

Cities Refuse to Accept Utility Rate Hikes Without a Fight

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Texas cities have a long history of participation in the ratemaking process for both gas and electric utilities in the State of Texas. Prior to the enactment of the Public Utility Regulatory Act (“PURA”) in 1975 and the Gas Utility Regulatory Act (“GURA”) in 1983, utility rates were set exclusively at the city level, with any appeals of municipal rate ordinances decided in the courts.

Currently, under PURA and GURA, cities have original jurisdiction over the utility rates within their city limits. This means that the Railroad Commission (“RRC”) and the Public Utility Commission (“PUC”) have original jurisdiction over gas and electric rates in service areas outside city limits and also within the city limits of those cities that have ceded their original jurisdiction to the agency. In addition, the PUC and RRC have appellate jurisdiction over rate ordinances and orders of cities concerning electric and gas utility service within a city’s limits.

Recognizing the important role cities play in the regulation of utilities, hundreds of cities across the state participate in ratemaking proceedings at both the PUC and the RRC in order to ensure fair, just, and reasonable rates, as well as adequate and efficient services for the city and its residents.

Historically, cities have formed coalitions to represent the collective interests of cities and their citizens before the regulatory agencies and courts. By forming coalitions, cities have been able to present a strong voice for consumers for over 30 years. This has served to reduce the costs that cities and their residents pay for electric and gas service. Cities’ active participation in rate cases demonstrates their concern for reliability, quality of service, and the prices their citizens pay for gas and electricity. In numerous instances, without city participation, rate increases would have gone into effect without any party scrutinizing the utility’s application.

City coalitions have been effective in ensuring that utilities charge cities and their residents reasonable rates. In 2010, cities successfully fought to mitigate excessive rate increase requests by both gas and electric utilities, playing a vital role advocating on behalf of consumers. For example, in Oncor Electric Delivery Company’s (“Oncor”) last rate case, Oncor sought to increase its rates by \$253 million annually. However, based on many of the recommendations made by cities, the PUC determined that Oncor was entitled to a rate increase of just \$130 million.

In another notable electric rate case in 2010, cities negotiated a settlement with Texas-New Mexico Power Company (“TNMP”). TNMP originally sought a \$20.1 million rate increase, but after lengthy negotiations, the parties agreed to an increase of just \$10.25 million. Additionally, the cities were able to obtain a more favorable rate design structure for residential rates in order to reduce the impact of the rate increase on that rate class. Because of their strong presence, cities were able to secure rates and a rate structure that was as good as, if not better than, a result that could have been expected had the case been fully litigated.

Similarly, cities have recently participated in gas proceedings brought by the various divisions of the Atmos Energy Corporation. For example, in March 2010, the Atmos Mid-Tex division filed for a \$56.8 million rate increase. After lengthy negotiations, the parties reached a settlement that provided for a \$27 million increase in annual revenue (less than half of the company's initial request).

City coalitions also participated in a rate case brought by CenterPoint Energy Entex (Houston Division) and decided by the RRC in February 2010. While CenterPoint initially sought a \$25.4 million increase, the RRC adopted almost all of the accounting adjustments recommended by cities, resulting in an increase of only \$5 million (one-fifth of CenterPoint's original request).

In each of these cases, cities have saved their ratepayers money by refusing to accept the utilities' rate increase requests at face value. By participating in rate cases, cities are able to dig into the complex calculations of ratemaking to determine whether a utility has made a reasonable request. When cities determine that a utility's request is unreasonable, they present evidence supporting the findings to the PUC or RRC and recommend reducing the rate increase requested by the utility.

Both PURA and GURA allow for cities to be reimbursed by the utility company for their reasonable rate case expenses associated with participation in ratemaking proceedings. In providing for the reimbursement of rate case expenses in the statutes, the Texas Legislature has acknowledged the important role that cities play in protecting citizens from unreasonable utility costs. Because these expenses are ultimately passed on to consumers by the utility, cities are always cost-conscious. Cities must balance the cost of participation in a ratemaking proceeding against the need to protect the interests of their residents. In prior cases, however, municipal participation has resulted in a net savings for ratepayers because the utility's rate increase was reduced by an amount far in excess of the expenses incurred by the cities. Cities' participation in utility ratemaking proceedings have proven time and again to be a good value for consumers.

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