

## SUBCHAPTER G. INTERIM COST RECOVERY AND RATE ADJUSTMENT

## Sec. 104.301. INTERIM ADJUSTMENT FOR CHANGES IN INVESTMENT.

(a) A gas utility that has filed a rate case under Subchapter C within the preceding two years may file with the regulatory authority 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 service for gas utility services. The adjustment shall be allocated among the gas utility's classes of customers in the same manner as the cost of service was allocated among classes of customers in the utility's latest effective rates for the area in which the tariff or rate schedule is implemented. The gas utility shall file the tariff or rate schedule, or the annual adjustment under Subsection (c), with the regulatory authority at least 60 days before the proposed implementation date of the tariff, rate schedule, or annual adjustment. The gas utility shall provide notice of the tariff, rate schedule, or annual adjustment to affected customers by bill insert or direct mail not later than the 45th day after the date the utility files the tariff, rate schedule, or annual adjustment with the regulatory authority. During the 60-day period, the regulatory authority may act to suspend the implementation of the tariff, rate schedule, or annual adjustment for up to 45 days. After the issuance of a final order or decision by a regulatory authority in a rate case that is filed after the implementation of a tariff or rate schedule under this section, any change in investment that has been included in an interim adjustment in accordance with the tariff or rate schedule under this section shall no longer be subject to subsequent review for reasonableness or prudence. Until the issuance of a final order or decision by a regulatory authority in a rate case that is filed after the implementation of a tariff or rate schedule under this section, all amounts collected under the tariff or rate schedule before the filing of the rate case are subject to refund.

(b) The amount the gas utility shall adjust the utility's rates upward or downward under the tariff or rate schedule each calendar year is based on the difference between the value of the invested capital for the preceding calendar year and the value of the invested capital for the calendar year preceding that calendar year. The value of the 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.

(c) The interim adjustment shall be recalculated on an annual basis in accordance with the requirements of Subsection (b). The gas utility may file a request with the regulatory authority to suspend the operation of the tariff or rate schedule for any year. The request must be in writing and state the reasons why the suspension is justified. The regulatory authority may grant the suspension on a showing by the utility of reasonable justification.

(d) A gas utility may only adjust the utility's rates under the tariff or rate schedule for the return on investment, depreciation expense, ad valorem taxes, revenue related taxes, and incremental federal income taxes related to the difference in the value of the invested capital as determined under Subsection (b). The return on investment, depreciation, and incremental federal income tax factors used in the computation must be the same as the factors reflected in the final order issued by or settlement agreement approved by the regulatory authority establishing the gas utility's latest effective rates for the area in which the tariff or rate schedule is implemented.

(e) A gas utility that implements a tariff or rate schedule under this section shall file with the regulatory authority an annual report describing the investment projects completed and placed in service during the preceding calendar year and the investments retired or abandoned during the preceding calendar year. The annual report shall also state the cost, need, and customers benefited by the change in investment.

(f) In addition to the report required under Subsection (e), the gas utility shall file with the regulatory authority an annual earnings monitoring report demonstrating the utility's earnings during the preceding calendar year.

(g) If the gas utility is earning a return on invested capital, as demonstrated by the report filed under Subsection (f), of more than 75 basis points above the return established in the latest effective rates approved by a regulatory authority for the area in which the tariff or rate schedule is implemented under this section, the gas utility shall file a statement with that report stating the reasons why the rates are not unreasonable or in violation of law.

(h) If a gas utility that implements a tariff or rate schedule under this section does not file a rate case under Subchapter C before the fifth anniversary of the date on which the tariff or rate schedule takes effect, the gas utility shall file a rate case under that subchapter not later than the 180th day after that anniversary in relation to any rates subject to the tariff or rate schedule.

(i) This section does not limit the power of a regulatory authority under Section 104.151.

(j) A gas utility implementing a tariff or rate schedule under this section shall reimburse the railroad commission the utility's proportionate share of the railroad commission's costs related to the administration of the interim rate adjustment mechanism provided by this section.

Added by Acts 2003, 78th Leg., ch. 938, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 948, Sec. 1, eff. September 1, 2005.