TO: Chairman Christi Craddick  
Commissioner Ryan Sitton  
Commissioner Wayne Christian  

FROM: Haley Cochran, Attorney  
Office of General Counsel  

THROUGH: Alexander C. Schoch, General Counsel  

DATE: April 17, 2018  

SUBJECT: Adopt Amendments to 16 Texas Administrative Code, Chapter 7  

Attached is Commission Staff's recommendation to adopt amendments to various rules in 16 Texas Administrative Code, Chapter 7. The proposed amendments correct outdated references, correct minor typographical errors, and reflect statutory and rule changes outside of Chapter 7. The amendments include: (1) changing the title of Chapter 7 from "Gas Services Division" to "Gas Services;" (2) updating Commission division and department names; (3) correcting references to rules in Chapter 1, which was recently amended; (4) removing references to the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA) as the Commission now solely uses the Federal Energy Regulatory Commission (FERC) USOA; (4) amending §7.110 to state the Commission will maintain records in accordance with its records retention policy; and (5) amending §7.315 to reflect changes in industry accounting and the FERC USOA.

On January 23, 2018, the Commission approved publication of the proposed amendments in the Texas Register for a 30-day comment period. The Commission did not receive any comments on the proposal. Staff recommends that the Commission adopt the amendments without changes to the proposed text published in the February 9th issue of the Texas Register (42 Tex Reg 647).

cc: Wei Wang, Executive Director  
Kari French, Director, Oversight and Safety Division  
Mark Evarts, Director of Market Oversight Section, Oversight and Safety Division
The Railroad Commission of Texas (Commission) adopts amendments in Subchapter B to §§7.110, 7.115, 7.201, 7.205, 7.210, 7.220, 7.230, 7.235, 7.240, and 7.245, relating to Communications with Regulatory Authority; Definitions; Filing of Documents; Contents of Statements of Intent and Petitions for Review of Municipal Action; Increasing Residential and Commercial Rates--Statement of Intent; Environments Rates; Contents of Notice; Publication and Service of Notice; Statement of Intent to Participate; and Effective Date of Orders; in Subchapter C, §§7.301, 7.310, 7.315, and 7.351, relating to Annual Report; System of Accounts; Filing of Tariffs; and Gas Utility Pipeline Tax; in Subchapter D, §§7.455, 7.460, 7.465, 7.470, and 7.475, relating to Curtailment Standards; Suspension of Gas Utility Service Disconnection During an Extreme Weather Emergency; Abandonment; Natural Gas Bill Payment by the State or a State Agency; and Municipality Contact Information for Notice of Disconnection for Non-Payment for Non-submetered Master Metered Multifamily Properties; in Subchapter E, §7.5213, relating to Allowance for Funds Used During Construction; in Subchapter F, §§7.6001, 7.6002, and 7.6007, relating to General Provisions; Procedure for Filing and Service of an Appeal, Obligation of City to Respond, and Intervention; and Procedure for Determining and Sharing of the Commission's Costs; in Subchapter G, §7.7003 and §7.7005, relating to Administrative Penalties and Other Remedies for Discrimination; and Authority to Set Rates; and in Subchapter H, §7.7101, relating to Interim Rate Adjustments. The Commission also adopts the repeal of Subchapter I, relating to Natural Gas Pipeline Competition, including §7.7201, Natural Gas Pipeline Competition Study Advisory Committee, and proposes to change the title of Chapter 7 to "Gas Services." The amendments and the repeal are adopted without changes from the proposed text published in the February 9, 2018, issue of the Texas Register (43 Tex Reg 647).

Generally, the Commission adopts the amendments and repeal to correct outdated references, correct minor typographical errors, and reflect statutory changes and Commission rule changes outside of Chapter 7. For example, the Commission removes references to the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA), as the Commission now solely uses the Federal Energy Regulatory Commission (FERC) USOA. Relatedly, the Commission adopts amendments to §7.315, relating to Gas Utility Pipeline Tax, to reflect changes to industry accounting, specifically, changes in FERC USOA Account Numbers 483, 489, 495, 808, 809, 813, and 824. The amendments to §7.315 will not add any new taxes or disallow any current deductions.

The Commission received no comments on the proposal.

The Commission adopts the repeal under Texas Utilities Code Titles 3 and 4, which authorize the Commission to regulate gas utilities, to protect the public interest inherent in the rates and services of gas utilities, and to assure rates, operations, and services that are just and reasonable to the consumers and to the utilities. In addition, Texas Natural Resources Code §117.102 and Texas Utilities Code §121.2025
give the Commission exclusive jurisdiction to determine whether a city's annual charge is authorized;

Texas Natural Resources Code §81.052 authorizes the Commission to adopt all necessary rules for
governing and regulating persons under the jurisdiction of the Commission; Texas Utilities Code
§102.001 gives the Railroad Commission exclusive original jurisdiction over the rates and services of a
gas utility distributing natural gas or synthetic natural gas in areas outside a municipality; Texas Utilities
Code, §102.151 requires gas utilities to file schedules showing all rates for a gas utility service, product,
or commodity offered by the gas utility and each rule or regulation that relates to or affects a rate of the
gas utility or a gas utility service, product, or commodity furnished by the gas utility; Texas Utilities
Code, §104.001 vests in the Railroad Commission all the authority and power of this state to ensure
compliance with the obligations of gas utilities in Texas Utilities Code, Title 3, Subtitle A, and authorizes
the Commission to adopt rules for determining the classification of customers and services; and Texas
Utilities Code §104.301, allows a utility to file with the Commission a tariff or rate schedule that provides
for an interim adjustment in the utility's monthly customer charge or initial block rate to recover the cost
of changes in the investment in capital for gas utility service.

Statutory authority: Texas Natural Resources Code §81.052 and §117.102; Texas Utilities Code,
Titles 3 and 4, including §§102.001, 102.151, 104.001, 104.301, and 121.2025.

Cross reference to statutes: Texas Natural Resources Code Chapters 81 and 117, and Texas
Utilities Code Titles 3 and 4.

SUBCHAPTER I. NATURAL GAS PIPELINE COMPETITION

§7.7201.Natural Gas Pipeline Competition Study Advisory Committee. [REPEAL]

The Commission adopts the amendments under Texas Utilities Code Titles 3 and 4, which
authorize the Commission to regulate gas utilities, to protect the public interest inherent in the rates and
services of gas utilities, and to assure rates, operations, and services that are just and reasonable to the
consumers and to the utilities. In addition, Texas Natural Resources Code §117.102 and Texas Utilities
Code §121.2025 give the Commission exclusive jurisdiction to determine whether a city's annual charge
is authorized; Texas Natural Resources Code §81.052 authorizes the Commission to adopt all necessary
rules for governing and regulating persons under the jurisdiction of the Commission; Texas Utilities Code
§102.001 gives the Railroad Commission exclusive original jurisdiction over the rates and services of a
gas utility distributing natural gas or synthetic natural gas in areas outside a municipality; Texas Utilities
Code, §102.151 requires gas utilities to file schedules showing all rates for a gas utility service, product,
or commodity offered by the gas utility and each rule or regulation that relates to or affects a rate of the
gas utility or a gas utility service, product, or commodity furnished by the gas utility; Texas Utilities
Code, §104.001 vests in the Railroad Commission all the authority and power of this state to ensure
compliance with the obligations of gas utilities in Texas Utilities Code, Title 3, Subtitle A, and authorizes
the Commission to adopt rules for determining the classification of customers and services; and Texas
Utilities Code §104.301, allows a utility to file with the Commission a tariff or rate schedule that provides
for an interim adjustment in the utility's monthly customer charge or initial block rate to recover the cost
of changes in the investment in capital for gas utility service.
Statutory authority: Texas Natural Resources Code §81.052 and §117.102; Texas Utilities Code,
Titles 3 and 4, including §§102.001, 102.151, 104.001, 104.301, and 121.2025.
Cross reference to statutes: Texas Natural Resources Code Chapters 81 and 117, and Texas
Utilities Code Titles 3 and 4.

SUBCHAPTER B. SPECIAL PROCEDURAL RULES
§7.110. Communications [Communication by Gas Utilities] with Regulatory Authority [Members or
Employees of the Railroad Commission].

The Commission shall maintain accurate communication records in accordance with its records
retention policy.

[(a) The Commission shall maintain accurate logs of all personal contacts and telephone
communications between gas utilities or their representatives and members of the Commission or
employees of the Gas Services Division or Office of General Counsel. This log shall be available to the
public for inspection during regular office hours. This log shall contain:]
[(1) the date of the communication;]
[(2) whether the communication was by telephone or personal contact;]
[(3) the name and address of the person initiating the contact and the gas utility
represented, if applicable;]
[(4) the subject matter of the communication; and]
[(5) a statement of any action requested by a gas utility or its representative.]

[(b) The Commission shall maintain copies of all written correspondence between members of
the Commission or employees of the Gas Services Division or Office of General Counsel and gas utilities
or their representatives. These copies shall be available to the public for inspection during regular office
hours.]
[(c) The form for recording personal contacts and telephone communications is adopted for the
purpose of this section.]

[Figure: 16 TAC §7.110(d)]

§7.115. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings,
unless the context clearly indicates otherwise.
(1) Affiliate--Any affiliate as defined in Texas Utilities Code, §101.003.

(2) Allowance for funds used during construction (AFUDC) [(AFG)]--The net cost of borrowed funds for the period of construction used for construction purposes and a reasonable rate on other funds when so used until included in the rate base.

(3) Apartment house--A building or buildings containing more than five dwelling units, all of which are rented or available to be rented primarily for nontransient use, with rental paid at intervals of one week or longer. The term "apartment house" shall include residential condominiums, whether rented or owner occupied.

(4) Apartment unit--A room or rooms in an apartment house suitable for occupancy as a residence containing kitchen and bathroom facilities.

(5) Appellate jurisdiction--Exclusive jurisdiction of the Commission in those cases in which a utility perfects an appeal pursuant to Texas Utilities Code, §103.054, from the decision of a municipality.

(6) Bulletin--A Gas Services [Division] publication published twice monthly containing information [about the Division] such as notices of hearings, final orders and decisions, rules, and other information of general interest to the public. Gas Services [The Division] shall publish the bulletin on the Commission's web site and shall make a paper copy available for public inspection and copying.

(7) Commission--The Railroad Commission of Texas, including its staff or delegate.

(8) Common purchaser of gas--Every common purchaser of gas as defined in Texas Natural Resources Code, §111.081(a)(2).

(9) Construction work in progress (CWIP)--Funds expended by a gas utility which are irrevocably committed to construction projects not yet completed or placed into service.

(10) Cost of service adjustment clause--Any rate provision other than a purchased gas adjustment clause provided for in §7.5519 of this title (relating to Gas Cost Recovery), which operates to increase or decrease rates without prior consent or authority of the appropriate regulatory authority.

(11) Director--The Director of the Oversight and Safety [Gas Services] Division or the Director's delegate.

(12) Discrimination--Any material difference in rates, service, rules and regulations, or conditions of service for transportation services which unreasonably disadvantages or prejudices similarly-situated shippers.

(13) Domestic use--The use of natural gas for cooking, clothes drying, space heating, or water heating.
(14) Environ rates--Residential and commercial rates for a gas utility applicable to
natural gas sales and service in unincorporated areas adjacent to or near incorporated cities and towns,
aside from special rates as defined in this section.

(15) Gas-gathering utility--For the purposes of determining which annual report to file, a
gas utility or public utility which employs a pipeline or pipelines and ancillary facilities thereto in the first
taking or the first retaining of possession of gas produced by others which extends from any point where
such gas is produced, purchased, or received to the trunk line or main line of transportation where such
gas is sold or delivered, without regard to the size, the length, or the amount of such gas carried through
such pipeline or pipelines to the trunk line or main line of transportation, thus having as its primary
function the collecting or collecting and processing of gas produced by others as a preliminary incident to
the transportation after it has been severed from the earth by production.

(16) Gas pipeline--Any gas pipeline under the provisions of Texas Utilities Code,
Chapters 121 and 122.

(17) Gas Services [Division or Division]--A department of the Oversight and Safety
Division [The administrative subdivision] of the Commission responsible for the regulation of the natural
gas utility industry in Texas.

(18) Gas utility (utility)--Any gas utility or utility as defined in Texas Utilities Code, Title
3.

(19) Interim rate adjustment--A tariff or rate schedule that provides for an interim
adjustment in a gas utility's monthly customer charge or initial block usage rate, made pursuant to
§7.7101 of this title (relating to Interim Rate Adjustments), to recover the cost of changes in the utility's
invested capital and related expenses and revenues, for providing gas utility service. An interim rate
adjustment can be either an initial tariff or rate schedule or an annual adjustment to an existing interim
rate adjustment tariff or rate schedule.

(20) Local distribution company--An entity that operates a retail gas distribution system.

(21) Lost and unaccounted for gas--The difference between the amount of gas metered
into a distribution or transmission system and the amount metered out.

(22) Lost gas--The amount of gas which physically escapes into the ground or
atmosphere from a distribution or transmission system, except for that gas which escapes as a part of an
intentional testing procedure or purging operation performed during maintenance or construction
activities.

(23) Master meter--A single large volume gas measurement device by which gas is
metered and sold to a single purchaser who distributes the gas to one or more additional persons
downstream from that meter.
(24) Mobile home--A structure, transportable in one or more sections, which is eight
body feet or more in width and is 32 body feet or more in length, and which is built on a permanent
chassis and designed to be used as a dwelling with or without a permanent foundation when connected to
the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems
contained therein.

(25) Mobile home or apartment resident--An occupant of a mobile home in a mobile
home park or an occupant in an apartment house or apartment unit who is responsible for rent payments
[the payment rentals] and who receives gas through a submeter.

(26) Municipality--A city, incorporated village, or town, existing, created, or organized
under the general, home-rule, or special laws of the state.

(27) Person--Has the same meaning as the definition in Texas Utilities Code,
§101.003(10).

(28) Preference--Any material difference in rates, service, rules and regulations,
conditions of service, or the dissemination or providing of information concerning transportation services
which unreasonably advantages or favors similarly-situated shippers.

(29) Rate case--A statement of intent to increase rates filed at the Commission pursuant
to Texas Utilities Code, §104.102.

(30) Qualifying offer--An offer to convert all of the residential or commercial customers'
gas burning facilities to the lowest cost available alternative energy source, including, at a minimum, a
single tank of normal size for the customer's premises filled once with any liquid alternative energy
source. At the customer's election, the qualifying offer shall be the cash equivalent of the cost of
conversion to the lowest cost available alternative energy source.

(31) Shipper--Any person or corporation for which a transporter is currently providing,
has provided, or has pending a written request to provide transportation services.

(32) Similarly-situated shipper--Any shipper that seeks or receives transportation services
under the same or substantially the same, physical, regulatory, and economic conditions of service as any
other shipper of a transporter. In determining whether conditions of service are the same or substantially
the same, the Commission shall evaluate the significance of relevant conditions, including, but not limited
to, the following:

(A) service requirements;

(B) location of facilities;

(C) receipt and delivery points;

(D) length of haul;

(E) quality of service (firm, interruptible, etc.);
(F) quantity;
(G) swing requirements;
(H) credit worthiness;
(I) gas quality;
(J) pressure (including inlet or line pressure);
(K) duration of service;
(L) connect requirements; and
(M) conditions and circumstances existing at the time of agreement or
negotiation.

(33) Special rates—Residential and commercial rates for a gas utility applicable to natural
gas sales and service established pursuant to Commission orders applicable only to service by a given
utility within a specified area and not specifically keyed to the rates charged in any incorporated area.

(34) Submeter—A single gas measurement device by which gas is metered to a mobile
home unit, apartment house, or apartment unit downstream of a master meter.

(35) Transportation service—The receipt of a shipper's gas at a point or points on the
facilities of a transporter, and redelivery of a shipper's gas by the transporter at another point or points on
the facilities of the transporter, including exchange, backhaul, displacement, and other methods of
transportation, provided, however, that the term "transportation service" shall not include processing
services or the movement of gas to which the transporter has title.

(36) Transporter—Any common purchaser of gas, gas utility, or gas pipeline that provides
gas gathering and/or transmission transportation service for a fee.

(37) Unaccounted for gas—Lost and unaccounted for gas less lost gas.

§7.201. Filing of Documents.

(a) A person intending to initiate a proceeding before the Commission shall file two copies of
such pleadings with the Director.

(b) A person filing pleadings or documents other than those initiating a proceeding shall file two
copies. In cases in which a legal examiner [or SOAH ALJ] has not been assigned, the pleadings are to be
filed with [the] Gas Services Division. In those cases in which a legal examiner [or SOAH ALJ] has
been assigned, the pleadings are to be filed with the Docket Services Section in accordance with §1.22 of
this title, relating to Filings with the Hearings Division. [Office of General Counsel. At the discretion of
the hearings examiner, the person may file these pleadings or documents by facsimile transmission.] If a
person files a copy of a signed original, the person or the person’s authorized representative shall maintain
the signed original for examination by the Commission, the examiner, the Director, or any party to the
proceedings.

(c) The mailing address of the Gas Services Division and the Docket Services Section Office of General Counsel is: Railroad Commission of Texas, P.O. Box 12967, 1701 North Congress Avenue, Austin, Texas 78711-2967. The regular office hours of the Commission are 8:00 a.m. to 5:00 p.m., Monday through Friday. Offices are closed on Saturdays and Sundays and on certain state-observed holidays.


(a) Contents. In addition to the information required in §1.32 [§1-25] of this title (relating to Form and Content of Pleadings), and any necessary additional information required by the Commission to evaluate the filing, all statements of intent to increase rates and petitions for review of action by municipality shall contain the following:

(1) the proposed revisions of rates and schedules;
(2) a statement specifying in detail each proposed change;
(3) the effect the proposed change is expected to have on the revenues of the applicant; and
(4) the classes and numbers of utility customers affected.

(b) Petitions for review. Any utility filing a petition for review appealing the decision of the governing body of a municipality to the Commission shall file its direct evidence to support its proposed rate increase, including those items required pursuant to §7.501 of this title (relating to Certain Matters to be Submitted in Rate Hearings), and prepared testimony of all of its witnesses and exhibits with the Director on the same date it files its petition for review.

(c) Compliance. The Commission may reject any filing which does not substantially comply with the requirements of this section at the time of filing or a reasonable time therefrom. The Commission shall not consider a statement of intent or petition for review of action by a municipality to be properly filed until all items listed in subsection (a) of this section have been filed with the Director.


(a) Contents. In addition to the information required in §7.205 of this title (relating to Contents of Statements of Intent and Petitions for Review of Municipal Action), the following information shall be included in each statement of intent to increase residential and commercial rates within the original jurisdiction of the Commission:
(1) a statement as to whether the proposed rates will or will not exceed 115% of the
average of all rates for similar services of all municipalities served by the same utility within the same
county;

(2) a statement as to whether the proposed change will or will not result in a "major
change," as that term is defined in Texas Utilities Code, §104.101.

(b) Requirement of additional information for cost of service increases in adjacent municipalities.
If the utility proposes a rate for residential and commercial rates within the original jurisdiction of the
Commission that is the same rate as the rate in effect in the nearest incorporated area in Texas served by
the same utility, and the rate change in the municipality is the result of a cost of service adjustment clause
as defined in §7.115 [§7.115(9)] of this title (relating to Definitions), the gas utility shall file with the
Director, in addition to the information listed in subsection (a) of this section, the following information:

(1) all calculations used to derive the cost of service adjustment;

(2) the effect of the proposed rates on each affected customer class; and

(3) a copy of the cost of service adjustment clause in effect in the adjacent municipality.

§7.220. Environ Rates.

(a) Levels of environ rates.

(1) The environ rates may be the same rates as those in effect in the nearest incorporated
area in Texas served by the same utility where gas is obtained from at least one common pipeline supplier
or transmission system. The Commission, on application by a utility, on complaint by any affected
person, or on its own motion may review the rate in or boundaries of a given environ area and may
consent to or order an adjustment where appropriate.

(2) In addition to the definition of environ rates in §7.115 [§7.115(13)] of this title
(relating to Definitions), environ rates shall include any quality of service rules adopted by the
Commission in subchapter D of this chapter (relating to Customer Service and Protection). Such quality
of service rules shall apply to environ areas and become part of environ rates regardless of whether the
same quality of service rules are in effect in the related incorporated areas.

(b) Rate increases for environ rates. Rate increases in environ shall be made in accordance with
the following procedures.

(1) The gas utility shall file a statement of intent and shall give notice as required under
Texas Utilities Code, §§104.103, §§104.102, and §7.210 of this title (relating to Increasing Residential and
Commercial Rates--Statement of Intent), and §7.230 of this title (relating to Contents of Notice). In
addition, when environ rates are to be increased at the same time and to the same extent as the related
incorporated area (city) rate and the proposed change does not constitute a "major change," the statement
of intent to increase such environs rates shall include (in completed form) the following statement: "This
is a Statement of Intent to increase environs rates for the unincorporated areas in the vicinity of
______________, and contains rates identical with and to become effective upon the same date as
rates contained in a similar Statement of Intent filed on or about this date by this utility with said city.
This Statement of Intent is intended to produce the same residential and commercial rates as finally
approved for the City of ________________ and applies to the rates set out herein or any lower rates
finally approved for the City of _________________. Any rate changes pursuant to this Statement of
Inten will not become effective until identical changes have become effective within the City of
______________." All rate schedules filed with the environs Statement of Intent shall bear the
following statement: "Effective on the latter of ________________ or such other date as new
rates become effective in the City of ________________.

(2) The utility shall give notice of the filing of a statement of intent to increase environs
rates as required by §7.235 of this title (relating to Publication and Service of Notice).

(3) Upon request and a showing of good cause by the utility, the environs rates may
become effective upon the same date as the rates became effective in the municipality pursuant to Texas
Utilities Code, §104.104. Environ rates shall not become effective any earlier than the filing date of the
statement of intent to increase rates with the Director. If a utility appeals the rate to the Commission, and
the Commission establishes rates the same as or less than those in the environs statement of intent, the
rates established by the Commission in the city may become simultaneously effective in the environs
area. If the Commission dismisses that appeal, any rates which have been established in the city may
become effective in the environs area at the time of dismissal, provided that the rates established in the
city are the same as or less than those in the environs statement of intent.

(4) No later than 60 days from the date of filing an environs statement of intent, the utility
shall furnish a copy to the Commission of any action taken by the city with respect to the related
statement of intent, the form of written notice mailed to affected environs area customers, and an affidavit
of publication from the newspaper in which notice by publication was made, or an affidavit stating the
manner in which notice was otherwise given pursuant to Texas Utilities Code, §104.103.

(c) Rate changes proposed pursuant to cost of service adjustment clause. The Commission shall
review, on a cost of service basis, an increase in an environs rate that the utility proposes pursuant to a
cost of service adjustment clause, as defined in §7.115 (§7.115(9)) of this title (relating to Definitions).
The cost of service adjustment clause in effect in the adjacent municipality shall not be applicable or put
into effect for the affected environs area, although the utility may request the same rates that are in effect
in the adjacent municipality for the environs area. The Commission may review the proposed rate
increases pursuant to these clauses on an informal basis and will not schedule a formal hearing unless a
complaint is received pursuant to subsection (b)(4) of this section or the Commission elects to conduct a
formal hearing.

(d) Other rate changes. This section shall not apply to major rate changes or to changes in special
rates.

§7.230. Contents of Notice.

(a) Rate setting notice. In all proceedings involving rate setting, the gas utility's notice shall
include the following information:

(1) the proposed revision of rates and schedules;
(2) a statement specifying in detail each proposed change;
(3) the effect the proposed change is expected to have on the revenues of the company;
(4) the classes and numbers of utility customers affected; and
(5) any other information required by the Commission.

(b) Environs notice. In addition to the information required in subsection (a) of this section, in all
proceedings involving statements of intent to change environs rates, as that term is defined in §7.115
of this title (relating to Definitions), the gas utility's notice shall also include:
(1) the date of the filing of the statement of intent;
(2) a statement as to whether or not the proposed rates constitute a "major change";
(3) a statement that the proposed change in rates will not become effective until similar
changes have become effective within the nearest incorporated city if the rates are sought to be at the
same level as the city rates;
(4) the location where information concerning the proposed change may be obtained; and
(5) a statement that any affected person may file in writing comments or a protest
concerning the proposed change in the environs rates with the Docket Services Section of the Hearings
Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967, at any time within
30 days following the date on which the change would or has become effective.

(c) A gas utility may provide notice by electronic transmission (e-mail) to each directly affected
customer, only if:

(1) the affected customer has previously consented in writing that the utility may notify
the customer of proposed rate increases by e-mail, and has been informed that this consent may be
withdrawn; and
(2) the affected customer has made an e-mail address available to the utility. An e-mail
address is considered to be available if it was used for billing purposes by the utility within 60 days of the
date the notice of the proposed increase is issued.
(d) In the event that the utility becomes aware that notice by e-mail has failed, the utility must provide notice to the affected customer by mail within 30 days of the date notice of the proposed increase is issued.

(e) If the gas utility gives notice by e-mail under the provisions of Texas Utilities Code, §104.103, the subject heading of the e-mail shall include, in large font, "Notice of Proposed Rate Increase" and such notice shall be printed in type large enough for easy reading and shall be the only information contained in the body of that e-mail.

(f) If the gas utility gives notice by mail under the provisions of Texas Utilities Code, §104.103, such notice shall be printed in type large enough for easy reading and shall be the only information contained on the piece of paper on which it is written. A gas utility may give the notice required under either subsection (a) or (b) of this section by mailing or otherwise delivering the notice with its billing statements.

§7.235. Publication and Service of Notice.

(a) Rate setting proceedings.

(1) Notice. In all rate proceedings, notice shall be given in the following ways.

(A) The Commission shall publish the notice of hearing in the next Bulletin published after the date of issuance of the notice of hearing.

(B) The gas utility shall give notice in accordance with §1.42 (§1.45) of this title (relating to Notice of Hearing [in Non-rulemaking Proceedings]) and, when applicable, §1.45 (§1.48) of this title (relating to Service in Protested Contested Cases).

(C) The gas utility shall give notice in all rate proceedings as required under Texas Utilities Code, §104.103.

(D) The Hearings Division [Office of General Counsel] may also require that a gas utility mail or deliver notice to other affected persons or agencies.

(2) Commission's appellate jurisdiction. In addition to the types of notice required in paragraph (1) of this subsection, a gas utility shall also give notice in rate proceedings involving only the Commission's appellate jurisdiction by serving all parties in the original rate proceeding and the affected municipality with a copy of the petition for review on the same date the utility files the petition for review with the Commission. If any person or entity intervenes, the utility shall furnish a copy of its direct evidence and prepared testimony filed with the Director to the intervenor within five days from the date the motion to intervene is granted.

(3) City gate rates. In addition to the types of notice required in paragraph (1) of this subsection, a gas utility shall also give notice in rate proceedings involving city gate rates by serving all
directly affected customers with a copy of the statement of intent on the same date the gas utility files the
statement of intent with the Commission. If any person or entity intervenes, the utility shall furnish a copy
of its direct evidence and prepared testimony filed with the Director to the intervenor within five days
from the date the motion to intervene is granted.

[(b) Rulemaking proceedings. In rulemaking proceedings, notice shall be given in the following
ways.]

[(1) The Commission shall give notice in accordance with §1.42 of this title (relating to
Notice of Rulemaking Proceedings).]

[(2) The Office of General Counsel shall mail notice to all persons who have made timely
written requests of the Commission for advance notice of its rulemaking proceedings.]}

[(3) The Commission shall publish the notice of hearing in the next Bulletin published
after the date of issuance of the notice of hearing.]}

[(4) The Office of General Counsel may require the applicant to mail or deliver notice to
other affected persons or agencies.]

(b) [(e)] Proceedings other than rate setting [or rulemaking] proceedings. In proceedings other
than rate setting [or rulemaking], notice shall be given in the following ways.

(1) The Commission shall publish the notice of hearing in the next Bulletin published
after the date of issuance of the notice of hearing.

(2) The Commission [Office of General Counsel] may require the applicant to mail or
deliver notice to other affected persons or agencies.


If the Hearings Division [Office of General Counsel] receives a letter or other communication
from an affected person concerning a statement of intent filed pursuant to Texas Utilities Code, §104.102
§104.105], the Hearings Division [Office of General Counsel] shall, within a reasonable time thereafter,
forward to such affected person a form for filing a complaint and statement of intent to participate. The
affected person shall complete the complaint and statement of intent to participate form and shall include
the complainant's name, address, the utility and the rate increase that is the subject of the complaint, how
the affected person will be impacted by the proposed rate increase, and a statement that the complainant
or an authorized representative shall appear and participate through the presentation of evidence and
arguments if a hearing is held to consider the rate increase. The affected person shall properly complete
and return the complaint and statement of intent to participate form to the Hearings Division [Office of
General Counsel] within 14 days after the mailing by the Hearings Division [Office of General Counsel],
or the Commission shall not consider it to be a properly filed complaint pursuant to Texas Utilities Code,
§104.105. If the initial complaint is received before the deadline in Texas Utilities Code, §104.105, and
the complaint and statement of intent to participate form is received after that date but in a timely manner
pursuant to this rule, the form shall be deemed to be filed as of the date of the filing of the original
complaint.

§7.245. Effective Date of Orders.
(a) In rate proceedings under the Commission's original jurisdiction, rates set by the Commission
are prospective only and are observed from the date of the applicable Commission order.
(b) In municipal rate appeals, the Commission shall enter a final order establishing rates the
Commission determines the municipality should have set in the ordinance to which the appeal applies.
Rates set by the Commission are prospective only and are observed from the date of the applicable
Commission order, except as specifically provided under Texas Utilities Code, §103.056 [403.056]. If the
Commission fails to enter a final order within 185 days after the date the appeal is perfected, the rates
proposed by the gas utility are considered to be approved by the Commission and take effect on the
expiration of the 185-day period.

SUBCHAPTER C. RECORDS AND REPORTS; TARIFFS; GAS UTILITY TAX
(a) Each gas utility, public utility, or utility under the jurisdiction of the Commission shall file
with the Commission each year a gathering, transmission, or distribution annual report showing that
information required by the Commission to enable it to properly regulate natural gas utilities within the
state. The annual report shall be made on a form approved by [the] Gas Services [Division], printed or
otherwise made available to all gas utilities by Gas Services [the Division]. The annual report shall be
made on a calendar year basis with the reports being due no later than April 1 of each calendar year for
the preceding calendar year. The annual report shall be filed with [the] Gas Services [Division].
(b) All intrastate gas utilities shall file either a gathering, transmission or distribution annual
report with [the] Gas Services [Division of the Commission]. Gas gathering utilities, as defined in
subsection (c) of this section, shall file the Gathering Annual Report. The Transmission Annual Report
shall be filed by those gas utilities that do not meet the definition of a gas gathering utility and are not
engaged in the distribution of natural gas to residential and commercial end users. The Distribution
Annual Report shall be filed by those gas utilities that are engaged in the retail distribution of gas to end
users.
(c) For the purpose of determining which annual report to file, a "gas gathering utility" shall be
defined as a gas utility or public utility which employs a pipeline or pipelines and ancillary facilities
thereto in the first taking or the first retaining of possession of gas produced by others which extends from
any point where such gas is produced, purchased, or received to the trunk line or main line of
transportation where such gas is sold or delivered, without regard to the size, the length, or the amount of
such gas carried through such pipeline or pipelines to the trunk line or main line of transportation, thus
having as its primary function the collecting or collecting and processing of gas produced by others as a
preliminary incident to the transportation after it has been severed from the earth by production.
(d) Any utility under the regulation of the Federal Energy Regulatory Commission (FERC) which
alleges that it makes no intrastate sales and engages in no intrastate transportation may file a copy of its
FERC Form 2 or such other annual report as may be required by that agency in lieu of the annual report
form prescribed by this section. The utility shall include an affidavit that the utility makes no intrastate
sales and engages in no intrastate transportation and shall provide any other information required by Gas
Services [the Division]. If, upon examination, [the] Gas Services [Division] determines that a utility filing
under this section should properly have filed an annual report on the form prescribed by Gas Services,
Gas Services [the Division, the Division] shall notify the utility in writing and the utility shall file the
appropriate report within 30 days.
(e) The definition of the "gas gathering utility" system described herein shall apply regardless of
whether a gas plant is located on the pipeline or pipelines comprising a gas gathering utility system and
regardless of ownership of any such gas plant.
(f) In determining whether a utility meets the definition of gas gathering utility in subsection (c)
of this section, the Commission shall determine if the primary function of the pipeline or pipelines is
gathering rather than relying solely on the configuration or location of the facilities comprising the
system.
(g) This section is made to comply with the orders issued in Gas Utilities Docket Numbers 1, 2, 5,
and 6, which orders are hereby incorporated into this section.
(h) If a gas utility is unable to meet the deadline for filing an annual report, the utility may request
an extension of time to file. The utility shall make such a request in writing filed with Gas Services [the
Division], and shall state the reason or reasons the utility cannot meet the filing deadline [dead line] and
the date by which the utility will file the annual report. Gas Services [The Division] will notify the utility
of the new deadline [dead line], as approved.

(a) Except as provided in this section, each gas utility, as defined in §7.115 of this title (relating to
Definitions), shall utilize the Federal Energy Regulatory Commission's (FERC) Uniform System of
Accounts (USOA) prescribed for Natural Gas Companies subject to the Provisions of the Natural Gas Act
Railroad Commission of Texas
16 TAC Chapter 7--Gas Services

(as amended from time to time) [(FERC USOA)] for all operating and reporting purposes. Gas-gathering utilities, as defined in §7.115 of this title (relating to Definitions), shall not be required to operate under the FERC USOA, but shall be required to report under those accounts for annual report and gas utility tax purposes pursuant to §7.301 of this title (relating to Annual Report) and §7.351 of this title (relating to Gas Utility Tax). The FERC USOA [Uniform System of Accounts] shall be applicable to all gas utility and gas utility related operations regardless of location, except those gas-gathering utilities as defined in this chapter.

(b) As provided in General Instruction 3.C. of the FERC USOA, a gas utility may use a different system of account numbers than those prescribed by the FERC USOA if the gas utility maintains a readily available cross-reference between its account numbers and the prescribed account numbers. The contents of each account, however, must conform to the account definitions set forth in the USOA.

[(c) Any utility currently using the NARUC USOA shall maintain a readily accessible cross-reference system between the NARUC USOA and the FERC USOA for calendar year 2002 reporting purposes. Every gas utility subject to this provision shall transition to the FERC Uniform System of Accounts not later than January 1, 2004. Any gas utility needing additional transition time may request an extension to the January 1, 2004, date by submitting a request in writing stating the reasons why an extension is needed and establishing a date for completion of the transition.]

§7.315. Filing of Tariffs.

(a) Filing requirements for all tariffs. Each gas utility shall file with the Commission through the Commission's web site using an electronic format as prescribed by the Commission and the instructions contained in the Electronic Data Interchange (EDI) manual on the Commission's web site a tariff complying with minimum requirements as defined in subsections (c) and (d) of this section for all rates which are within the original or appellate jurisdiction of the Commission and which are currently in force for any gas utility service, product, or commodity. If the rate charged is based on a formula or requires a calculation to determine the unit rate to be charged, the utility shall, in the tariff filing, identify and report all components used in the calculation of the unit rate, including each component of the cost of gas. Each utility providing gas distribution system service or sales shall file, as part of the rates, copies of all rules and regulations relating to or affecting rates, utility service, products, or commodities furnished by the gas utility. Electronic filing instructions may be obtained on the Gas Services page of the Commission's web site.

(b) Filing requirements for changes in rates or services. Whenever there is a change in any of the matters required to be filed by subsection (a) of this section, the utility shall file revised tariffs containing the minimum requirements as defined in subsections (c) and (d) of this section. If the rate charged is
adjusted pursuant to an escalation provision or formula, the utility shall file an amended tariff that shows
the current rate charged, including the unit of measure and the effective date. The utility shall file revised
tariffs with [the] Gas Services [Division] within 30 days of the effective date of the change.
(c) Contents of tariffs. Each tariff filed at the Commission shall contain the following:
(1) the utility name;
(2) the full name of the customer or city, area, or environs that will be affected by the
tariff. If the utility is requesting confidentiality for customer names, the utility shall report only the
customer identification number assigned by [the] Gas Services [Division]. If a utility does not already
have a customer identification number for a tariff, the utility shall notify [the] Gas Services [Division]
prior to filing the tariff. [The] Gas Services [Division] shall assign a customer identification number or
numbers and shall notify the utility of the assigned customer identification number or numbers prior to
the utility filing the tariff;
(3) the utility contract number or rate schedule number;
(4) a list of the services the utility provides under the tariff. Service includes but is not
limited to residential sales, commercial sales, industrial sales, sales to public authority, electric generation
sales, gathering, transportation, compression, exchange, underground storage, sales for resale, city gate
sales, and other. If the utility identifies the type of service as "other," the utility shall describe the service
or services it offers under the tariff;
(5) the effective date of the rate schedule (GSD-1) or the effective date of the original
contract or agreement (GSD-2);
(6) the effective date of the most recent amendment to the contract, rate schedule, or
agreement;
(7) the current rate. The utility shall state the billing unit (such as Mcf, MMBtu, Cf, etc.);
shall list all charges that may apply under the contract or agreement; shall describe all components used in
the calculation of the current rate including but not limited to standby charges, reservation fees, imbalance
provisions and charges, penalties, treating provisions, taxes, pooling fees, etc.; and shall state the effective
date. A statement on the rate schedule that a particular rate includes certain provisions, without restating
all the details or contingencies of the contract, is sufficient. If the rate the utility charges is based on a
formula or requires a calculation to determine the unit rate to be charged, the utility shall identify in the
tariff all components used in the calculation of the unit rate, including each component of the cost of gas;
(8) all rate adjustment provisions;
(9) the reason or reasons for filing. The utility shall state whether the filing:
(A) commemorates a new contract or agreement;
(B) is made in compliance with a Commission order, in which case the filing
shall include the Commission docket number;

(C) is made in compliance with a city ordinance, in which case the filing shall
include the city ordinance number or reference;

(D) amends an existing tariff; or

(E) is made for any other reason, in which case the utility shall provide an
explanation; and

(10) the names, titles, addresses, telephone numbers and, if available, the electronic mail
addresses of all persons who will respond to inquiries regarding tariff provisions.

(d) Additional requirements for specific types of tariffs. In addition to the information required by
subsection (a) of this section, the utility shall also provide the following information, as applicable:

(1) For a gas utility distribution system service or sale, the utility shall file on GSD-1:

(A) all rate schedules. The utility shall include on these schedules the base rates
and all adjustments to the base rates, including but not limited to late payment charges, gas cost
adjustments, purchased gas adjustments, prompt payment provisions, franchise fees, authorized rate case
expense surcharges, and weather normalization adjustments. The utility shall file every rate schedule
applicable to the service area as part of the tariff, including any seasonal rates or special rates; and

(B) the current service charges in the city, environs, or other area affected by the
tariff filing, in sufficient detail to enable customers to determine the applicability of each service charge.

The utility shall include all service charges that may be assessed in the city, environs, or other area
affected by the tariff filing, including, but not limited to, residential customer deposits, line extension
policies and charges, meter testing charges, return check charges, initial connection charges, and
reconnection charges.

(2) For transportation and exchange service or rates, the utility shall file on GSD-2:

(A) the customer name or customer identification number assigned by [the] Gas
Services [Division] for which the utility is delivering gas;

(B) the contractual point or points of redelivery or customer identification
number as established by [the] Gas Services [Division];

(C) the information required by paragraph (4) of this subsection, if applicable;

(3) For utility service or sales, other than distribution system service or sales described in
subsection (c) of this section, or for transportation and exchange service or rates, the utility shall file on
GSD-2:
(A) the term of the contract. The utility shall provide the term specified in the
class, If the contract continues until canceled by either party, the utility may state that the contract is
"evergreen" or other similar language as appropriate;
(B) the contractual point or points of redelivery or customer identification
number as established by [the] Gas Services [Division]; and
(C) the information required by paragraph (4) of this subsection, if applicable.
(4) For a tariff reflecting a transaction described in Texas Utilities Code, §104.003(b), the
utility shall:
(A) indicate which facts support the applicability of Texas Utilities Code,
§104.003(b), to the transaction;
(B) indicate whether the transaction is between affiliates; and
(C) affirm that a true and correct copy of the tariff has been delivered to the
customer simultaneously with delivery to the Commission and that the transaction is not a direct sale for
resale to a gas distribution utility at a city gate.
(e) Compliance. Each tariff filing shall be subject to review by [the] Gas Services [Division]. If
[the] Gas Services [Division] takes no action on a tariff filing on or before the 30th day after the filing is
filed, the tariff is deemed accepted. If a tariff filing is deficient, [the-] Gas Services [Division] will notify
the utility of the item or items that must be corrected. The utility shall have a reasonable time, not less
than 30 days, from the date of Gas Services [the Services Division’s] notice of deficiency to make the
required corrections and re-file the tariff. At the written request of the utility, [the] Gas Services
[Division] may accept a rejected tariff as a statement of intent under Texas Utilities Code, §104.102.
[The] Gas Services [Division] may docket a tariff or rate schedule filing on its own motion under Texas
Utilities Code, §104.151, in circumstances that include but are not limited to a utility filing a tariff for an
initial rate which on its face is not just and reasonable; filing a tariff for higher environs rates based on
city rates without filing a statement of intent to increase rates for the environs; filing a tariff to increase a
city rate without filing a statement of intent; or filing tariffs containing provisions other than rates
that have substantive service rule changes that have not been reviewed.
(f) Electronic format. Each utility shall comply with this section by filing or refiling all current
tariffs with the Commission through the Commission’s web site using an electronic format as prescribed
by the Commission and the instructions available [contained in the Electronic Data Interchange (EDI)
manual] on the Commission’s web site. [Electronic tariffs filed under this subsection shall not contain any
substantive changes to currently approved tariffs on file with the Commission.]
(4) Utilities providing natural gas service to residential, commercial and industrial customers in a distribution capacity as of the effective date of this section shall file or refile by June 28, 2002.

(2) All other natural gas utilities selling or transporting natural gas as of the effective date of this section shall file or refile according to the following schedule:

[(A)] Utilities with names beginning with the letters A-M shall submit electronic filings no later than August 30, 2002; and

[(B)] Utilities with names beginning with the letters N-Z shall submit electronic filings no later than September 30, 2002.

(2) A utility may request a good cause extension of the deadline to which it is subject. The request for extension shall be in writing and shall:

[(A)] be signed by an officer of the utility company;

[(B)] include a detailed explanation of the reason for the delay;

[(C)] include a proposed date by which the utility will have filed all tariffs in electronic format; and

[(D)] be filed no later than 30 days before the deadline to which the utility is subject.

(4) The Commission may grant an extension as requested; may grant an extension for less time than requested; or may deny a requested extension. If the Commission grants a utility an extension, the Commission may require the utility to file or refile a hard copy of its current tariffs using the tariff forms prescribed by the Commission.

(5) The Commission shall not grant exemptions from the requirement that utilities shall file their tariffs in electronic format. Temporary or technical problems with the Commission's web site or with the Internet that prevent a utility from making a timely electronic filing shall not constitute the utility's failure to comply with this section.


(a) Tax imposed. Every gas utility as described in Texas Utilities Code, §122.001(1), shall report and pay a gas utility tax as required by Texas Utilities Code, Chapter 122. The gas utility tax is imposed on the gross income received from all activity performed by the gas utility in Texas pursuant to Texas Utilities Code, §121.001(a)(2). The rate of the tax is one-half of 1.0% of the gross income subject to the tax.

(b) Tax payment. Each gas utility subject to this tax shall report and pay the tax imposed to the Commission by February 20, May 20, August 20, and November 20 of a year for the preceding calendar
quarter. The gas utility tax report shall be of a form and content as established by the Commission and shall be properly completed. [The payment shall be made payable as directed by the Director.] The Commission shall consider a gas utility tax report and payment timely filed if it is received by [the] Gas Services Division on or before the applicable date or is sent to Gas Services (the Division) by first-class United States mail in an envelope or wrapper properly addressed and stamped and postmarked before the deadline and received not more than 10 days later. A legible postmark affixed by the United States Postal Service shall be prima facie evidence of the date of mailing.

(c) Gross income and gross receipts.

(1) Gross income shall be equal to the total gross receipts from any activity described in Texas Utilities Code, §121.001(a)(2) (§122.001(2)), other than an activity excluded by Texas Utilities Code Chapter 121 from the activities that make a person a gas utility for purposes of that chapter, less a deduction of the costs paid to another person by the gas utility for purchasing, treating, or storing natural gas or for gathering or transporting natural gas to the facilities of the gas utility. Treating shall be any process designed to make gas of pipeline quality.

(2) Gross receipts shall be equal to the total revenue received from the sale and/or transportation of gas. Revenue from residential sales, commercial and industrial sales, other sales to public authorities, sales for resale, interdepartmental sales, [and] revenues from transportation of gas of others, revenues from storing gas of others, other gas revenues as they relate to natural gas sales, transportation, and/or treating revenues related to transportation (corresponding to Account Numbers 480, 481, 482, 483, 484, 489.1 through 489.4, and 495 and 489) of the Federal Energy Regulatory Commission (FERC) [National Association of Regulatory Utility Commissioners (NARUC)] uniform system of accounts [as they existed on January 16, 1991]), as well as any other applicable revenue items determined by the Commission, shall be subject to the gas utility tax. A distribution gas utility performing transportation for a fee (Account Number 489.3) and/or making sales for resale (Account Number 483) shall be subject to tax on those receipts. [If a gas utility that engages in both transmission and distribution of natural gas makes an allocation of costs to the transmission function which is approved by the Commission, then no additional gas utility tax shall be paid on costs allocated to the distribution function. If no such allocation is made, then such gas utility shall be required to pay gas utility tax on sales to end-use customers. A properly authorized rate order shall be deemed to constitute a sufficient allocation of transmission costs.]

(d) Nontaxable receipts. The following revenues shall not be included in the computation of taxable gross income [receipts]:

(1) revenues received from first sales of gas by a producer thereof exclusively. If the sale by a producer of gas includes both produced and purchased gas, then the total revenues from the sale of
produced gas shall be exempt from the gas utility tax. However, the total revenues from the sale of
purchased gas shall be subject to the tax;

(2) revenues received from burnertip sales by a gas utility engaged solely in retail gas
distribution;

(3) revenues derived from transporting, delivering, selling, or otherwise making available
natural gas for fuel, either directly or indirectly, to irrigation wells or from the sale, transportation, or
delivery of natural gas for any other direct use in agricultural activities;

(4) revenues received from interstate transactions or sales of gas which are subject to the
jurisdiction of FERC [the Federal Energy Regulatory Commission] under the provisions of the Natural
§3301 et seq.; or

(5) revenues received from brokerage or off-system sales.

c) Deductions. To determine taxable gross income, deductions from gross receipts for certain
costs incurred are allowed. Deductions may be used to reduce current tax liability to zero. Current
deductions may not be carried forward and deducted from gross receipts in the next quarter. Allowable
deductions shall be those costs paid to another person associated with [gas processed by others,] natural
gas wellhead purchases, natural gas field line purchases, natural gas gasoline plant outlet purchases,
natural gas city gate purchases, exchange gas, purchased gas expenses, underground storage expenses,
and the transmission and compression of gas by others (corresponding to FERC [NARUC] Account
Numbers [777,] 800, 801, 802, 803, 804, 806, 807, 813, [824,] and 858 [as they existed on January 16,
1991]), and any other applicable expenses as determined by the Commission. [A deduction shall also be
allowed for the cost of labor, materials used and expenses incurred in operating underground storage
plants, and other underground storage operating expenses, including research and development expenses.]
The balances of gas withdrawn from storage (corresponding to FERC [NARUC] Account Number 808.1
[809 as it existed on January 16, 1991]) (debit), and gas delivered to storage (corresponding to FERC
[NARUC] Account Number 808.2 [809 as it existed on January 16, 1991]) (credit) shall be netted. If the
net is a debit balance, that balance shall also be deducted from the gross receipts. If the net is a credit
balance, that balance shall reduce the allowable deductions.

(f) Enforcement and penalties. Each gas utility liable for the gas utility tax shall be subject to the
enforcement and penalty provisions set forth in Texas Utilities Code, Chapter 122. A penalty in the
amount of 5.0% of the tax due shall be imposed on any person who fails to make a report or pay a tax as
required under law. An additional penalty of 5.0% of the tax due shall be imposed on any person who
fails to make a report or pay a tax as required before the 30th day after the date the report or tax payment
is due. If a person fails to both make the report and pay the tax for a reporting period, only the penalty and
additional penalty, as applicable, for failure to make the report is imposed. If the amount of a penalty or
additional penalty computed as otherwise provided by this subsection is less than $5.00, the amount of the
penalty or additional penalty is $5.00. Any gas utility tax delinquent during the period commencing on or
after January 1, 1994, shall draw simple interest, at the rate of 12% per year beginning on the 60th day
after the date the tax becomes delinquent until the tax is paid. [Any gas utility tax delinquent during the
period commencing on September 1, 1991, and ending December 31, 1993, shall draw interest at the rate
of 12% per year, compounded monthly, beginning on the 60th day after the date the tax became
delinquent until December 31, 1993, or until the tax is paid, whichever is first. Any gas utility tax
delinquent during any period before September 1, 1991, shall draw interest at the rate of 10% per year,
beginning on the 60th day after the date the tax became delinquent until August 31, 1991, or until the tax
is paid, whichever is first.] The tax is considered paid when received by the Commission in accordance
with subsection (b) of this section.

SUBCHAPTER D. CUSTOMER SERVICE AND PROTECTION

§7.455. Curtailment Standards.

The following category shall be included as the lowest priority category on all curtailment plans
of public utilities subject to the jurisdiction of the Commission: deliveries of natural gas or sales of
natural gas to the interstate market under the provisions of the Natural Gas Policy Act, §311(b) and §312,
and 18 Code of Federal Regulations §§284.122 and 284.142 [§284.200].

(1) No sales pursuant to §311(b) shall be made unless a public utility is able to provide
adequate service to all of its existing intrastate customers. Adequate service includes all requirements of
existing customers, notwithstanding contractual limitations, and gas needed to fill storage reservoirs for
anticipated peak usage or to build up "line pack" to fill expected customer requirements.

(2) No deliveries of natural gas which have been determined to be surplus pursuant to
§312 shall be made except to the extent a public utility continues to comply with the requirements,
including service to existing customers, imposed in the Commission order determining the amount of the
surplus or in the contract of assignment of gas reserves from which the deliveries are being made.

(3) No sales of natural gas pursuant to 18 Code of Federal Regulations §284.142
[§284.200] shall be made except to the extent a public utility continues to comply with the requirements,
including service to existing customers, contained in the contract under which deliveries are being made
or in any report required to be filed with the Commission.

Railroad Commission of Texas
16 TAC Chapter 7--Gas Services

(a) Applicability and scope. This rule applies to gas utilities, as defined in Texas Utilities Code, §101.003(7) and §121.001, and to owners, operators, and managers of mobile home parks or apartment houses who purchase natural gas through a master meter for delivery to a dwelling unit in a mobile home park or apartment house, pursuant to Texas Utilities Code, §§124.001-124.002, within the jurisdiction of the Railroad Commission pursuant to Texas Utilities Code, §102.001. For purposes of this section, all such gas utilities and owners, operators and managers of master meter systems shall be referred to as "providers." Providers shall comply with the following service standards. A gas distribution utility shall file amended service rules incorporating these standards with the Railroad Commission in the manner prescribed by law.

(b) Disconnection prohibited. Except where there is a known dangerous condition or a use of natural gas service in a manner that is dangerous or unreasonably interferes with service to others, a provider shall not disconnect natural gas service to:

(1) a delinquent residential customer during an extreme weather emergency. An extreme weather emergency means a day when the previous day's highest temperature did not exceed 32 degrees Fahrenheit and the temperature is predicted to remain at or below that level for the next 24 hours according to the nearest National Weather Station for the county where the customer takes service.

(2) a delinquent residential customer for a billing period in which the provider receives a written pledge, letter of intent, purchase order, or other written notification from an energy assistance provider that it is forwarding sufficient payment to continue service; or

(3) a delinquent residential customer on a weekend day, unless personnel or agents of the provider are available for the purpose of receiving payment or making collections and reconnecting service.

(c) Payment plans. Providers shall defer collection of the full payment of bills that are due during an extreme weather emergency until after the emergency is over, and shall work with customers to establish a payment schedule for deferred bills as set forth in [paragraph (2)(D) of §7.45 of this title (relating to Quality of Service)] [Service].

(d) Notice. Beginning in the September or October billing periods utilities and owners, operators, or managers of master metered systems shall give notice as follows:

(1) Each utility shall provide a copy of this rule to the social services agencies that distribute funds from the Low Income Home Energy Assistance Program within the utility's service area.

(2) Each utility shall provide a copy of this rule to any other social service agency of which the provider is aware that provides financial assistance to low income customers in the utility's service area.
(3) Each utility shall provide a copy of this rule to all residential customers of the utility and customers who are owners, operators, or managers of master metered systems.

(4) Owners, operators, or managers of master metered systems shall provide a copy of this rule to all of their customers.

(e) In addition to the minimum standards specified in this section, providers may adopt additional or alternative requirements if the provider files a tariff with the Commission pursuant to §7.315 [§7.44] of this title (relating to Filing of Tariffs). The Commission shall review the tariff to ensure that at least the minimum standards of this section are met.


(a) Service to a local distribution company or city gate customer. A gas utility shall obtain written Commission approval prior to the abandonment or permanent discontinuance of service to any local distribution company or city gate customer that involves the removal or abandonment of facilities other than a meter.

(1) Except in pipeline safety emergencies, the gas utility shall file an application to abandon or permanently discontinue service to a local distribution company or city gate customer with the Director at least 60 days prior to the proposed effective date of the proposed abandonment or permanent discontinuance of service. In addition to the information required in §1.32 [§1.25] of this title (relating to Form and Content of Pleadings), the application shall state the following:

(A) the number of affected customers in each class;

(B) the names and addresses of the local distribution company or city gate customer affected;

(C) the specific reasons for the proposed abandonment or permanent discontinuance of service;

(D) a description, age, and condition of the pipeline or plant that the gas utility proposes to abandon or through which it proposes to permanently discontinue service;

(E) the revenue from and cost to continue the existing service to the affected local distribution company or city gate customers;

(F) all reasonable alternative energy sources available to the affected local distribution company or city gate customers, and the cost of such energy sources on an MMBtu equivalent basis;

(G) the cost per customer of each conversion to available alternative energy sources;
(H) any previous notice provided by the utility to the affected local distribution
company or city gate customer;
(I) a statement that the application is subject to Commission approval; and
(J) a statement of the affected local distribution company or city gate customer's
right to intervene in the application.

(2) The gas utility shall send a copy of the application to the affected local distribution
company or the affected city gate customer on the same day that the gas utility files the application to
abandon or discontinue service with the Director.

(A) If a person files a statement of intent to participate or motion to intervene
with the Commission within 30 days from the date of the filing of the application, and the Commission
grants party status, the Commission shall hold a formal hearing within 60 days following the date on
which the application is filed.

(B) If the Commission does not receive and grant a timely-filed statement of
intent to participate or intervention pleading, then the Director shall act administratively on the
application to abandon or permanently discontinue service within 45 days following the date on which the
gas utility filed the application and shall notify all affected customers in writing of the decision. If the
Director denies the application administratively, the gas utility, within 30 days of the date the Director
administratively denies an application to abandon or permanently discontinue service, may request that a
formal hearing be held within 60 days following the date on which the Director denies the application.

(3) If upon the granting of the application to abandon or permanently discontinue service
the local distribution company would no longer provide service to any residential or commercial customer
because of such abandonment, then the local distribution company shall file an application to abandon or
permanently discontinue service under subsection (b) of this section.

(4) The Director shall have the authority to act administratively on abandonment or
permanent discontinuance applications that satisfy the conditions of this subsection.

(5) Temporary termination of service due to a pipeline safety emergency shall not be
considered to be abandonment or permanent discontinuance of service under the terms of this section. If
the gas utility determines not to resume service as a result of a pipeline safety emergency, then the gas
utility shall file an application under this section within 30 days of the temporary termination of service.

(6) The gas utility shall have the burden of proof to show that the proposed abandonment
or permanent discontinuance of service is reasonable and necessary and is not contrary to the public
interest. The Commission shall consider the following conditions when making a determination regarding
an application for abandonment or permanent discontinuance of service:
(A) whether continued service is no longer economically viable for the gas utility;

(B) whether the potentially abandoned customers have any alternatives, how many, and at what cost;

(C) whether any customer has made investments or capital expenditures in reliance on continued availability of natural gas, where use of an alternative energy source is not viable;

(D) whether the utility has failed to properly maintain the facilities proposed for abandonment, rendering them unsalvageable due to neglect; and

(E) any other considerations affecting the potentially abandoned customers.

(b) Service to residential and commercial customers. A gas utility shall obtain written Commission approval prior to the abandonment or permanent discontinuance of service to any residential or commercial customer that involves the removal or abandonment of facilities other than a meter. This subsection shall not apply to discontinuance of service to residential or commercial customers for any of the reasons set forth in Subchapter [subchapter] D of this chapter (relating to Customer Service and Protection).

(1) Except in pipeline safety emergencies, the gas utility shall file an application to abandon or permanently discontinue service with the Director at least 60 days prior to the proposed effective date of the proposed abandonment or permanent discontinuance of service to any residential or commercial customer involving the removal or abandonment of facilities other than a meter. In addition to the information required in §132 [§135] of this title [relating to Form and Content of Pleadings], the application shall state the following:

(A) the number of directly affected customers in each class of service;

(B) the names and addresses of all directly affected customers;

(C) the specific reasons for the proposed abandonment or permanent discontinuance of service;

(D) a description, age, and condition of the pipeline or plant that the gas utility proposes to abandon or through which it proposes to permanently discontinue service;

(E) the revenue from and cost to continue the existing service to the directly affected customers;

(F) all reasonable alternative energy sources available to the directly affected customers, and the cost of such energy sources on an MMBtu equivalent basis;

(G) the cost per customer of each conversion to available alternative energy sources;
(H) the terms of any agreements with, or offers, including qualifying offers, to,
directly affected customers by the gas utility for the conversion of customers' appliances to enable the use
of alternative energy sources;
(I) copies of any consents to abandonment or permanent discontinuance obtained
by the utility from directly affected customers;
(J) any previous notice provided by the utility to the directly affected customer;
(K) a statement that the application is subject to Commission approval; and
(L) a statement of the directly affected customer's right to protest the application
and the procedure for filing such a protest.

(2) The gas utility shall send a copy of the application to all directly affected customers
on the same day that the gas utility files the application to abandon or permanently discontinue service
with the Director.

(A) If any of the directly affected customers files a protest within 30 days
following the date on which the application is filed, the Commission shall hold a formal hearing within 60
days following the date on which the application is filed.

(B) If all of the directly affected customers have not consented to the
abandonment or permanent discontinuance of service and if the gas utility has not given all of the directly
affected customers a qualifying offer, as defined in §7.115 (§7.115(27)) of this title (relating to
Definitions), but none of the directly affected customers files a protest within 30 days following the date
on which the application is filed, the Director shall act administratively on the application within 45 days
following the date on which the application is filed and shall notify all directly affected customers in
writing of the decision. The Director may seek additional information from the directly affected
customers to determine whether they have received adequate information regarding the consequences of
the proposed abandonment. If the Director denies the application administratively, the gas utility, within
30 days of the date the Director administratively denies an application to abandon or permanently
discontinue service, may request that a formal hearing be held within 60 days following the date on which
the Director denies the application.

(C) The Director shall act administratively on the application within 30 days
following the date on which the gas utility files the application if either:

(i) all of the directly affected customers consent to the abandonment or
permanent discontinuance of service and none of the directly affected customers files a protest within 15
days following the date on which the gas utility files the application; or

(ii) the gas utility has given all of the directly affected customers a
qualifying offer, as defined in §7.115 (§7.115(27)) of this title (relating to Definitions) and none of the
directly affected customers files a protest within 15 days following the date on which the gas utility files
the application. If the Director denies the application administratively, the gas utility may request that a
formal hearing be held within 60 days following the request for a hearing. The gas utility shall file any
request for a formal hearing within 30 days of the date the Director administratively denies an application
to abandon or permanently discontinue service.

(3) The Director shall have the authority to act administratively on abandonment or
permanent discontinuance applications that satisfy the conditions of this subsection.

(4) Temporary termination of service due to a pipeline safety emergency shall not be
considered to be abandonment or permanent discontinuance of service under the terms of this section. If
the gas utility determines not to resume service as a result of a pipeline safety emergency, then the gas
utility shall file an application under this section within 30 days of the temporary termination of service.

(5) The gas utility shall have the burden of proof to show that the proposed abandonment
or permanent discontinuance of service is reasonable and necessary and is not contrary to the public
interest. The Commission shall consider the following conditions when making a determination regarding
an application for abandonment or permanent discontinuance of service:

(A) whether continued service is no longer economically viable for the gas
utility;

(B) whether the potentially abandoned customers have any alternatives, how
many, and at what cost;

(C) whether any customer has made investments or capital expenditures in
reliance on continued availability of natural gas, where use of an alternative energy source is not viable;

(D) whether the utility has failed to properly maintain the facilities proposed for
abandonment, rendering them unsalvageable due to neglect; and

(E) any other considerations affecting the potentially abandoned customers.

§7.470. Natural Gas Bill Payment by the State or a State Agency.

(a) Purpose. The purpose of this section is to implement requirements in Texas Utilities Code,
§104.255.

(b) Definitions. The terms "payment," "service," and "state agency," when used in this section,
have the meanings given in Texas Government Code, §2251.001. The terms "gas utility" and
"municipally owned utility" have the meanings given in Texas Utilities Code, §101.003.

(c) Payment requirements. For natural gas utility service provided by a gas utility or by a
municipally owned utility to the state or a state agency, the payer and payee must comply with Texas
(relating to Definitions; Invoicing Standards; and Payments) [§§ 20.221, 20.223, 20.225, 20.227, and 20.229 (relating to Definitions; Exceptions to Prompt Payment Process; Invoicing Standards; Payments; and Disputed Payments)]. In addition, the following provisions apply to gas utilities and municipally owned utilities:

(1) Gas utilities and municipally owned utilities are prohibited from billing the state or a state agency for a service before the service is provided.

(2) A gas utility or a municipally owned utility may enter into an agreement with the state or a state agency to establish a level or average monthly billing plan only if the billing plan includes a provision for quarterly reconciliation of the leveled or averaged bills.


(a) A municipality entitled to receive notice of service disconnections for non-payment for non-submetered master metered multifamily properties pursuant to Texas Utilities Code, §104.352, may provide the Commission with the contact information of the municipality's authorized representative designated to receive such notice.

(b) A municipality shall provide its authorized representative's contact information by mail to Director, Oversight and Safety [Gas Services] Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967, or through any other method as indicated on the Commission's website.

(c) The Commission shall make the municipalities' contact information available to the public.

SUBCHAPTER E. RATES AND RATE-SETTING PROCEDURES

§7.5213. Allowance for Funds Used During Construction.

A utility may be permitted, subject to any revenue adjustment required, to include AFUDC [AFC] related to a project in its rate base in rate proceedings after completion of the project. If, pursuant to this section, a utility is permitted to include CWIP related to a project in its rate base, only that AFUDC [AFC] accruing prior to such inclusion shall be permitted.

SUBCHAPTER F. PIPELINE APPEAL OF CITY ASSESSMENT OF ANNUAL CHARGE


(a) The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) City--The city or the municipality that assessed an annual charge pursuant to Texas Natural Resources Code, §117.102(b)(1), or Texas Utilities Code, §121.2025(b)(1).
(2) Director—The director of the Oversight and Safety [Gas Services] Division or the
director's delegate.

(3) Pipeline—An owner or an operator of a hazardous liquid, carbon dioxide, or natural
gas pipeline facility that is located in a public right-of-way in the city.

(4) Public right-of-way in the city—Public roads, highways, streets, alleys, streams,
canals, or other public ways located within a city and maintained by the city.

(5) Regulating a pipeline facility—Administering, supervising, inspecting, and otherwise
regulating the location of a pipeline facility, including maintaining records and maps of the location of the
pipeline facility.

(b) This subchapter implements the authority of the Commission to hear an appeal from a
pipeline that has been assessed an annual charge pursuant to Texas Natural Resources Code,
§117.102(b)(1), or Texas Utilities Code, §121.2025(b)(1).

(c) Under Texas Natural Resources Code, §117.102(d), and Texas Utilities Code, §121.2025(d),
the Commission has exclusive jurisdiction to determine whether a city's annual charge is authorized under
Texas Natural Resources Code, §117.102(b)(1), or Texas Utilities Code, §121.2025(b)(1). Texas Natural
Resources Code, §117.102, and Texas Utilities Code, §121.2025, do not affect the validity or
enforceability of a contract entered into before September 1, 2005, by a municipality and the owner or
operator of a hazardous liquid, carbon dioxide, or gas pipeline, or the enforceability of a charge assessed
by a municipality before September 1, 2006, under an ordinance adopted on or before September 1, 2004.
Texas Natural Resources Code, §117.102, and Texas Utilities Code, §121.2025, apply to a charge
assessed by a municipality on or after September 1, 2005, under an ordinance adopted after September 1,
2004; and on or after September 1, 2006, under an ordinance regardless of the date of adoption of the
ordinance.

(d) The Commission will hear an appeal filed under this subchapter de novo. The appeal will be
handled by the Hearings Division [a legal examiner and a technical examiner] pursuant to this subchapter;
the Commission's rules of Practice and Procedure, 16 Texas Administrative Code Chapter 1; and the
Commission's general standards for establishing just and reasonable rates. The examiners assigned to the
appeal may require that the city send notice of an appeal filed under this subchapter to all pipelines that
the city identifies as having been assessed an annual charge within one year preceding the filing of the
appeal. The examiners may exercise their discretion in deciding whether to permit intervention by another
pipeline or to join another pipeline as a necessary party to an appeal.

(e) A pipeline that files or intervenes in an appeal under this subchapter and the city that assessed
the charge being appealed shall share the costs incurred by the Commission in connection with the appeal,
pursuant to §7.6007 of this title (relating [relating] to Procedure for Determining and Sharing of
the Commission's Costs) [Costs].

§7.6002. Procedure for Filing and Service of an Appeal, Obligation of City to Respond, and Intervention.
(a) A pipeline shall file an appeal under this subchapter in writing no later than one year after the
pipeline receives the invoice for or a similar written notice of the charge being appealed.
(b) The pipeline shall file the appeal with the director, who shall assign a docket number.
Thereafter, all documents relating to the appeal shall include the assigned docket number and shall be
filed in the [Office of General Counsel] Docket Services Section.
(c) The pipeline shall mail or deliver a copy of the appeal to the city attorney, the city secretary,
or any other city official authorized to receive service of process in civil proceedings within 5 days of the
date the pipeline files the appeal at the Commission.
(d) The city shall have 90 days from the date it receives a copy of the company's [an] appeal to
the Commission to file its response to the appeal, in writing, at the Commission. The city shall
simultaneously serve a copy of the response on the pipeline.
(e) The examiners may require the city to mail notice of the appeal to each pipeline identified in
the city's response, at the address stated in the response, stating that the pipeline may intervene in the
appeal.
(f) Another pipeline with a pipeline facility within public right-of-way in the city may file a
motion to intervene in the appeal within 30 days after any notice of the appeal is mailed to the pipelines
pursuant to subsection (e) of this section.

(a) The pipelines and a city that are parties to an appeal under this subchapter shall reimburse the
Commission for its costs incurred in connection with the appeal. In each appeal, the city shall pay half of
the Commission's costs and each pipeline that files or intervenes in the appeal shall pay an equal share of
the half of Commission's costs.
(b) The Commission shall determine its costs as follows:
(1) The director and the Hearings Division [Commission's General Counsel] shall require
employees assigned to an appeal under this subchapter to keep records of time spent on each appeal.
These shall be filed with and made part of the record in each appeal docket.
(2) The Commission shall from time to time specify an hourly rate as its costs for each
employee hour devoted to appeals under this subchapter. The rate shall be based on the employee's hourly
compensation and multiplied by a factor to cover employment benefit costs and fairly allocable overhead

(c) The Commission [director] shall invoice the pipelines and the city for Commission costs,
based on the hours recorded by Commission employees and their hourly rates, together with any out-of-

pocket expenses not included in the overhead factor, within 30 days after the disposition of an appeal. The

pipelines and the city shall each remit to the Commission the invoiced costs within 30 days after receipt

of notice of the total amount or after disposition of any appeal from the invoice, whichever is later.

(d) Any pipeline or the city may contest the amount of the costs invoiced to it by filing with the
director a written request for reconsideration within 30 days after the date of the invoice, stating the basis
for reconsideration. The director shall forward any recommendation to the Commission with the record,
and the Commission may [will determine to] approve or adjust the invoiced costs within 30 days.

SUBCHAPTER G. CODE OF CONDUCT

§7.7003. Administrative Penalties and Other Remedies for Discrimination.

(a) This section implements the authority delegated to the Commission by Texas Natural

Resources Code, §81.058(a) and (b)[, as enacted by House Bill 3273, 80th Legislature (2007)].

(b) Terms used in this section shall have the same meaning as in §2.1 of this title (relating to

Informal Complaint Procedure); §2.5 of this title (relating to Informal Complaint Process Regarding Loss

of or Inability to Account for Gas); and §7.115 of this title (relating to Definitions).

(c) The Commission, after notice and opportunity for hearing, may impose an administrative

penalty against:

(1) a purchaser, transporter, gatherer, shipper, or seller of natural gas; a person described

by Texas Natural Resources Code, §§81.051(a) or §111.081(a); or any other entity under the jurisdiction of

the Commission under the Texas Natural Resources Code that the Commission determines has:

(A) violated §7.7001 of this title (relating to Natural Gas Transportation

Standards and Code of Conduct) or any other Commission rule adopting standards for entities in the

natural gas industry prohibiting unlawful discrimination; or

(B) unreasonably discriminated against a seller of natural gas in the purchase of

natural gas from the seller; and

(2) a purchaser, transporter, or gatherer of natural gas if the Commission determines that

the person engaged in prohibited discrimination against a shipper or seller of natural gas because the

shipper or seller filed a formal or informal complaint with the Commission against the person relating to

the person’s purchase, transportation, or gathering of the gas.
(d) In determining whether an entity has violated §7.7001 of this title or has unreasonably discriminated against a seller of natural gas in the purchase of natural gas from the seller, the Commission will consider the factors set forth in the definition of "similarly situated shipper" in §7.115 of this title [(relating to Definitions)]. In determining whether conditions of service are the same or substantially the same, the Commission shall evaluate the significance and degree of similarity or difference in relevant conditions between sellers that are material and probative, including, but not limited to, the following:

1. service requirements;
2. location of facilities;
3. receipt and delivery points;
4. length of haul;
5. quality of service (firm, interruptible, etc.);
6. quantity;
7. swing requirements;
8. credit worthiness;
9. gas quality;
10. pressure (including inlet or line pressure);
11. duration of service;
12. connect requirements; and
13. conditions and circumstances existing at the time of agreement or negotiation.

(e) In determining whether an entity has engaged in prohibited discrimination against a shipper or seller of natural gas because the shipper or seller filed a formal or informal complaint with the Commission against the person relating to the person's purchase, transportation, or gathering of the gas, the Commission will consider all relevant and material facts.

(f) An administrative penalty imposed under this section may not exceed $5,000 a day for each violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty under this section.

(g) If the Commission determines after notice and opportunity for hearing that an entity has engaged in prohibited discrimination for which a penalty may be imposed under this section, the Commission may issue any order necessary and reasonable to prevent the discrimination from continuing, including an order setting rates pursuant to §7.7005 of this title (relating to Authority to Set Rates).

(h) The remedy provided by this section is cumulative of any other remedy the Commission may order.

(i) In all situations, the Commission will apply the relevant statutory and rule provisions to achieve the intended statutory purposes of preventing or remedying undue discrimination and ensuring
that natural gas transportation and gathering services are provided at rates and under terms and conditions
that are just and reasonable.

§7.7005. Authority to Set Rates.

(a) This section implements the authority of the Commission pursuant to Texas Natural
Resources Code, §81.061[, as enacted by House Bill 3273, 80th Legislature (2007)].

(b) Terms used in this section shall have the same meaning as in §2.1 of this title (relating to
Informal Complaint Procedure); §2.5 of this title (relating to Informal Complaint Process Regarding Loss
of or Inability to Account for Gas); and §7.115 of this title (relating to Definitions).

(c) Except for rates established under Texas Utilities Code, Chapter 103, or Texas Utilities Code,
Chapter 104, Subchapters C or G, the Commission may use a cost-of-service method or a market-based
rate method in setting a rate in a formal rate proceeding.

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

(e) The Commission may use a cost-of-service method or a market-based method in setting a rate
pursuant to this section in a formal rate proceeding conducted after notice and an opportunity for hearing
pursuant to Chapter 1 of this title [in accordance with the Commission's rules of practice and procedure in
16 Texas Administrative Code, Chapter 1] (relating to Practice and Procedure).

(f) In determining whether to use a cost-of-service method or a market-based method to set rates
for transportation or gathering service, the Commission will consider all relevant factors in a formal rate
proceeding.

SUBCHAPTER H. INTERIM RATE ADJUSTMENTS
§7.7101. Interim Rate Adjustments.

(a) General requirements. Pursuant to Texas Utilities Code, §104.301, a gas utility may file with
the Commission an application for an interim rate adjustment, subject to the requirements of this section.
The director may reject any filing that, at the time of filing or within a reasonable time afterward, does not
substantially comply with the requirements of this section.

(1) The filing date of the gas utility's most recent rate case in which there is a final order
setting rates for the area in which the interim rate adjustment will apply shall be no more than two years
prior to the date the gas utility files its initial interim rate adjustment application under this section. The
gas utility shall state in its application the gas utilities docket number of the gas utility's most recent rate

case.

(2) A gas utility shall file its application for interim rate adjustment with the Commission

at least 60 days before the proposed implementation date of the interim rate adjustment.

(3) A gas utility shall complete notice of its application for interim rate adjustment to all

affected customers in accordance with subsection (b) of this section no later than the 45th day after the

date the gas utility files its application for interim rate adjustment.

(4) An application for interim rate adjustment is complete on the date the gas utility has

filed at the Commission all information required by this section.

(5) A gas utility shall not implement its requested interim rate adjustment until the later

of:

(A) the 60th day after the filing is complete;

(B) the day after the utility completes notice to customers; or

(C) the day after the last day of a suspension period imposed pursuant to

paragraph (6) of this subsection.

(6) During the 60-day period following a gas utility's filing of an application for interim

rate adjustment, the director may suspend the implementation of the interim rate adjustment for a period

of up to 45 days from the later of:

(A) the 60th day after the gas utility's application is complete;

(B) the proposed implementation date; or

(C) the day after the utility completes notice to customers.

(b) Notice. The utility shall print the notice of its application for an interim rate adjustment in

type large enough for easy reading. The notice shall be the only information contained on the piece of

paper on which it is written. A gas utility may give the notice required by this section either by separate

mailing or by mailing or otherwise delivering the notice with its billing statements. Notice by mail shall

be presumed to be complete three days after the date of deposit of the paper upon which it is written,

enclosed in a post-paid, properly addressed wrapper, in a post office or official depository under the care

of the United States Postal Service. The notice to customers shall include the following information:

(1) a description of the proposed revision of rates and schedules;

(2) the effect the proposed interim rate adjustment is expected to have on the rates

applicable to each affected customer class and on an average bill for each affected customer class;

(3) the service area or areas in which the proposed interim rate adjustment would apply;

(4) the date the proposed interim rate adjustment was or will be filed with each other

regulatory authority;
(5) the gas utility's address, telephone number, and web site where information concerning the proposed interim rate adjustment may be obtained; and

(6) a statement that any affected person may file written comments or a protest concerning the proposed interim rate adjustment with [the] Gas Services [Division], Market Oversight Section, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967.

(c) Contents of application. A gas utility shall submit a signed original and two copies of the following information with [the] Gas Services [Division] as the utility's application for interim rate adjustment:

(1) a copy of the notice to customers and an affidavit stating the method of giving notice and the date or dates on which the notice was or will be given;

(2) a tariff or rate schedule or schedules;

(3) an annual project report, as more specifically described in subsection (d) of this section;

(4) an annual earnings monitoring report, as more specifically described in subsection (e) of this section; and

(5) the gas utility's business address, telephone number, and, if applicable, facsimile transmission number and/or e-mail address.

(d) Annual project report. A gas utility seeking to implement an interim rate adjustment shall electronically file with the Commission an annual project report as part of the application.

(1) The annual project report shall be made on a form approved by the Commission and found in [on] the Gas Services section [page] of the Commission's website.

(2) The annual project report shall describe by jurisdictional area:

(A) the gas utility investment projects completed and placed in service during the preceding calendar year;

(B) the gas utility investment retired or abandoned during the preceding calendar year; and

(C) the cost of, need for, and customers, by class and location, benefitted by the change(s) in gas utility investment projects.

(3) Similar investment projects, such as service lines or small tools that the gas utility normally accounts for on a group basis, may be reported as a single investment project.

(e) Annual earnings monitoring report. A gas utility seeking to implement an interim rate adjustment shall electronically file with the Commission an annual earnings monitoring report as part of the application.
(1) The annual earnings monitoring report shall be made on a form approved by the Commission and found in [on-] the Gas Services section [page] of the Commission's website.

(2) The annual earnings monitoring report shall demonstrate the utility's earnings during the preceding calendar year. A gas utility whose annual earnings monitoring report shows that the utility is earning a return on invested capital of more than 75 basis points above the return established by Commission final order setting rates in the utility's most recent rate case for the area in which the interim rate adjustment was implemented shall include with its annual earnings monitoring report a statement of the reasons the rates are not unreasonable or in violation of law.

(f) Methodology for interim rate adjustments. Approval of a gas utility's application for interim rate adjustment is subject to the requirements of this subsection.

(1) The components of the revenue to be recovered through an interim rate adjustment shall be limited to those set forth in this subsection. The revenue to be recovered through an interim rate adjustment shall be incremental to that established in the gas utility's most recent rate case for the area in which the interim rate adjustment is to be implemented, as previously adjusted.

(2) All incremental values for investment, accumulated depreciation, return on investment, depreciation expense, ad valorem taxes, revenue related taxes, and incremental federal income taxes shall be calculated and presented on a full calendar year basis, except as provided in paragraph (3) of this subsection.

(3) The amount by which the gas utility may adjust its rates upward or downward using the interim rate adjustment for each calendar year is based on the difference between the value of the gas utility's invested capital for the preceding calendar year and the value of the invested capital for the calendar year preceding that calendar year; except for a gas utility's first interim rate adjustment application following a rate case and except for amounts that can be collected by the utility under Texas Utilities Code, §104.112. For the first interim rate adjustment following a rate case, the allowed adjustment shall be based on the difference between the gas utility's invested capital at the end of the rate case test year and the invested capital at the end of the calendar year following the end of such test year. The value of the gas utility's invested capital is equal to the original cost of the investment at the time the investment was first dedicated to public use minus the accumulated depreciation related to that investment.

(4) Based on the difference between the values of the investment amounts as determined under paragraphs (2) and (3) of this subsection, a gas utility may adjust its revenue only by the following components:

   (A) return on investment;

   (B) depreciation expense;
(C) ad valorem taxes;

(D) revenue related taxes; and

(E) federal income taxes.

(5) The factors used to calculate the return on investment, depreciation expense, and incremental federal income tax used to compute the revenues to be collected through the interim rate adjustment must be the same as those established or used in the final order setting rates in the gas utility's most recent rate case for the area in which the interim rate adjustment is to be implemented.

(6) The gas utility shall allocate the revenue to be collected through the interim rate adjustment among the gas utility's customer classes in the same manner as the cost of service was allocated among customer classes in the utility's most recent rate case for the area in which the interim rate adjustment is to be implemented.

(7) The gas utility shall design the interim rate adjustment as either a flat rate to be applied to the monthly customer charge or a volumetric rate to be applied to the initial block usage rate. The interim rate adjustment, whether it is applied to the monthly customer charge or the initial block rate, shall be shown on the customers' monthly billing statements as a surcharge.

(g) Procedure for review. The director shall ensure that applications for interim rate adjustments are reviewed for compliance with the requirements of Texas Utilities Code, §104.301; and this section.

(1) The director may:

(A) suspend the implementation date of an interim rate adjustment in accordance with subsection (a) of this section;

(B) request assistance in reviewing applications for interim rate adjustments from other Commission divisions; and

(C) request additional staff to achieve timely review of interim rate adjustment applications.

(2) Upon completion of the review; the director shall prepare a written recommendation, which shall be provided to the applicant gas utility. The director may recommend:

(A) approval of the application for interim rate adjustment;

(B) approval of some elements of the application to allow only those elements of the interim rate adjustment to take effect without further Commission action; or

(C) rejection of the application for interim rate adjustment.

(3) The director's recommendation shall be submitted to the Commission for decision at a scheduled open meeting [conference].

(4) If the Commission approves an application for interim rate adjustment, the gas utility shall either file the tariff or rate schedule implementing the approved interim rate adjustment or shall,
within 30 days of the Commission's action, notify the Gas Services Division that the
tariff or rate schedule initially filed with the application correctly implements the approved interim rate
adjustment.

(h) Annual interim rate adjustments. A gas utility shall recalculate its approved interim rate
adjustment annually in accordance with the requirements of this section and shall file an application for
an annual adjustment no later than 60 days prior to the one-year anniversary of the proposed
implementation date of the previous interim rate adjustment application.

(i) Refunds. All amounts collected from customers under an interim rate adjustment tariff or rate
schedule are subject to refund. The issues of refund amounts, if any, whether interest should be
applied to refunded amounts and, if so, the rate of interest, shall be addressed in the rate
case a gas utility files or the Commission initiates after the implementation of an interim rate adjustment
and shall be the subject of specific findings of fact in the Commission's final order setting rates.

(j) Review for reasonableness and prudence. In the rate case a gas utility files or the Commission
initiates after the implementation of an interim rate adjustment under this section, any change in
investment and related expenses and revenues that have been included in any interim rate adjustment shall
be fully subject to review for reasonableness and prudence. Upon issuance of a final order setting rates in
this rate case, any change in investment and related expenses and revenues that have been included in any
interim rate adjustment shall no longer be subject to review for reasonableness or prudence.

(k) Suspension of interim rate adjustment. A gas utility may file a request to suspend the
operation of an interim rate adjustment tariff or rate schedule for any year subject to the following
requirements and conditions:

(1) A gas utility's request to suspend operation of an interim rate adjustment tariff or rate
schedule shall be filed no later than the date on which the gas utility's annual adjustment of the interim
rate adjustment would have been filed.

(2) A gas utility's request shall be in writing and shall state the reasons the suspension is
justified.

(3) The director may grant the suspension, provided that the gas utility has made a
showing of reasonable justification. If granted, the suspension shall be effective until the next annual
anniversary of the implementation date of the interim rate adjustment.

(4) The utility's next annual filing for interim rate adjustment shall be made in accordance
with this section.

(l) Rate case filing. A gas utility that implements an interim rate adjustment under this section and
does not file a rate case before the fifth anniversary of the date its initial interim rate adjustment became
effective shall file a rate case not later than the 180th day after that anniversary.
(m) Reimbursement. A gas utility that implements an interim rate adjustment under this section shall reimburse the Commission for the utility's proportionate share of the Commission's annual costs related to the administration of the interim rate adjustment mechanism. The Commission shall determine the amount of the reimbursement as follows:

(1) After the Commission has finally acted on a gas utility's application for an interim rate adjustment, the director shall estimate such utility's proportionate share of the Commission's annual costs related to the processing of such applications.

(2) In making the estimate required by paragraph (1) of this subsection, the director shall take into account the number of utilities the Commission reasonably expects to file for interim rate adjustments during the fiscal year, and the costs expected to be incurred in processing such applications.

(3) The utility shall reimburse the Commission for the amount so determined within thirty days after receipt of notice of the amount of the reimbursement.

(4) In the event that the utility wishes to contest the amount of the reimbursement determined by the director, it may file a request to have the Commission determine the appropriate
amount. In such event, the utility agrees to pay the amount determined by the Commission within thirty
days of the determination.

This agency hereby certifies that the rules as adopted have been reviewed by legal counsel and
found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on **April 24**, 2018.

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Christi Craddick
Chairman

Ryan Sitton, Commissioner

Wayne Christian, Commissioner

Kathy Way
Secretary of the Commission

Haley Cochran
Rules Attorney
Office of General Counsel
Railroad Commission of Texas