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November 17, 2025

VIA EMAIL

Rules Coordinator
Office of General Counsel
RAILROAD COMMISSION OF TEXAS
P.O. Box 12967
Austin, TX 78711-2967

Re: *Proposed New 16 TAC § 7.7102, relating to Regulatory Asset for Certain Costs Associated with Gross Plant*—Atmos Cities Steering Committee's Comments

Dear Sir or Madam:

On October 17, 2025, the Railroad Commission of Texas (RRC or Commission) published a proposed new 16 Texas Administrative Code (TAC) § 7.7102, relating to a Regulatory Asset for Certain Costs Associated with Gross Plant, in the *Texas Register* and requested comments from interested parties by November 17, 2025. The Atmos Cities Steering Committee (ACSC) appreciates the opportunity to submit these comments on the proposed new rule.

ACSC is a coalition of 188 cities in North and Central Texas. ACSC has been a regular participant in rate cases of Atmos Energy Corp. and its predecessors for more than 25 years. More generally, city involvement in gas utility matters has a long history in Texas. Cities have been active and productive partners of the RRC in regulating gas utility rates within their municipal boundaries. In the context of proposed 16 TAC § 7.7102, ACSC has an interest in protecting ratepayers by ensuring only prudent costs are recovered in rates.

Gas utilities routinely avail themselves of the existing Interim Rate Adjustment (IRA) under 16 TAC § 7.7101. House Bill (H.B.) 4384 from the Texas Legislature's 89th Session grants gas utilities an additional opportunity to begin collecting a profit from the time new plant goes into service without any meaningful contemporaneous review of the new plant. While ACSC acknowledges and values the importance of safe and reliable infrastructure, it has concerns about the impairment of regulatory lag, which plays a longstanding and important role in the regulated system. Additionally, a regulatory scheme that is oversaturated with interim recovery mechanisms could render thorough review of invested capital in comprehensive rate proceedings obsolete.

Given these concerns, it is crucial for the proposed new rule on unrecovered gross plant regulatory assets to impose as robust a review as possible while still maintaining the Legislature's intent.

ACSC appreciates the steps taken by the Commission to implement the requirements of H.B. 4384 and offers the following suggestions to bolster the proposed new 16 TAC § 7.7102 and ensure ratepayer interests are protected.

I. COMMENTS ON THE PROPOSED NEW RULE

A. Modify the definition of “Gross Plant” under § 7.7102 to explicitly account for plant retirements.

H.B. 4384 provides gas utilities with yet another opportunity to recover significant investment outside of a comprehensive rate proceeding. When implementing any new mechanism that increases the prevalence of piecemeal ratemaking, it is imperative to balance the interests of both the utility and ratepayers. One way to improve this balance is to ensure the regulatory asset permitted by H.B. 4384 includes plant retirements. This suggestion aligns with the Federal Energy Regulatory Commission (FERC) Uniform System of Accounts, which supports the concept that gas plant should be reduced to reflect retirements.¹

The proposed rule defines “gross plant” as “a gas utility’s plant, facilities, or equipment that has been placed in service and is used and useful.” ACSC agrees with ensuring that investment under 16 TAC § 7.7102 passes “used and useful” scrutiny. However, the rule as proposed does not clearly acknowledge that plant additions and plant retirements are frequently inextricable and that retired plant cannot be considered used and useful. If a gas utility installs a new section of pipe, it is clear in the proposed language that the utility may include the cost of the new installed pipe in the regulatory asset, but it is not equally clear that the utility must also account for the removed pipe. If this is ambiguous in the rule, utilities could have the advantage of fully recovering new plant in the regulatory asset and *also* earning a return on the retired plant until the utility’s next rate case or IRA. The proposed rule can be improved by modifying the definition of “gross plant” to explicitly provide that retired plant must be excluded. Accordingly, ACSC recommends the following addition to the definition of “gross plant” under section (a)(1) of the proposed rule:

A gas utility’s plant, facilities, or equipment that has been placed in service and is used and useful **in the provision of utility service, net of any plant, facilities, or**

¹ 18 C.F.R. Part 201, Gas Plant Instructions 10(B)(2) (“When a retirement unit is retired from gas plant, with or without replacement, the book cost thereof shall be credited to the gas plant account in which it is included . . .”).

equipment that has been retired or is otherwise no longer in service, consistent with the FERC Uniform System of Accounts.

B. Clarify interplay with IRA filings under 16 TAC § 7.7101.

Given that gas utilities have a separate interim recovery mechanism under Tex. Util. Code § 104.301 and the corresponding rule, 16 TAC § 7.7101, ACSC recommends providing as much clarification as possible on how the H.B. 4384 regulatory asset will interact with IRA filings. While the proposed rule does require utilities to include the unrecovered gross plant regulatory asset in an IRA, it is not clear how the regulatory asset will be treated once the plant is reflected in rates established in an IRA or in a subsequent general rate case. ACSC recommends inserting clarifying language into proposed subsection (b)(2) to specify that the regulatory asset should only accumulate incremental return, depreciation, and taxes between IRA filings and not beyond the effective date of rates set in an IRA or in a subsequent general rate case.

C. Return, depreciation rates, and tax rates should be based on known or approved rates.

ACSC notes that the proposed rule does not specify how the return, depreciation, and taxes associated with the regulatory asset will be calculated and suggests that the rule be modified to specifically require utilities to base these components on their most recently approved rates rather than on estimates.

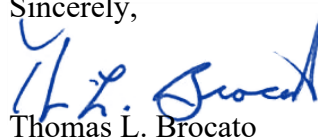
D. Require documentation to support the in-service date of the plant.

Under subsection (b)(3) of the proposed rule, a gas utility is required to include a workpaper using a prescribed Commission form when it includes the unrecovered gross plant regulatory asset in its IRA cost recovery mechanism. ACSC recommends an additional requirement within this subsection for gas utilities to provide documentation to support the in-service date of the plant. This will allow the Commission to verify the incremental return, depreciation, and taxes.

II. CONCLUSION

ACSC respectfully asks the Commission to consider the foregoing comments and to adopt a rule consistent with same.

Sincerely,



Thomas L. Brocato

TLB/mrf