

UTILITIES CODE

TITLE 2. PUBLIC UTILITY REGULATORY ACT

SUBTITLE B. ELECTRIC UTILITIES

CHAPTER 33. JURISDICTION AND POWERS OF MUNICIPALITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 33.001. MUNICIPAL JURISDICTION. (a) 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 an electric utility in areas in the municipality, subject to the limitations imposed by this title.

(b) Repealed by Acts 2021, 87th Leg., R.S., Ch. 727 (H.B. 3853), Sec. 2, eff. June 15, 2021.

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

Amended by:

Acts 2005, 79th Leg., 2nd C.S., Ch. 2 (S.B. 5), Sec. 1, eff. September 7, 2005.

Acts 2021, 87th Leg., R.S., Ch. 727 (H.B. 3853), Sec. 2, eff. June 15, 2021.

Sec. 33.002. SURRENDER OF MUNICIPAL JURISDICTION TO COMMISSION. (a) A municipality shall regulate all local utility service in the municipality until the commission assumes jurisdiction over a local utility under this subtitle.

(b) A municipality may elect to have the commission exercise exclusive original jurisdiction over electric 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.

(c) The governing body of a municipality shall submit at a municipal election the question of surrendering its jurisdiction to the 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.

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

Sec. 33.003. REINSTATEMENT OF MUNICIPAL JURISDICTION. (a) A municipality that surrenders its jurisdiction to the commission may at any time reinstate its jurisdiction by a vote of the electorate.

(b) A municipality that reinstates its jurisdiction under Subsection (a) may not surrender that jurisdiction before the fifth anniversary of the date of the election in which the municipality elected to reinstate its jurisdiction.

(c) A municipality may not, by a vote of the electorate, reinstate the jurisdiction of the governing body during the time a case involving the municipality is pending before the commission.

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

Sec. 33.004. AREA EXEMPT FROM COMMISSION REGULATION. (a) If a municipality does not surrender its jurisdiction, local utility service in the municipality is exempt from regulation by the commission under this subtitle to the extent that this subtitle applies to local service.

(b) The municipality may exercise in the exempt area the same regulatory powers under the same standards and rules as the commission or under other consistent standards and rules.

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

Sec. 33.005. EXEMPT AREA REPORTING. (a) An electric utility serving an area exempt from commission regulation is subject to the reporting requirements of this title.

(b) A report must be filed with:

- (1) the governing body of the municipality; and
- (2) the commission.

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

Sec. 33.006. COMMISSION POWERS IN NONEXEMPT AREAS. This subchapter does not limit the duty and power of the commission to regulate the service and rates of a municipally regulated electric utility for service provided to another area in this state.

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

Sec. 33.007. ALLOWABLE CHARGES. A municipality that performs a regulatory function under this title may make each charge that is authorized by:

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

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

Sec. 33.008. FRANCHISE CHARGES. (a) Following the end of the freeze period for a municipality that has been served by an electric utility, and following the date a municipally owned utility or an electric cooperative has implemented customer choice for a municipality that has been served by that municipally owned utility or electric cooperative, a municipality may impose on an electric utility, transmission and distribution utility, municipally owned utility, or electric cooperative, as appropriate, that provides distribution service within the municipality a reasonable charge as specified in Subsection (b) for the use of a municipal street, alley, or public way to deliver electricity to a retail customer. A municipality may not impose a charge on:

- (1) an electric utility, or transmission and distribution utility, municipally owned utility, or electric cooperative for electric service provided outside the municipality;

- (2) a qualifying facility;
- (3) an exempt wholesale generator;
- (4) a power marketer;
- (5) a retail electric provider;
- (6) a power generation company;

- (7) a person that generates electricity on and after January 1, 2002; or

- (8) an aggregator, as that term is defined by Section [39.353](#).

(b) If a municipality collected a charge or fee for a franchise to use a municipal street, alley, or public way from an

electric utility, a municipally owned utility, or an electric cooperative before the end of the freeze period, the municipality, after the end of the freeze period or after implementation of customer choice by the municipally owned utility or electric cooperative, as appropriate, is entitled to collect from each electric utility, transmission and distribution utility, municipally owned utility, or electric cooperative that uses the municipality's streets, alleys, or public ways to provide distribution service a charge based on each kilowatt hour of electricity delivered by the utility to each retail customer whose consuming facility's point of delivery is located within the municipality's boundaries. The charge imposed shall be equal to the total electric franchise fee revenue due the municipality from electric utilities, municipally owned utilities, or electric cooperatives, as appropriate, for calendar year 1998 divided by the total kilowatt hours delivered during 1998 by the applicable electric utility, municipally owned utility, or electric cooperative to retail customers whose consuming facilities' points of delivery were located within the municipality's boundaries. The compensation a municipality may collect from each electric utility, transmission and distribution utility, municipally owned utility, or electric cooperative providing distribution service shall be equal to the charge per kilowatt hour determined for 1998 multiplied times the number of kilowatt hours delivered within the municipality's boundaries.

(c) The municipal franchise charges authorized by this section shall be considered a reasonable and necessary operating expense of each electric utility, transmission and distribution utility, municipally owned utility, or electric cooperative that is subject to a charge under this section. The charge shall be included in the nonbypassable delivery charges that a customer's retail electric provider must pay under Section 39.107 to the utility serving the customer.

(d) The municipal franchise charges authorized by this section are in lieu of any franchise charges or fees payable under a franchise agreement in effect before the expiration of the freeze period or, as appropriate, before the implementation of customer

choice by a municipally owned utility or electric cooperative. Except as otherwise provided by this section, this section does not affect a provision of a franchise agreement in effect before the end of the freeze period or, as appropriate, before the implementation of customer choice by a municipally owned utility or electric cooperative.

(e) A municipality may conduct an audit or other inquiry or may pursue any cause of action in relation to an electric utility's, transmission and distribution utility's, municipally owned utility's, or electric cooperative's payment of charges authorized by this section only if such audit, inquiry, or pursuit of a cause of action concerns a payment made less than two years before commencement of such audit, inquiry, or pursuit of a cause of action; provided, however, that this subsection does not apply to an audit, inquiry, or cause of action commenced before September 1, 1999. An electric utility, transmission and distribution utility, municipally owned utility, or electric cooperative shall, on request of the municipality in connection with a municipal audit, identify the service provider and the type of service delivered for any service in addition to electricity delivered directly to retail customers through the utility's electricity-conducting facilities that are located in the municipality's streets, alleys, or public ways and for which the utility receives compensation.

(f) Notwithstanding any other provision of this section, on the expiration of a franchise agreement existing on September 1, 1999, an electric utility, transmission and distribution utility, municipally owned utility, or electric cooperative and a municipality may mutually agree to a different level of compensation or to a different method for determining the amount the municipality may charge for the use of a municipal street, alley, or public way in connection with the delivery of electricity at retail within the municipality.

(g) After the end of the freeze period or after implementation of customer choice by the municipally owned utility or electric cooperative, as appropriate, a newly incorporated municipality or a municipality that has not previously collected compensation for the delivery of electricity at retail within the

municipality may adopt and collect compensation based on the same rate per kilowatt hour that is collected by any other municipality in the same county that is served by the same electric utility, transmission and distribution utility, municipally owned utility, or electric cooperative.

(h) In this section, "distribution service" means the delivery of electricity to all retail customers.

Added by Acts 1999, 76th Leg., ch. 405, Sec. 15, eff. Sept. 1, 1999.

#### SUBCHAPTER B. RATE DETERMINATION

Sec. 33.021. RATE DETERMINATION. (a) A municipality regulating an electric 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 title.

(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. 33.0211. RATES AND FEES CHARGED BY CERTAIN MUNICIPALLY OWNED UTILITIES. (a) This section applies only to a municipally owned utility that is located in a municipality that is considered to be a defunding municipality under Chapter 109, Local Government Code.

(b) The governing body of a municipally owned utility may not charge a customer:

(1) at a rate higher than the rate the customer was charged or would have been charged on January 1 of the year that the municipality was determined to be a defunding municipality;

(2) any customer fees in amounts higher than the customer fees the customer was charged or would have been charged on January 1 of the year that the municipality was determined to be a defunding municipality; or

(3) any types of customer fees that the customer was not charged or would not have been charged on January 1 of the year that the municipality was determined to be a defunding municipality.

(c) If a municipally owned utility has not transferred funds to the defunding municipality described by Subsection (a) in the immediately preceding 12 months, the municipally owned utility may increase its rates to account for:

(1) pass-through charges imposed by a state regulatory body or the independent organization certified under Section [39.151](#);

(2) fuel, hedging, or wholesale power cost increases;  
or

(3) to fulfill debt obligations or comply with Chapter [1502](#), Government Code.

(d) A municipally owned utility that increases rates under this Subsection (c) may not transfer funds to the defunding municipality described by Subsection (a) until the date the criminal justice division of the governor's office issues a written determination in accordance with Section [109.005](#), Local Government Code, finding that the municipality described by Subsection (a) has reversed the reduction described by Section [109.003\(1\)](#), Local Government Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 199 (H.B. [1900](#)), Sec. 5.01, eff. September 1, 2021.

Sec. 33.022. CONSIDERATION OF REVENUES AND RETURN FROM NONEXEMPT AREA. In establishing rates and charges in an area exempt from commission regulation, the governing body may consider an electric utility's revenues and return on investment in an area that is not exempt from commission regulation.

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

Sec. 33.023. RATEMAKING PROCEEDINGS. (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 in an electric utility ratemaking proceeding before the governing body, a regulatory authority, or a court.

(b) The electric 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 is reasonable.

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

Sec. 33.024. STATEMENT OF INTENT. (a) Not later than the 31st day before the date an electric utility files a statement of intent under Section 36.102, the electric utility shall provide notice of intent to file the statement to each municipality having original jurisdiction.

(b) Not later than the 30th day after the date a municipality receives notice under Subsection (a), the municipality may request that the electric utility file with the municipality a statement of intent in accordance with Section 36.102.

(c) If requested by a municipality under Subsection (b), the electric utility shall file the statement of intent with the municipality at the same time the statement is filed with the commission.

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

Sec. 33.025. MUNICIPAL STANDING. (a) A municipality has standing in each case before the commission that relates to an electric utility providing service in the municipality.

(b) A municipality's standing is subject to the right of the commission to:

(1) determine standing in a case involving a retail service area dispute that involves two or more electric utilities; and

(2) consolidate municipalities on an issue of common



interest.

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

Sec. 33.026. JUDICIAL REVIEW. A municipality is entitled to judicial review of a commission order relating to an electric utility providing services in the municipality as provided by Section 15.001.

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

#### SUBCHAPTER C. APPEAL OF MUNICIPAL ORDER

Sec. 33.051. APPEAL BY PARTY. A party to a rate proceeding before a municipality's governing body may appeal the governing body's decision to the commission.

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

Sec. 33.052. APPEAL BY RESIDENTS. The residents of a municipality may appeal to the commission the decision of the municipality's governing body in a rate proceeding by filing with the 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. 33.053. FILING OF APPEAL. (a) An appeal under this subchapter is initiated by filing a petition for review with the 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. 33.054. HEARING AND ORDER. (a) An appeal under this subchapter, Subchapter D, or Subchapter E is de novo and based on the test year presented to the municipality.

(b) The commission shall enter a final order establishing

the rates the commission determines the municipality should have set in the ordinance to which the appeal applies.

(c) In a proceeding involving the rates of a municipally owned utility, the commission must enter a final order on or before the 185th day after the date the appeal is perfected or the utility files a rate application as prescribed by Section 33.104.

(d) In a proceeding in which a rate change is concurrently sought from the commission under the commission's original jurisdiction, the commission must enter a final order on or before the later of the 120th day after the date the appeal is perfected or the date final action must be taken in the proceeding filed with the commission.

(e) In a proceeding not governed by Subsection (c) or (d), the commission must enter a final order on or before the 185th day after the date the appeal is perfected.

(f) If the commission fails to enter a final order before the expiration of the applicable period prescribed by Subsections (c)-(e), the rates proposed by the utility are considered to be approved by the commission and take effect on the expiration of that period.

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

Sec. 33.055. APPLICABILITY OF RATES. (a) Temporary or permanent rates set by the commission are prospective and observed from the date of the applicable commission order, except an interim rate order necessary to effect uniform system-wide rates or to provide an electric utility the opportunity to avoid confiscation during the period beginning on the date a petition for review is filed with the commission and ending on the date of a final order establishing rates.

(b) The commission shall order interim rates on a prima facie showing by the electric utility that it has experienced confiscation during that period. The electric utility shall refund or credit against future bills:

(1) money collected under the interim rates in excess of the rate finally ordered; and

(2) interest on that money, at the current rate as

determined by the commission.

(c) In this section, "confiscation" includes negative cash flow experienced by an electric utility at any time a rate case proceeding is pending.

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

SUBCHAPTER D. PROVISIONS APPLICABLE TO APPEAL BY RATEPAYERS OUTSIDE  
MUNICIPALITY

Sec. 33.101. APPEAL BY RATEPAYERS OUTSIDE MUNICIPALITY.

(a) The ratepayers of a municipally owned utility who are outside the municipality may appeal to the commission an action of the governing body of the municipality affecting the municipally owned utility's rates by filing with the 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. 33.102. IDENTIFICATION OF RATEPAYERS OUTSIDE  
MUNICIPALITY. (a) A municipality that owns a utility shall:

(1) disclose to any person, on request, the number of ratepayers who reside outside the municipality; and

(2) provide to any person, on request, a list of the names and addresses of the ratepayers who reside outside the municipality.

(b) The municipality may not charge a fee for disclosing the information under Subsection (a)(1). The municipality may charge a reasonable fee for providing information under Subsection (a)(2).

(c) The municipality shall provide information requested under Subsection (a)(1) by telephone or in writing, as preferred by

the person making the request.

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

Sec. 33.103. FILING OF APPEAL. (a) Not later than the 14th day after the date a governing body of a municipality makes a final decision, the municipality shall issue a written report stating the effect of the decision on each class of ratepayer.

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

(c) The appeal must be initiated not later than the 45th day after the date the municipality issues the written report required by Subsection (a).

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

Sec. 33.104. RATE APPLICATION. Not later than the 90th day after the date a petition for review is filed that complies with Section 33.103, the municipality shall file with the commission a rate application that complies in all material respects with the rules and forms prescribed by the commission. The commission may, for good cause shown, extend the period for filing a rate application.

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

#### SUBCHAPTER E. RATE DETERMINATION AND APPEAL OF ORDERS OF CERTAIN MUNICIPAL UTILITIES

Sec. 33.121. APPLICATION OF COMMISSION REVIEW. A municipally owned utility is subject to this subchapter if the utility is a utility:

- (1) whose rates are appealed under Subchapter D;
- (2) for which the commission orders a decrease in annual nonfuel base revenues that exceeds the greater of \$25,000,000 or 10 percent of the utility's nonfuel base revenues, as computed on a total system basis without regard to the utility's municipal boundaries and established in the appealed rate ordinance; and

(3) for which the commission finds that the rates paid by the combined residential or other major customer class, other than a class in which the municipality is the customer of the municipally owned utility, are removed from cost-of-service levels to the extent that, under the nonfuel base revenue requirement adopted by the commission as computed on a total system basis without regard to the municipality's boundaries, a change in nonfuel base rate revenues in excess of 50 percent from adjusted test year levels would be required to move that class to a relative rate of return of unity (1.00 or 100 percent) under the cost-of-service methodology adopted by the commission in an appeal under Subchapter D.

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

Sec. 33.122. REVIEW OF CERTAIN RATE DECISIONS. (a) Except as provided by Subsections (b)-(f), for a period of 10 years beginning on the later of August 28, 1989, or the effective date of the rate ordinance that is the subject of the commission's final order invoking the application of this section, the commission has appellate jurisdiction over the rates charged by the municipally owned utility, both inside and outside the municipality, in the same manner and subject to the same commission powers and authority provided by this subtitle for an electric utility.

(b) The commission has jurisdiction to review the cost allocation and rate design methodologies adopted by the governing body of a municipally owned utility subject to this section. If the commission finds that the cost-of-service methodologies result in rates that are unjust, unreasonable, or unreasonably discriminatory, or unduly preferential to a customer class, the commission may order the implementation of ratesetting methodologies the commission finds reasonable.

(c) The commission shall ensure that a customer class, other than a class in which the municipality is the customer of the municipally owned utility, does not pay rates that result in a relative rate of return of more than 115 percent under the cost-of-service methodology found reasonable by the commission. A customer class may not experience a percentage base rate increase

that is greater than 1-1/2 times the system average base increase. In moving an above-cost class toward cost-of-service levels, each class farthest above cost shall be moved sequentially toward cost so that no above-cost class moves toward cost until no other class is further removed from cost.

(d) A municipality subject to this section may design residential rates, as a matter of intra-class rate design, to accomplish reasonable energy conservation goals, notwithstanding any other provision of this title.

(e) The commission's jurisdiction under this section may be invoked by any party to a local rate proceeding required by this section in the same manner as an appeal of the rates of an electric utility under Section 33.051.

(f) The commission's jurisdiction under this section does not extend to a municipally owned utility's:

- (1) revenue requirements, whether base rate or fuel revenues;
- (2) invested capital;
- (3) return on invested capital;
- (4) debt service coverage ratio; or
- (5) level of transfer of revenues from the utility to the municipality's general fund.

(g) The governing body of a municipally owned utility subject to this section shall establish procedures similar to the procedures of a municipality that retains original jurisdiction under Section 33.001 to regulate an electric utility operating in the municipality. The procedures must include a public hearing process in which an affected ratepayer is granted party status on request and is grouped for purposes of participation in accordance with common or divergent interests, including the particular interests of all-electric residential ratepayers and residential ratepayers outside the municipality.

(h) This section does not require the governing body of a municipality or the governing board of a municipally owned utility subject to this section to adopt procedures that require the use of the Texas Rules of Evidence, the Texas Rules of Civil Procedure, or the presentation of sworn testimony or any other form of sworn

evidence.

(i) The governing body of a municipally owned utility subject to this section shall appoint a consumer advocate to represent the interests of residential and small commercial ratepayers in the municipality's local rate proceedings. The consumer advocate's reasonable costs of participating in a proceeding, including the reasonable costs of ratemaking consultants and expert witnesses, shall be funded by and recovered from residential and small commercial ratepayers.

(j) The commission shall adopt rules applicable to a party to an appeal under Subchapter D that provide for the public disclosure of financial and in-kind contributions and expenditures related to preparing and filing an appeal petition and preparing expert testimony or legal representation for an appeal. A party or customer who is a member of a party who makes a financial contribution or in-kind contribution to assist in an appeal by another party or customer class under Subchapter D shall be required, on a finding of the commission to that effect, to pay the municipally owned utility a penalty equivalent in amount to two times the amount of the contribution.

(k) This section does not limit the right of a party or customer to spend money to represent its own interests following the filing of a petition with the commission under Subchapter D.

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

Sec. 33.123. REVIEW OF CERTAIN DECISIONS FOR RATES CHARGED OUTSIDE MUNICIPALITY. (a) For a period of 10 years beginning on the later of August 28, 1989, or the effective date of the rate ordinance that is the subject of the commission's final order invoking the application of this section, the commission has appellate jurisdiction over the rates charged by the municipally owned utility, outside the municipality, as provided by this section.

(b) Except as otherwise provided by this section, a ratepayer of a municipally owned utility subject to this section who resides outside the municipality may appeal any action of the governing body of a municipality affecting the rates charged by the

municipally owned utility outside the municipality by filing a petition for review with the commission in the manner provided for an appeal under Subchapter D. The petition must plainly disclose that the cost of the appeal will be funded by a surcharge on the monthly electric bills of ratepayers outside the municipality as prescribed by the commission.

(c) After the commission approves the sufficiency of a petition, the appellants shall submit to the office for approval a budget itemizing the scope and expected cost of consultant services to be purchased by the appellants in the appeal.

(d) Not later than the 120th day after the date the commission enters its final order, the municipality shall assess a onetime surcharge on a per capita basis among residential ratepayers who reside outside the municipality to pay the reasonable consultant and legal costs approved by the counsellor. The municipality shall reimburse the appellants for incurred costs not later than the 90th day after the date the commission enters its final order.

(e) A municipality may not:

(1) include the costs associated with its defense of an appeal under this section in the rates charged a ratepayer outside the municipality; or

(2) if the municipality appeals an order entered by the commission under this section, include the costs associated with its appeal in the rates charged a ratepayer outside the municipality.

(f) A ratepayer who brings an appeal under this section may not receive funding for rate case expenses except from a residential ratepayer who resides outside the municipality or from another municipality inside whose boundaries the municipally owned utility provides service. The commission shall adopt rules for reporting financial and in-kind contributions in support of an appeal under this section. If the commission finds that an appellant has received contributions from a source other than from a ratepayer who resides outside the municipality or from another municipality, the appeal and each commission order entered in the appeal are void.



(g) The commission has jurisdiction in an appeal under this section to review and ensure that the revenue requirements of a municipally owned utility subject to this section are reasonable. The jurisdiction under this subsection does not extend to regulating the use and level of a transfer of the utility's revenues to the municipality's general fund.

(h) The commission has jurisdiction to review the cost allocation and rate design methodologies adopted by the governing body of a municipally owned utility subject to this section. If the commission finds that the cost-of-service methodologies result in rates that are unjust, unreasonable, or unreasonably discriminatory or unduly preferential to a customer class, the commission may order the implementation of ratesetting methodologies the commission finds reasonable. The commission's jurisdiction under this subsection does not include intra-class residential rate design.

(i) An intervenor in an appeal under this section is limited to presenting evidence on cost allocation and rate design methodologies, except that an intervenor may present evidence in support of the municipality on an issue related to utility revenues.

(j) A ratepayer of a municipally owned utility subject to this section who resides outside the municipality may elect to petition for review under either this section or Subchapter D when appealing a rate ordinance or other ratesetting action of the governing body of a municipality.

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