subsection (d) to read as
7 follows:

8 (a) Unless the utility commission establishes alternate
9 rate methodologies in accordance with Section 13.183(c), the
10 utility commission may not prescribe any rate that will yield more
11 than a fair return on the invested capital used and useful in
12 rendering service to the public based on test year information. The
13 governing body of a municipality exercising its original
14 jurisdiction over rates and services may use alternate ratemaking
15 methodologies established by ordinance or by utility commission
16 rule in accordance with Section 13.183(c). Unless the municipal
17 regulatory authority uses alternate ratemaking methodologies
18 established by ordinance or by utility commission rule in
19 accordance with Section 13.183(c), it may not prescribe any rate
20 that will yield more than a fair return on the invested capital used
21 and useful in rendering service to the public based on test year
22 information.

23 (d) For a utility that uses a future or combined historic
24 and future test year in a rate proceeding, if the regulatory
25 authority determines in the next rate proceeding for that utility
26 that the test year information used for the utility resulted in the
27 utility's rates yielding more than a fair return on the utility's

1 invested capital used and useful in rendering service to the
2 public, the regulatory authority shall require the utility to
3 refund to customers money collected in excess of a rate that would
4 have yielded a fair return during the period in which the excessive
5 rate was collected.

6 SECTION 4. Section 13.185, Water Code, is amended by
7 amending Subsections (b), (d), and (j) and adding Subsections (k),
8 (l), and (m) to read as follows:

9 (b) Utility rates shall be based on the original cost of
10 property used by and useful to the utility during the test year in
11 providing service, including, if necessary to the financial
12 integrity of the utility, construction work in progress at cost as
13 recorded on the books of the utility. The inclusion of construction
14 work in progress is an exceptional form of rate relief to be granted
15 only on the demonstration by the utility by clear and convincing
16 evidence that the inclusion is in the ratepayers' best interest and
17 is necessary to the financial integrity of the utility.
18 Construction work in progress may not be included in the rate base
19 for major projects under construction to the extent that those
20 projects have been inefficiently or imprudently planned or managed.
21 Original cost is the actual money cost or the actual money value of
22 any consideration paid, other than money, of the property at the
23 time it shall have been dedicated to public use, whether by the
24 utility that is the present owner or by a predecessor, less
25 depreciation. Utility property funded by explicit customer
26 agreements or customer contributions in aid of construction such as
27 surcharges may not be included in invested capital.

1 (d) Net income is the total revenues of the utility less all
2 reasonable and necessary expenses as determined by the regulatory
3 authority. The regulatory authority shall:

4 (1) base a utility's expenses on [~~historic~~] test year
5 information [~~adjusted for known and measurable changes~~], as
6 determined by utility commission rules; and

7 (2) determine expenses and revenues in a manner
8 consistent with Subsections (e) through (h) of this section.

9 (j) Depreciation expense included in the cost of service
10 includes depreciation on all [~~currently used~~] depreciable utility
11 property owned by the utility except for property provided by
12 explicit customer agreements or funded by customer contributions in
13 aid of construction. Depreciation on all [~~currently used and~~
14 ~~useful~~] developer or governmental entity contributed property
15 shall be allowed in the cost of service.

16 (k) Notwithstanding Subsection (b), the regulatory
17 authority shall allow inclusion in the rate base of facilities
18 projected to be in service through the end of the test year.

19 (l) A utility that selects a fully projected future test
20 year that meets the requirements of Section 13.1831(3)(A) shall:

21 (1) not later than the 30th day after the last day of
22 the last quarter of the test year, file with the regulatory
23 authority a statement that:

24 (A) describes the utility's actual results
25 experienced in the test year; and

26 (B) provides appropriate data to demonstrate the
27 accuracy of the estimates used for the test year; and

1 (2) serve a copy of the filing made under Subdivision
2 (1) on the parties of record in the rate proceeding in which the
3 final rate determination using the test year was entered.

4 (m) A utility that does not have the results or data
5 required to be filed under Subsection (1) before the required
6 filing date shall:

7 (1) file a written notice with the regulatory
8 authority stating the date on which the results or data will be
9 available;

10 (2) serve a copy of the filing made under Subdivision
11 (1) on the parties described by Subsection (1)(2); and

12 (3) make the filing required under Subsection (1) as
13 soon as possible after the results or data are available.

14 SECTION 5. Section 13.002(22), Water Code, is repealed.

15 SECTION 6. (a) Not later than September 1, 2026, the Public
16 Utility Commission of Texas shall adopt rules necessary to
17 implement the changes in law made by this Act.

18 (b) The changes in law made by this Act apply only to a rate
19 proceeding that commences on or after the effective date of the
20 rules described by Subsection (a) of this section. A rate
21 proceeding that commences before the effective date of the rules
22 described by Subsection (a) of this section is governed by the law
23 in effect on the date the proceeding commenced, and that law is
24 continued in effect for that purpose.

25 SECTION 7. This Act takes effect September 1, 2025.

H.B. No. 2712

President of the Senate

Speaker of the House

I certify that H.B. No. 2712 was passed by the House on May 6, 2025, by the following vote: Yeas 135, Nays 13, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2712 on May 28, 2025, by the following vote: Yeas 101, Nays 38, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2712 was passed by the Senate, with amendments, on May 23, 2025, by the following vote: Yeas 26, Nays 5.

Secretary of the Senate

APPROVED: _____

Date

Governor