

UTILITIES CODE

TITLE 3. GAS REGULATION

SUBTITLE A. GAS UTILITY REGULATORY ACT

CHAPTER 103. JURISDICTION AND POWERS OF MUNICIPALITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 103.001. MUNICIPAL JURISDICTION. To provide fair, just, and reasonable rates and adequate and efficient services, the governing body of a municipality has exclusive original jurisdiction over the rates, operations, and services of a gas utility within the municipality, subject to the limitations imposed by this subtitle, unless the municipality surrenders its jurisdiction to the railroad commission under Section 103.003. Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1233, Sec. 65, eff. Sept. 1, 2001.

Sec. 103.002. FRANCHISES. (a) This subtitle does not restrict the rights and powers of a municipality to grant or refuse a franchise to use the streets and alleys in the municipality or to make a statutory charge for that use.

(b) A municipality that performs a regulatory function under this subtitle may make each charge that is authorized by:

- (1) this subtitle; or
- (2) the applicable franchise agreement.

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

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

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

(b) The governing body of a municipality shall submit at a

municipal election the question of surrendering its jurisdiction to the railroad commission if the governing body receives a petition signed by a number of qualified voters of the municipality equal to at least the lesser of 20,000 or 10 percent of the number of voters voting in the last preceding general election in the municipality.

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

(d) A municipality that surrenders its jurisdiction to the railroad commission may reinstate its jurisdiction. The provisions of this section governing the surrender of jurisdiction apply to the reinstatement of jurisdiction.

Added by Acts 2001, 77th Leg., ch. 1233, Sec. 66, eff. Sept. 1, 2001.

SUBCHAPTER B. RATE DETERMINATION

Sec. 103.021. MUNICIPAL PROCEEDINGS. (a) A municipality regulating a gas utility under this subtitle shall require the utility to submit information as necessary to make a reasonable determination of rate base, expenses, investment, and rate of return in the municipality.

(b) A municipality shall make a determination under Subsection (a) using the procedures and requirements prescribed by this subtitle.

(c) A municipality shall retain personnel necessary to make the determination of reasonable rates.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 103.022. RATE ASSISTANCE AND COST REIMBURSEMENT. (a) The governing body of a municipality participating in or conducting a ratemaking proceeding may engage rate consultants, accountants, auditors, attorneys, and engineers to:

(1) conduct investigations, present evidence, and advise and represent the governing body; and

(2) assist the governing body with litigation or a gas utility ratemaking proceeding before a regulatory authority or court.

(b) The gas utility in the ratemaking proceeding shall reimburse the governing body of the municipality for the reasonable cost of the services of a person engaged under Subsection (a) to the extent the applicable regulatory authority determines reasonable. Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

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

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

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

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

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER C. APPEAL OF MUNICIPAL ORDER

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

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

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

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 103.053. APPEAL BY RATEPAYERS OUTSIDE MUNICIPALITY.

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

(b) A petition for review is properly signed if signed by a person or the spouse of a person in whose name residential utility service is carried.

(c) For purposes of this section, each person who receives a separate bill is a ratepayer. A person who receives more than one bill may not be counted as more than one ratepayer.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 103.054. FILING OF APPEAL. (a) An appeal under this subchapter is initiated by filing a petition for review with the railroad commission and serving a copy of the petition on each party to the original rate proceeding.

(b) The appeal must be initiated not later than the 30th day after the date of the final decision by the governing body of the municipality.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 103.055. HEARING AND ORDER. (a) An appeal under this subchapter is de novo and based on the test year presented to the municipality adjusted for known changes and conditions that are measurable with reasonable accuracy.

(b) The railroad commission shall enter a final order establishing the rates the railroad commission determines the municipality should have set in the ordinance to which the appeal applies.

(c) If the railroad 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 railroad commission and take effect on the expiration of the 185-day period.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

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

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.