

# The Past, Present & Future of the Natural Gas Rate Case



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# Jurisdiction--Procedural

- Keyed to “Effective Date” 35 days from rate filing
- Cities may extend 90 days to provide 125 days of jurisdiction
- RRC may extend 125 days to provide 160 days of jurisdiction

# Key to Gaining More Time

- Persuade Company to extend its “Effective Date”
- Effective Date can be voluntarily moved at either City or RRC level

# Jurisdiction--Subject Matter

- A city has original jurisdiction over distribution system within municipal boundaries
- RRC has original jurisdiction over pipeline costs and delivery of gas to the city gate
- The Texas statute does not contemplate City jurisdiction over the commodity (natural gas)
- Environs (out of city limits) customers' rates are set by the RRC
- Does a city acquire jurisdiction over pipeline costs if a company rolls pipeline COS into distribution COS?

# Appellate Jurisdiction

- A company may appeal a municipal rate ordinance to the RRC
- RRC only obtains jurisdiction over distribution rates through environs proceedings and appeals of city ordinances

# Comprehensive Cost of Service

- One should only consider increases to certain classes of customers (R&C) within the context of total revenue requirements for the entire system and all classes of customers
- Should cities set rates for industrial customers?

## § 502(a) Rates

- The Utilities Code sanctions contract rates between gas utilities and large users who have competitive options
- What happens when a once competitive situation becomes non-competitive?
- What happens when the contract rate does not recover the cost of service?

# COS Regulation In The Public Interest

- Regulation substitutes for competition
- “Least cost operation” and “efficiency” are presumed
- Costs are transparent, reasonable and necessary
- Profits are constrained or they are disallowed
- Costs are assigned to cost causers

# The Shared Cost Problem

- Convergence of gas and electric operations
- Competitive and non-competitive objectives are pursued in common projects
- Affiliated Transactions become increasingly significant and complex
- Who gets what portion of savings as well as what portion of costs?

# Cost Classification

- Demand related--assumes primary reason for cost incurrence is meeting peak demand
- Commodity (MCF) related -- assumes primary reason for cost incurrence is need for year round usage
- Customer related--assumes primary reason for cost incurrence is need to serve customer count rather than demand or usage (meters, stamps)  
(TXU-R is 91% customer count, 43% usage, 57% demand)

# Hypothetical Constructs to Maximize Allocation to R&C

- Maximum Design Day Demand
  - Assumes pipeline system is designed to meet firm (non-industrial) current peak demand under historic extreme weather conditions
- Minimum System
  - Assumes distribution system is designed to serve nominal needs of R&C customers (43% of mains alleged by TXU to be necessary regardless of usage)

# Past Two Decades

- FERC deregulated interstate pipelines in 1980's and ordered sharing of excess of market gas costs
- Deregulation and cost sharing became the context for limited RRC rate decisions
- Most distribution cases are settled at local level
- Two prior LSG/TXU Pipeline cases resulted in rate reductions

# Current TXU Gas Rate Issues

- Recognizing Historic Adjusted Value Rates
- WINS costs and savings
- Error in pipeline cost-of-service
- Affiliate transactions--reasonableness and necessity of Business Service Costs
- Get rid of minimum system analysis
- Modify cost classifications
- Other Accounting Issues

Gas Reliability  
Infrastructure Program  
("GRIP")

Texas Utilities Code § 104.301

# What is GRIP?

- Automatic rate adjustment to allow gas utilities to include costs related to new plant investment in rates *without filing a full rate case*
- Costs included are return (profit) on investment, depreciation expense, and certain taxes

## How Does the Utility Get a GRIP?

- Must have base line rate case within last 2 years before requesting adjustment
- Utility must file tariff or rate schedule with city 60 days before implementation date
- Utility must give notice to all affected customers by direct mail or bill insert

# What can a city do?

- Can suspend implementation of GRIP
- Until new charge has been reviewed as part of a full rate case, city can disallow adjustments and order a refund
- Can open an inquiry (§104.151) and set new rates if rates are found to be excessive

# What happens after GRIP has been implemented?

- Annual reports by utility describing all new investment and retired plant
- Statement of cost, need, and customers benefited by new investment
- Annual earnings monitoring report showing earnings in past year

# After GRIP Is Implemented (cont'd)

- If earnings are high (more than .75% above currently approved rate of return), utility must state why earnings are not unreasonable
- Utility must file a full rate case no later than 5½ years after implementation

# Rate/Tariff Issues

- Declining Block Rates
- Customer Charges
- In-City Franchise Fee Surcharges

# Franchise Issues

- Line Extension
- Historic vs. privilege basis
- Merger/Acquisition

# Issues in Transition

- Does distribution system consolidation promote long term fairness and efficiency or nullify cost causality?

Analogy to Permian Basin Area Rate Cases, 390 U.S. 747 (1968)

- Is convergence of gas and electric industries a fad or protective move to guard electric territory?
- Automatic Adjustment Clauses