

By: Keffer

H.B. No. 2256

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the transfer of functions relating to the rates and
3 services of certain gas utilities, propane distribution system
4 retailers, and submetering from the Railroad Commission of Texas to
5 the Public Utility Commission of Texas.

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

7 SECTION 1. Section 101.003, Utilities Code, is amended by
8 adding Subdivision (3-a) and amending Subdivision (13) to read as
9 follows:

10 (3-a) "Commission" means the Public Utility Commission
11 of Texas.

12 (13) "Regulatory authority" means either the
13 [~~railroad~~] commission or the governing body of a municipality, in
14 accordance with the context.

15 SECTION 2. Section 101.004(a), Utilities Code, is amended
16 to read as follows:

17 (a) The [~~railroad~~] commission may determine that a person is
18 an affiliate for purposes of this subtitle if the [~~railroad~~]
19 commission after notice and hearing finds that the person:

20 (1) actually exercises substantial influence or
21 control over the policies and actions of a gas utility;

22 (2) is a person over which a gas utility exercises the
23 control described by Subdivision (1);

24 (3) is under common control with a gas utility; or

1 (4) actually exercises substantial influence over the
2 policies and actions of a gas utility in conjunction with one or
3 more persons with whom the person is related by ownership or blood
4 relationship, or by action in concert, that together they are
5 affiliated with the gas utility within the meaning of this section
6 even though neither person may qualify as an affiliate
7 individually.

8 SECTION 3. Section 101.006, Utilities Code, is amended to
9 read as follows:

10 Sec. 101.006. JURISDICTION OVER [~~CUMULATIVE EFFECT,~~
11 ~~APPLICATION TO~~] GAS UTILITIES. (a) The jurisdiction of the
12 commission under this subtitle does not affect [~~This subtitle is~~
13 ~~cumulative of laws existing on September 1, 1983, relating to~~] the
14 jurisdiction~~[,]~~ or power~~[, or authority]~~ of the Railroad Commission
15 of Texas [~~railroad commission~~] over a gas utility granted under
16 other law~~[, and, except as specifically in conflict with this~~
17 ~~subtitle, that jurisdiction, power, and authority are not limited~~
18 ~~by this subtitle]~~.

19 (b) This subtitle applies to all gas utilities, including a
20 gas utility that is under the jurisdiction, power, or authority of
21 the [~~railroad~~] commission in accordance with a law other than this
22 subtitle.

23 SECTION 4. Sections 101.052(a) and (c), Utilities Code, are
24 amended to read as follows:

25 (a) The office:

26 (1) may appear or intervene as a party or otherwise
27 represent residential consumers, as a class, in appeals to the

1 ~~[railroad]~~ commission only at the written request of an affected
2 municipality's governing body;

3 (2) may initiate or intervene as a matter of right or
4 otherwise appear in a judicial proceeding that involves an action
5 taken by the ~~[railroad]~~ commission in a proceeding in which the
6 office was a party;

7 (3) is entitled to the same access as a party, other
8 than ~~[railroad]~~ commission staff, to records gathered by the
9 ~~[railroad]~~ commission under Section 102.203;

10 (4) is entitled to discovery of any nonprivileged
11 matter that is relevant to the subject matter of a proceeding or
12 petition before the ~~[railroad]~~ commission;

13 (5) may represent an individual residential consumer
14 with respect to the consumer's disputed complaint concerning
15 utility services that is unresolved before the ~~[railroad]~~
16 commission; and

17 (6) may recommend legislation to the legislature that
18 the office determines would positively affect the interests of
19 residential consumers.

20 (c) This section does not limit the authority of the
21 ~~[railroad]~~ commission to represent residential consumers.

22 SECTION 5. Chapter 101, Utilities Code, is amended by
23 adding Subchapter C to read as follows:

24 SUBCHAPTER C. MEMORANDUM OF UNDERSTANDING WITH
25 RAILROAD COMMISSION

26 Sec. 101.071. MEMORANDUM OF UNDERSTANDING. The Railroad
27 Commission of Texas and the commission shall enter into a

1 memorandum of understanding that establishes the duties of each
2 agency in administering this subtitle, Subtitle B, and other laws
3 governing gas utilities.

4 SECTION 6. The heading to Chapter 102, Utilities Code, is
5 amended to read as follows:

6 CHAPTER 102. JURISDICTION AND POWERS OF [~~RAILROAD~~] COMMISSION AND
7 OTHER REGULATORY AUTHORITIES

8 SECTION 7. The heading to Subchapter A, Chapter 102,
9 Utilities Code, is amended to read as follows:

10 SUBCHAPTER A. GENERAL POWERS OF [~~RAILROAD~~] COMMISSION

11 SECTION 8. Section 102.001, Utilities Code, is amended to
12 read as follows:

13 Sec. 102.001. [~~RAILROAD~~] COMMISSION JURISDICTION. (a) The
14 [~~railroad~~] commission has exclusive original jurisdiction over the
15 rates and services of a gas utility:

16 (1) that distributes natural gas or synthetic natural
17 gas in:

18 (A) areas outside a municipality; and

19 (B) areas inside a municipality that surrenders
20 its jurisdiction to the [~~railroad~~] commission under Section
21 103.003; and

22 (2) that transmits, transports, delivers, or sells
23 natural gas or synthetic natural gas to a gas utility that
24 distributes the gas to the public.

25 (b) The [~~railroad~~] commission has exclusive appellate
26 jurisdiction to review an order or ordinance of a municipality
27 exercising exclusive original jurisdiction as provided by this

1 subtitle.

2 SECTION 9. Section 102.002, Utilities Code, is amended to
3 read as follows:

4 Sec. 102.002. LIMITATION ON [~~RAILROAD~~] COMMISSION
5 JURISDICTION. Except as otherwise provided by this subtitle, this
6 subtitle does not authorize the [~~railroad~~] commission to:

7 (1) regulate or supervise a rate or service of a
8 municipally owned utility; or

9 (2) affect the jurisdiction, power, or duty of a
10 municipality that has elected to regulate and supervise a gas
11 utility in the municipality.

12 SECTION 10. Section 102.003, Utilities Code, is amended to
13 read as follows:

14 Sec. 102.003. [~~RAILROAD~~] COMMISSION POWERS RELATING TO
15 REPORTS. The [~~railroad~~] commission may:

16 (1) require a gas utility to report to the [~~railroad~~]
17 commission information relating to the gas utility and an affiliate
18 inside or outside this state as useful in administering this
19 subtitle;

20 (2) establish the form for a report;

21 (3) determine the time for a report and the frequency
22 with which the report is to be made;

23 (4) require that a report be made under oath;

24 (5) require the filing with the [~~railroad~~] commission
25 of a copy of:

26 (A) a contract or arrangement between a gas
27 utility and an affiliate;

1 (B) a report filed with a federal agency or a
2 governmental agency or body of another state; and

3 (C) an annual report that shows each payment of
4 compensation, other than salary or wages subject to federal income
5 tax withholding:

6 (i) to residents of this state;

7 (ii) with respect to legal, administrative,
8 or legislative matters in this state; or

9 (iii) for representation before the
10 legislature of this state or any governmental agency or body; and

11 (6) require that a contract or arrangement described
12 by Subdivision (5)(A) that is not in writing be reduced to writing
13 and filed with the ~~[railroad]~~ commission.

14 SECTION 11. Section 102.004, Utilities Code, is amended to
15 read as follows:

16 Sec. 102.004. REPORT OF SUBSTANTIAL INTEREST. The
17 ~~[railroad]~~ commission may require disclosure of the identity and
18 respective interests of each owner of at least one percent of the
19 voting securities of a gas utility or its affiliate.

20 SECTION 12. Section 102.005, Utilities Code, is amended to
21 read as follows:

22 Sec. 102.005. ASSISTANCE TO MUNICIPALITY. On request of a
23 municipality, the ~~[railroad]~~ commission may advise and assist the
24 municipality with respect to a question or proceeding arising under
25 this subtitle. Assistance provided by the ~~[railroad]~~ commission
26 may include aid to a municipality on a matter pending before the
27 ~~[railroad]~~ commission, a court, or the municipality's governing

1 body, such as making a staff member available as a witness or
2 otherwise providing evidence.

3 SECTION 13. Section 102.006, Utilities Code, is amended to
4 read as follows:

5 Sec. 102.006. ADMINISTRATIVE HEARINGS IN CONTESTED CASES.

6 (a) The [~~railroad~~] commission by rule shall provide for
7 administrative hearings in contested cases to be conducted by one
8 or more members of the [~~railroad~~] commission[~~, by railroad~~
9 ~~commission hearings examiners,~~] or by the utility division of the
10 State Office of Administrative Hearings. The rules must provide
11 for [~~a railroad commission hearings examiner or~~] the utility
12 division of the State Office of Administrative Hearings to conduct
13 each hearing in a contested case that is not conducted by one or
14 more members of the [~~railroad~~] commission. A hearing must be
15 conducted in accordance with the rules and procedures adopted by
16 the [~~railroad~~] commission.

17 (b) The [~~railroad~~] commission may delegate to [~~a railroad~~
18 ~~commission hearings examiner or to~~] the utility division of the
19 State Office of Administrative Hearings the authority to make a
20 final decision and to issue findings of fact, conclusions of law,
21 and other necessary orders in a proceeding in which there is not a
22 contested issue of fact or law.

23 (c) The [~~railroad~~] commission by rule shall define the
24 procedures by which it delegates final decision-making authority
25 under Subsection (b) [~~to a railroad commission hearings examiner or~~
26 ~~to the utility division of the State Office of Administrative~~
27 ~~Hearings~~].

1 (d) For purposes of judicial review, the final decision of
2 [~~a railroad commission hearings examiner or~~] an administrative law
3 judge of the State Office of Administrative Hearings in a matter
4 delegated under Subsection (b) has the same effect as a final
5 decision of the [~~railroad~~] commission unless a member of the
6 commission requests formal review of the decision.

7 (e) The State Office of Administrative Hearings shall
8 charge the [~~railroad~~] commission a fixed annual rate for hearings
9 conducted by the office under this section only if the legislature
10 appropriates money for that purpose. If the legislature does not
11 appropriate money for the payment of a fixed annual rate under this
12 section, the State Office of Administrative Hearings shall charge
13 the [~~railroad~~] commission an hourly rate of not more than \$90 per
14 hour for hearings conducted by the office under this section.

15 SECTION 14. Section 102.051, Utilities Code, is amended to
16 read as follows:

17 Sec. 102.051. REPORT OF CERTAIN TRANSACTIONS; [~~RAILROAD~~]
18 COMMISSION CONSIDERATION. (a) Not later than the 60th day after
19 the date the transaction takes effect, a gas utility shall report to
20 the [~~railroad~~] commission:

21 (1) a sale, acquisition, or lease of a plant as an
22 operating unit or system in this state for a total consideration of
23 more than \$1 million; or

24 (2) a merger or consolidation with another gas utility
25 operating in this state.

26 (b) On the filing of a report with the [~~railroad~~]
27 commission, the [~~railroad~~] commission shall investigate the

1 transaction described by Subsection (a), with or without a public
2 hearing, to determine whether the action is consistent with the
3 public interest. In reaching its determination, the [~~railroad~~]
4 commission shall consider the reasonable value of the property,
5 facilities, or securities to be acquired, disposed of, merged, or
6 consolidated.

7 (c) If the [~~railroad~~] commission finds that a transaction is
8 not in the public interest, the [~~railroad~~] commission shall take
9 the effect of the transaction into consideration in ratemaking
10 proceedings and disallow the effect of the transaction if the
11 transaction will unreasonably affect rates or service.

12 (d) This section does not apply to:

13 (1) the purchase of a unit of property for
14 replacement; or

15 (2) an addition to the facilities of a gas utility by
16 construction.

17 SECTION 15. Section [102.052](#), Utilities Code, is amended to
18 read as follows:

19 Sec. 102.052. REPORT OF PURCHASE OF VOTING STOCK IN GAS
20 UTILITY. A gas utility may not purchase voting stock in another gas
21 utility doing business in this state unless the utility reports the
22 purchase to the [~~railroad~~] commission.

23 SECTION 16. Section [102.053](#), Utilities Code, is amended to
24 read as follows:

25 Sec. 102.053. REPORT OF LOAN TO STOCKHOLDERS. A gas utility
26 may not loan money, stocks, bonds, notes, or other evidence of
27 indebtedness to a person who directly or indirectly owns or holds

1 any stock of the gas utility unless the gas utility reports the
2 transaction to the [~~railroad~~] commission within a reasonable time.

3 SECTION 17. Sections 102.101(a), (b), (c), and (d),
4 Utilities Code, are amended to read as follows:

5 (a) Each gas utility shall keep and provide to the
6 regulatory authority, in the manner and form prescribed by the
7 [~~railroad~~] commission, uniform accounts of all business transacted
8 by the gas utility.

9 (b) The [~~railroad~~] commission may prescribe the form of
10 books, accounts, records, and memoranda to be kept by a gas utility,
11 including:

- 12 (1) the books, accounts, records, and memoranda of:
- 13 (A) the provision of and capacity for service;
- 14 and
- 15 (B) the receipt and expenditure of money; and
- 16 (2) any other form, record, and memorandum that the
17 [~~railroad~~] commission considers necessary to carry out this
18 subtitle.

19 (c) For a gas utility subject to regulation by a federal
20 regulatory agency, compliance with the system of accounts
21 prescribed for the particular class of utilities by the federal
22 agency may be considered sufficient compliance with the system
23 prescribed by the [~~railroad~~] commission. The [~~railroad~~] commission
24 may prescribe the form of books, accounts, records, and memoranda
25 covering information in addition to that required by the federal
26 agency. The system of accounts and the form of books, accounts,
27 records, and memoranda prescribed by the [~~railroad~~] commission for

1 a gas utility or class of utilities may not be inconsistent with the
2 systems and forms established by a federal agency for that gas
3 utility or class of utilities.

4 (d) Each gas utility shall:

5 (1) keep and provide its books, accounts, records, and
6 memoranda accurately and faithfully in the manner and form
7 prescribed by the [~~railroad~~] commission; and

8 (2) comply with the directions of the regulatory
9 authority relating to the books, accounts, records, and memoranda.

10 SECTION 18. Section 102.102, Utilities Code, is amended to
11 read as follows:

12 Sec. 102.102. MAINTENANCE OF OFFICE AND RECORDS IN THIS
13 STATE. (a) Each gas utility shall maintain an office in this state
14 in a county in which some part of the utility's property is located.
15 The gas utility shall keep in this office all books, accounts,
16 records, and memoranda required by the [~~railroad~~] commission to be
17 kept in this state.

18 (b) A book, account, record, or memorandum required by the
19 regulatory authority to be kept in this state may not be removed
20 from this state except as prescribed by the [~~railroad~~] commission.

21 SECTION 19. Section 102.104, Utilities Code, is amended to
22 read as follows:

23 Sec. 102.104. JURISDICTION OVER AFFILIATE. The [~~railroad~~]
24 commission has jurisdiction over an affiliate that has a
25 transaction with a gas utility under the [~~railroad~~] commission's
26 jurisdiction to the extent of access to an account or a record of
27 the affiliate relating to the transaction, including an account or

1 a record of joint or general expenses, any portion of which may be
2 applicable to the transaction.

3 SECTION 20. Section 102.152, Utilities Code, is amended to
4 read as follows:

5 Sec. 102.152. DEPRECIATION ACCOUNT. The [~~railroad~~]
6 commission shall require each gas utility or municipally owned
7 utility to carry a proper and adequate depreciation account in
8 accordance with:

9 (1) the rates and methods prescribed by the [~~railroad~~]
10 commission under Section 104.054; and

11 (2) any other rule the [~~railroad~~] commission adopts.

12 SECTION 21. Section 102.206(a), Utilities Code, is amended
13 to read as follows:

14 (a) A regulatory authority may require, by order or subpoena
15 served on a gas utility, the production, at the time and place in
16 this state that the regulatory authority designates, of any books,
17 accounts, papers, or records kept by that gas utility outside this
18 state or, if ordered by the [~~railroad~~] commission, verified copies
19 of the books, accounts, papers, or records.

20 SECTION 22. Section 103.001, Utilities Code, is amended to
21 read as follows:

22 Sec. 103.001. MUNICIPAL JURISDICTION. To provide fair,
23 just, and reasonable rates and adequate and efficient services, the
24 governing body of a municipality has exclusive original
25 jurisdiction over the rates, operations, and services of a gas
26 utility within the municipality, subject to the limitations imposed
27 by this subtitle, unless the municipality surrenders its

1 jurisdiction to the [~~railroad~~] commission under Section 103.003.

2 SECTION 23. Section 103.002(c), Utilities Code, is amended
3 to read as follows:

4 (c) A franchise agreement may not limit or interfere with a
5 power conferred on the [~~railroad~~] commission by this subtitle.

6 SECTION 24. Section 103.003, Utilities Code, is amended to
7 read as follows:

8 Sec. 103.003. SURRENDER OF MUNICIPAL JURISDICTION TO
9 [~~RAILROAD~~] COMMISSION; REINSTATEMENT OF JURISDICTION. (a) A
10 municipality may elect to have the [~~railroad~~] commission exercise
11 exclusive original jurisdiction over gas utility rates,
12 operations, and services in the municipality by ordinance or by
13 submitting the question of the surrender of its jurisdiction to the
14 voters at a municipal election.

15 (b) The governing body of a municipality shall submit at a
16 municipal election the question of surrendering its jurisdiction to
17 the [~~railroad~~] commission if the governing body receives a petition
18 signed by a number of qualified voters of the municipality equal to
19 at least the lesser of 20,000 or 10 percent of the number of voters
20 voting in the last preceding general election in the municipality.

21 (c) A municipality may not elect to surrender its
22 jurisdiction while a case involving the municipality is pending.

23 (d) A municipality that surrenders its jurisdiction to the
24 [~~railroad~~] commission may reinstate its jurisdiction. The
25 provisions of this section governing the surrender of jurisdiction
26 apply to the reinstatement of jurisdiction.

27 SECTION 25. Section 103.023, Utilities Code, is amended to

1 read as follows:

2 Sec. 103.023. MUNICIPAL STANDING. (a) A municipality has
3 standing in each case before the [~~railroad~~] commission that relates
4 to a gas utility's rates and services in the municipality.

5 (b) A municipality's standing is subject to the right of the
6 [~~railroad~~] commission to consolidate that municipality with
7 another party on an issue of common interest.

8 SECTION 26. Section 103.024, Utilities Code, is amended to
9 read as follows:

10 Sec. 103.024. JUDICIAL REVIEW. A municipality is entitled
11 to judicial review of a [~~railroad~~] commission order relating to a
12 gas utility's rates and services in a municipality as provided by
13 Section 105.001.

14 SECTION 27. Section 103.051, Utilities Code, is amended to
15 read as follows:

16 Sec. 103.051. APPEAL BY PARTY. A party to a rate proceeding
17 before a municipality's governing body may appeal the governing
18 body's decision to the [~~railroad~~] commission.

19 SECTION 28. Section 103.052, Utilities Code, is amended to
20 read as follows:

21 Sec. 103.052. APPEAL BY RESIDENTS. The residents of a
22 municipality may appeal to the [~~railroad~~] commission the decision
23 of the municipality's governing body in a rate proceeding by filing
24 with the [~~railroad~~] commission a petition for review signed by a
25 number of qualified voters of the municipality equal to at least the
26 lesser of 20,000 or 10 percent of the qualified voters of the
27 municipality.

1 SECTION 29. Section 103.053(a), Utilities Code, is amended
2 to read as follows:

3 (a) The ratepayers of a municipally owned utility who are
4 outside the municipality may appeal to the [~~railroad~~] commission an
5 action of the municipality's governing body affecting the
6 municipally owned utility's rates by filing with the [~~railroad~~]
7 commission a petition for review signed by a number of ratepayers
8 served by the utility outside the municipality equal to at least the
9 lesser of 10,000 or five percent of those ratepayers.

10 SECTION 30. Section 103.054(a), Utilities Code, is amended
11 to read as follows:

12 (a) An appeal under this subchapter is initiated by filing a
13 petition for review with the [~~railroad~~] commission and serving a
14 copy of the petition on each party to the original rate proceeding.

15 SECTION 31. Sections 103.055(b) and (c), Utilities Code,
16 are amended to read as follows:

17 (b) The [~~railroad~~] commission shall enter a final order
18 establishing the rates the [~~railroad~~] commission determines the
19 municipality should have set in the ordinance to which the appeal
20 applies.

21 (c) If the [~~railroad~~] commission fails to enter a final
22 order within 185 days after the date the appeal is perfected, the
23 rates proposed by the gas utility are considered to be approved by
24 the [~~railroad~~] commission and take effect on the expiration of the
25 185-day period.

26 SECTION 32. Section 103.056, Utilities Code, is amended to
27 read as follows:

1 Sec. 103.056. APPLICABILITY OF RATES. Temporary or
2 permanent rates set by the [~~railroad~~] commission are prospective
3 and observed from the date of the applicable [~~railroad~~] commission
4 order, except an interim rate order necessary to provide a gas
5 utility the opportunity to avoid confiscation during the period
6 beginning on the date a petition for review is filed with the
7 [~~railroad~~] commission and ending on the date of a final order
8 establishing rates.

9 SECTION 33. Section 104.001(a), Utilities Code, is amended
10 to read as follows:

11 (a) The [~~railroad~~] commission is vested with all the
12 authority and power of this state to ensure compliance with the
13 obligations of gas utilities in this subtitle.

14 SECTION 34. Sections 104.003(a) and (c), Utilities Code,
15 are amended to read as follows:

16 (a) The regulatory authority shall ensure that each rate a
17 gas utility or two or more gas utilities jointly make, demand, or
18 receive is just and reasonable. A rate may not be unreasonably
19 preferential, prejudicial, or discriminatory but must be
20 sufficient, equitable, and consistent in application to each class
21 of consumer. In establishing a gas utility's rates, the [~~railroad~~]
22 commission may treat as a single class two or more municipalities
23 that a gas utility serves if the commission considers that
24 treatment to be appropriate.

25 (c) Subsection (b) does not apply:

26 (1) if a complaint is filed with the [~~railroad~~]
27 commission by a transmission pipeline purchaser of gas sold or

1 transported under the pipeline-to-pipeline or transportation rate;
2 or

3 (2) to a direct sale for resale to a gas distribution
4 utility at a city gate.

5 SECTION 35. Section 104.005(c), Utilities Code, is amended
6 to read as follows:

7 (c) After notice and hearing, the [~~railroad~~] commission
8 may, in the public interest, order a gas utility to refund with
9 interest compensation received in violation of this section.

10 SECTION 36. Section 104.006, Utilities Code, is amended to
11 read as follows:

12 Sec. 104.006. RATES FOR AREA NOT IN MUNICIPALITY. Without
13 the approval of the [~~railroad~~] commission, a gas utility's rates
14 for an area not in a municipality may not exceed 115 percent of the
15 average of all rates for similar services for all municipalities
16 served by the same utility in the same county as that area.

17 SECTION 37. Section 104.054(a), Utilities Code, is amended
18 to read as follows:

19 (a) The [~~railroad~~] commission shall establish proper and
20 adequate rates and methods of depreciation, amortization, or
21 depletion for each class of property of a gas utility or municipally
22 owned utility.

23 SECTION 38. Section 104.107(a), Utilities Code, is amended
24 to read as follows:

25 (a) Pending the hearing and a decision:

26 (1) the local regulatory authority, after delivering
27 to the gas utility a written statement of the regulatory

1 authority's reasons, may suspend the operation of the schedule for
2 not longer than 90 days after the date the schedule would otherwise
3 be effective; and

4 (2) the [~~railroad~~] commission may suspend the
5 operation of the schedule for not longer than 150 days after the
6 date the schedule would otherwise be effective.

7 SECTION 39. Section 104.201, Utilities Code, is amended to
8 read as follows:

9 Sec. 104.201. TRANSPORTATION RATES BETWEEN GAS UTILITY OR
10 MUNICIPALLY OWNED UTILITY AND STATE AGENCY. (a) Notwithstanding
11 Section 104.003(b), absent a contract for transportation service
12 between a state agency and a gas utility or municipally owned
13 utility, the [~~railroad~~] commission, not later than the 210th day
14 after the date either party files a request to set a transportation
15 rate, shall establish the transportation rate for the state agency.
16 The commission has exclusive original jurisdiction to establish a
17 transportation rate for a state agency under this section.

18 (b) The [~~railroad~~] commission shall base its determination
19 of the transportation rate under Subsection (a) on the cost of
20 providing the transportation service for both the distribution
21 system and the transmission system, as applicable, of the gas
22 utility or municipally owned utility.

23 (c) The [~~railroad~~] commission may order temporary rates
24 under Subsection (a) as provided for under the commission's
25 appellate jurisdiction.

26 SECTION 40. Section 104.2545(c), Utilities Code, is amended
27 to read as follows:

1 (c) A utility shall provide a service described by
2 Subsection (b) at rates provided by a written contract negotiated
3 between the utility and the state or a state agency. If the utility
4 and the state or state agency are not able to agree to a contract
5 rate, a fair and reasonable rate may be determined for the public
6 retail customer, as a rate for a separate class of service, by the
7 [~~railroad~~] commission or, for municipally owned gas utilities, by
8 the relevant regulatory body under this chapter.

9 SECTION 41. Section 104.255(b), Utilities Code, is amended
10 to read as follows:

11 (b) The [~~railroad~~] commission shall adopt rules concerning
12 payment of bills by the state or a state agency to a gas utility or
13 municipally owned utility. The rules must be consistent with
14 Chapter 2251, Government Code.

15 SECTION 42. Section 104.301(j), Utilities Code, is amended
16 to read as follows:

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

22 SECTION 43. Section 105.001(a), Utilities Code, is amended
23 to read as follows:

24 (a) Any party to a proceeding before the [~~railroad~~]
25 commission is entitled to judicial review under the substantial
26 evidence rule.

27 SECTION 44. Section 105.021(a), Utilities Code, is amended

1 to read as follows:

2 (a) The attorney general, on the request of the [~~railroad~~]
3 commission, shall apply in the name of the commission for an order
4 under Subsection (b) if the commission determines that a gas
5 utility or other person is:

6 (1) engaging in or about to engage in an act that
7 violates this subtitle or an order or rule of the commission entered
8 or adopted under this subtitle; or

9 (2) failing to comply with the requirements of this
10 subtitle or a rule or order of the commission.

11 SECTION 45. Section 105.022, Utilities Code, is amended to
12 read as follows:

13 Sec. 105.022. CONTEMPT. The [~~railroad~~] commission may file
14 an action for contempt against a person who:

15 (1) fails to comply with a lawful order of the
16 commission;

17 (2) fails to comply with a subpoena or subpoena duces
18 tecum; or

19 (3) refuses to testify about a matter on which the
20 person may be lawfully interrogated.

21 SECTION 46. Sections 105.023(a) and (d), Utilities Code,
22 are amended to read as follows:

23 (a) A gas utility or affiliate is subject to a civil penalty
24 if the gas utility or affiliate knowingly violates this subtitle,
25 fails to perform a duty imposed on it, or fails, neglects, or
26 refuses to obey an order, rule, direction, or requirement of the
27 [~~railroad~~] commission or a decree or judgment of a court.

1 (d) The attorney general shall file in the name of the
2 [~~railroad~~] commission a suit on the attorney general's own
3 initiative or at the request of the commission to recover the civil
4 penalty under this section.

5 SECTION 47. Section 105.027, Utilities Code, is amended to
6 read as follows:

7 Sec. 105.027. DISPOSITION OF FINES AND PENALTIES. A fine or
8 penalty collected under this subtitle, other than a fine or penalty
9 collected in a criminal proceeding, shall be paid to the [~~railroad~~]
10 commission.

11 SECTION 48. Section 124.002(a), Utilities Code, is amended
12 to read as follows:

13 (a) The Public Utility Commission of Texas [~~railroad~~
14 ~~commission~~] shall adopt rules under which an owner, operator, or
15 manager of a mobile home park or apartment house may purchase
16 natural gas through a master meter for delivery to a dwelling unit
17 in the mobile home park or apartment house using individual
18 submeters to allocate fairly the cost of the gas consumption of each
19 dwelling unit.

20 SECTION 49. Sections 141.001(3) and (5), Utilities Code,
21 are amended to read as follows:

22 (3) "Commission" means the Public Utility [~~Railroad~~]
23 Commission of Texas or its successor agency.

24 (5) "Distribution system retailer":

25 (A) means a retail propane dealer that:

26 (i) owns or operates for compensation in
27 this state a propane gas system; and

1 (ii) has a Category E or K license issued by
2 the applicable license and permit section of the Railroad
3 Commission of Texas [~~commission~~]; and

4 (B) does not include a person that furnishes
5 propane gas only to the person, to the person's employees, or to the
6 person's tenants as an incident of employment or tenancy, if the
7 service is not resold to customers.

8 SECTION 50. Chapter 141, Utilities Code, is amended by
9 adding Section 141.011 to read as follows:

10 Sec. 141.011. MEMORANDUM OF UNDERSTANDING. The commission
11 may enter into a memorandum of understanding with the Railroad
12 Commission of Texas as necessary to administer and enforce this
13 chapter.

14 SECTION 51. (a) On September 1, 2016, the following are
15 transferred from the Railroad Commission of Texas to the Public
16 Utility Commission of Texas:

17 (1) the powers, duties, functions, programs, and
18 activities of the Railroad Commission of Texas relating to the
19 rates and services of gas utilities under Subtitle A, Title 3,
20 Utilities Code, the rates and services of propane distribution
21 system retailers under Subtitle C, Title 3, Utilities Code, and
22 submetering under Chapter 124, Utilities Code, as provided by this
23 Act;

24 (2) any obligations and contracts of the Railroad
25 Commission of Texas that are directly related to implementing a
26 power, duty, function, program, or activity transferred under this
27 Act; and

1 (3) all property and records in the custody of the
2 Railroad Commission of Texas that are related to a power, duty,
3 function, program, or activity transferred under this Act and all
4 funds appropriated by the legislature for that power, duty,
5 function, program, or activity.

6 (b) The Railroad Commission of Texas shall continue to carry
7 out the railroad commission's duties related to the rates and
8 services of gas utilities under Subtitle A, Title 3, Utilities
9 Code, the rates and services of propane distribution system
10 retailers under Subtitle C, Title 3, Utilities Code, and
11 submetering under Chapter 124, Utilities Code, as those laws
12 existed immediately before the effective date of this Act until
13 September 1, 2016, and the former law is continued in effect for
14 that purpose.

15 (c) The Railroad Commission of Texas and the Public Utility
16 Commission of Texas shall enter into a memorandum of understanding
17 that:

18 (1) identifies in detail the applicable powers and
19 duties that are transferred by this Act;

20 (2) establishes a plan for the identification and
21 transfer of the records, personnel, property, and unspent
22 appropriations of the Railroad Commission of Texas that are used
23 for purposes of the railroad commission's powers and duties
24 directly related to the rates and services of gas utilities under
25 Subtitle A, Title 3, Utilities Code, the rates and services of
26 propane distribution system retailers under Subtitle C, Title 3,
27 Utilities Code, and submetering under Chapter 124, Utilities Code,

1 as amended by this Act; and

2 (3) establishes a plan for the transfer of all pending
3 applications, hearings, rulemaking proceedings, and orders
4 relating to the rates and services of gas utilities under Subtitle
5 A, Title 3, Utilities Code, the rates and services of propane
6 distribution system retailers under Subtitle C, Title 3, Utilities
7 Code, and submetering under Chapter 124, Utilities Code, as amended
8 by this Act, from the Railroad Commission of Texas to the Public
9 Utility Commission of Texas.

10 (d) The memorandum of understanding under this section must
11 be completed by August 1, 2016.

12 (e) The executive directors of the Railroad Commission of
13 Texas and the Public Utility Commission of Texas may agree in the
14 memorandum of understanding under this section to transfer to the
15 Public Utility Commission of Texas any personnel of the Railroad
16 Commission of Texas whose functions predominantly involve powers,
17 duties, obligations, functions, and activities related to the rates
18 and services of gas utilities under Subtitle A, Title 3, Utilities
19 Code, the rates and services of propane distribution system
20 retailers under Subtitle C, Title 3, Utilities Code, and
21 submetering under Chapter 124, Utilities Code, as amended by this
22 Act.

23 (f) A rule, form, policy, procedure, or decision of the
24 Railroad Commission of Texas related to a power, duty, function,
25 program, or activity transferred under this Act continues in effect
26 as a rule, form, policy, procedure, or decision of the Public
27 Utility Commission of Texas and remains in effect until amended or

1 replaced by that agency. Notwithstanding any other law, beginning
2 September 1, 2015, the Public Utility Commission of Texas may
3 propose rules, forms, policies, and procedures related to a
4 function to be transferred to the Public Utility Commission of
5 Texas under this Act.

6 SECTION 52. This Act takes effect September 1, 2015.