

BILL ANALYSIS

Senate Research Center
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S.B. 2110
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Some intrastate gas pipelines essentially have a "monopoly" on the transportation of natural gas. If there is only one pipeline in an area, it is unlikely that a customer can switch to another method of receiving their natural gas. This provides the gas pipeline owners with significant power over rate pricing.

S.B. 2110 amends the Utilities Code so that gas utility rates are not automatically considered reasonable if they were negotiated in a non-competitive market. It would, however, allow gas utilities to establish a rebuttable presumption that their rates are reasonable. For proof of reasonableness, gas utilities would need to show that their rates are reasonable by proving that they are charging at least two similar customers the same rates.

If a customer alleges that rates are unreasonable, the Railroad Commission of Texas would be required to set a reasonable interim rate during the pendency of the complaint hearing. S.B. 2110 would also prevent gas utilities from retaliating against customers for filing complaints and provides customers with compensatory damages if a gas utility company is found guilty of price-fixing.

As proposed, S.B. 2110 amends current law relating to the provision of natural gas by and rates charged by certain gas utilities.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 104.003, Utilities Code, by adding Subsections (f) and (g), as follows:

(f) Provides that Subsection (b)(1) (relating to providing that a rate for a pipeline-to-pipeline transaction or to a transportation, industrial, or similar large volume contract customer is considered to be just and reasonable and is required to be approved by the regulatory authority if neither the gas utility nor the customer had an unfair advantage during the negotiations) does not apply to a gas utility when:

(1) the gas utility is providing service to a customer whose facilities are connected to the facilities of only one gas utility; and

(2) all other gas utilities providing service at a location that is less than five miles from the location where the service is provided are incapable of serving all of the customer's natural gas requirements at the level of service needed by the customer at that location.

(g) Authorizes a gas utility to establish a rebuttable presumption that a gas transportation rate meets the requirements of Subsection (b)(2) (relating to providing that a rate for a pipeline-to-pipeline transaction or to a transportation, industrial, or similar large volume

contract customer is considered to be just and reasonable and is required to be approved by the regulatory authority if the rate is substantially the same as the rate between the gas utility and at least two of those customers under the same or similar conditions of service) by filing with the regulatory authority executed agreements containing the gas transportation rates for two or more similarly situated customers of the gas utility. Provides that an executed agreement filed with a regulatory authority under Section 104.003 (Just and Reasonable Rates) is not confidential and is public information under Chapter 552 (Public Information), Government Code.

SECTION 2. Amends Section 104.151, Utilities Code, by adding Subsections (c) and (d), as follows:

(c) Requires the Railroad Commission of Texas (RRC), if a transmission pipeline purchaser of gas sold or transported under a pipeline-to-pipeline or transportation rate files a complaint with RRC about the rate and requests that RRC set an interim rate while the complaint is pending, to set an interim rate that the gas utility is required to apply to the complainant for the service in question until the date RRC enters an order establishing the rate to be charged or otherwise disposing of the complaint. Requires that the interim rate provide the gas utility the opportunity to avoid confiscation during the period beginning on the date the complaint is filed and ending on the date RRC enters an order establishing the rate to be charged or otherwise disposing of the complaint.

(d) Prohibits a gas utility from retaliating against a customer for filing a complaint related to pipeline-to-pipeline or transportation rates.

SECTION 3. Amends Section 121.303, Utilities Code, as follows:

Sec. 121.303. New heading: **PENALTY AND DAMAGES RECOVERABLE FOR DISCRIMINATION**. (a) Provides that a penalty of not less than \$100 and not more than \$1,000 for each violation is and compensatory damages proximately caused by the discriminatory conduct are recoverable by any person against whom discrimination prohibited by Section 121.104 (Discrimination in Service and Charges Prohibited) is committed.

(b) Requires that an action, rather than a suit, to collect a penalty or damages under this section be brought in the name of and for the benefit of the person aggrieved.

(c) Entitles a person who recovers a penalty or damages under this section to reasonable attorney's fees.

(d) Provides that the penalty authorized under this section is in addition to a penalty under Section 121.302 (Civil Penalty).

(e) Provides that discriminatory conduct prohibited by Section 121.104 is grounds for action under certain sections by the Consumer Protection Division of the Office of the Attorney General.

SECTION 4. Makes application of Section 121.303, Utilities Code, as amended by this Act, prospective.

SECTION 5. Effective date: September 1, 2023.