SUBJECT: Considering total employee compensation when setting gas utility rates

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 11 ayes — Phelan, Deshotel, Harless, Holland, Hunter, P. King, Parker, Raymond, E. Rodriguez, Smithee, Springer

0 nays

2 absent — Hernandez, Guerra

WITNESSES: For — Jason Ryan, CenterPoint Energy; Mark Bender, Texas Gas Service; (*Registered, but did not testify*: Julia Rathgeber, Association of Electric Companies of Texas; Chance Sampson, Entergy Texas, Inc.; Lee Parsley, Texans for Lawsuit Reform; Thure Cannon, Texas Pipeline Association)

Against — Thomas Brocato, Steering Committee of Cities Served by Oncor, Steering Committee of Cities Served by Atmos, Texas Coalition for Affordable Power; (*Registered, but did not testify*: Alfred Herrera, Counsel for Cities Advocating Reasonable Deregulation, Texas Coast Utilities Coalition of Cities, Alliances of CenterPoint Municipalities, Atmos Texas Municipalities; Shanna Igo, Texas Municipal League)

On — (*Registered, but did not testify*: Mark Evarts, Railroad Commission of Texas)

DIGEST: HB 1767 would require the Railroad Commission, when establishing a gas utility's rates, to presume that employee compensation and benefits expenses were reasonable and necessary if the expenses were consistent with recent market compensation studies.

"Employee compensation and benefits" would include base salaries, wages, incentive compensation, and benefits. The term would not include pension and other postemployment benefits.

HB 1767 would apply only to a proceeding for the establishment of rates for which the regulatory authority had not issued a final order or decision before the bill's effective date.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY:

HB 1767 would require the total compensation of gas utility employees, based on market studies, to be considered by the Railroad Commission as a reasonable and necessary expense of a utility. The bill would make rate regulation more predictable, more efficient, and less litigious.

The calculation of total compensation is dependent on market studies, which are used to determine the total of base and contingency pay for employees that was appropriate for the utility to remain competitive in the market.

Allowing gas utilities to recover funds for the total compensation of their employees would be appropriate, as these expenses are necessary for them to operate in a safe and effective manner and to retain employees. The uniform consideration of these expenses also would help reduce litigation on rate regulation, ultimately saving ratepayers money.

The bill would use the typical standard for determining compensation through market studies, which gas utilities already use, and simply codify a process already in place. Since contingency pay still would depend on employee performance, this bill would not remove employee incentives.

OPPONENTS SAY:

HB 1767 would allow a gas utility to inappropriately include bonus payments for employees in rates with little or no oversight.

Because the bill would automatically deem compensation "reasonable and necessary" as long as a utility produced a study supporting the total compensation rate, there would be little to no review of what the compensation should be. These costs would be passed on to ratepayers, who should not be responsible for covering them. Utility shareholders, not ratepayers, should bear the cost of this additional employee compensation, in keeping with standard practices. Allowing bonus payments in the rate setting process also would remove incentives for employees.

The bill is vague because it would not provide a definition of what constituted consistency with market studies or how recent the studies should be. Because utilities often pay for these compensation studies themselves, the process would lack independent oversight.