

**PROPOSED NEW 16 TAC §7.7102  
RELATING TO REGULATORY ASSET  
FOR CERTAIN COSTS ASSOCIATED  
WITH GROSS PLANT**

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**BEFORE THE  
RAILROAD COMMISSION  
OF TEXAS**

**JOINT COMMENTS OF ATMOS ENERGY CORPORATION, CENTERPOINT  
ENERGY RESOURCES CORP. D/B/A CENTERPOINT ENERGY ENTEX, AND TEXAS  
GAS SERVICE, A DIVISION OF ONE GAS, INC.**

Atmos Energy Corporation (“Atmos Energy”), on behalf of its Atmos Pipeline-Texas Division, Mid-Tex Division, and West Texas Division, CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Entex (“CenterPoint Energy”), and Texas Gas Service, a Division of ONE Gas, Inc. (“Texas Gas Service”) submit these timely filed comments in support of and in response to proposed new 16 Tex. Admin. Code (“TAC”) § 7.7102, which was approved for publication by the Railroad Commission of Texas (“Commission”) on September 30, 2025, and published in the October 17, 2025 issue of the *Texas Register*.<sup>1</sup>

As a general matter, Atmos Energy, CenterPoint Energy, and Texas Gas Service support the proposed new rule, which gives effect to House Bill (“H.B.”) 4384, which amends Subchapter G, Chapter 104 of the Texas Utilities Code (Tex. Util. Code) by adding new Section 104.302, effective June 20, 2025.<sup>2</sup> There are, however, several revisions that should be made to the preamble and rule language itself to provide additional clarity and facilitate the uniform application of the rule to gas utilities electing to utilize the deferred accounting provisions.

**I. REQUESTED CLARIFYING LANGUAGE**

**A. The preamble should be revised to consistently use the term “gas utility” in its discussion of the proposed rule.**

As noted in the preamble of the proposed new rule, H.B. 4384 authorizes a gas utility to

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<sup>1</sup> 42 Tex. Reg. 6735-6930 (Oct. 17, 2025).

<sup>2</sup> Tex. H.B. 4384 § 1, 89th Leg. (Tex. 2025)(enacted).

recover certain costs from customers related to new capital investment, or gross plant, placed in service. The term “gas utility” is defined in Tex. Util. Code §§ 101.003(7) and 121.001(a). Atmos Energy owns and operates three natural gas utility divisions within Texas, the Mid-Tex Division, the West Texas Division, and Atmos Texas – Pipeline. Similarly, CenterPoint Energy owns and operates four natural gas utility divisions within Texas, the Houston Division, the Beaumont/East Texas Area, the Texas Coast Area, and the South Texas Area. Likewise, Texas Gas Service owns and operates natural gas facilities in three service territories in Texas identified as the Central Gulf Service Area (“CGSA”), the Rio Grande Valley Service Area (“RGVSA”) and within the West North Service Area (“WNSA”). Repeated rulings issued by the Commission clearly establish that these gas utility divisions are gas utilities as defined in Tex. Util. Code §§ 101.003(7).<sup>3</sup>

While the preamble acknowledges the new rule’s applicability to gas utilities, it is overly narrow in its reference to localized distribution companies. Specifically, the preamble at page 1, lines 12-14 states that:

Authorized costs associated with unrecovered gross plant included in a regulatory asset account as authorized by HB 4384 and proposed §7.7102 must be included in a Localized Distribution Company’s annual IRA filing as required §104.302(c).

To ensure that gas utilities utilizing both the deferred accounting provisions authorized under proposed 16 TAC § 7.7102 and the Interim Rate Adjustment (“IRA”) process authorized under Tex. Util. Code § 104.301 include such balances as part of their IRA filings, Atmos Energy, CenterPoint Energy, and Texas Gas Service suggest the following revision to the referenced

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<sup>3</sup> Docket No. OS-24-00019196, consol., *Statement of Intent Filed by Atmos Energy Corp. to Change Gas Rates Within the Unincorporated Areas of the Mid-Tex Division*, Final Order at Conclusion of Law No. 1 (issued June 17, 2025); Docket No. OS-24-00018879, consol., *Statement of Intent Filed by Atmos Energy Corp. to Change Gas Rates Within the Unincorporated Areas Served by its West Texas Division*, Final Order at Conclusion of Law No. 1 (issued May 13, 2025); Docket No. OS-23-00013758, consol., *Statement of Intent Filed by Atmos Pipeline – Texas, a Division of Atmos Energy Corporation, to Change the Rate CGS and Rate PT Rates of Atmos Pipeline – Texas*, Final Order at Finding of Fact No. 7 and Conclusion of Law No. 1, respectively (issued Dec. 13, 2023).

preamble language:

Authorized costs associated with unrecovered gross plant included in a regulatory asset account as authorized by HB 4384 and proposed §7.7102 must be included in a ~~Localized Distribution Company's~~ gas utility's annual IRA filing as required under §104.302(c), if applicable.

**B. The Commission should clarify that the initial balance to be used by gas utilities for qualifying unrecovered gross plant is the balance recorded on the gas utility's books on or after June 20, 2025.**

As currently drafted, the proposed rule does not address the date on which a gas utility may commence the deferral authorized under Tex. Util. Code § 104.302. H.B. 4384 received the requisite votes to take immediate effect on June 20, 2025.<sup>4</sup> Therefore, Atmos Energy, CenterPoint Energy, and Texas Gas Service request that the Commission clarify that unrecovered gross plant recorded on the utility's books on and after June 20, 2025, is eligible for deferral. The statutory definitions of "gross plant" and "unrecovered gross plant" set forth in Tex. Util. Code §104.302(a)(1) and (3) support this interpretation. Subsection (a)(1) of the statute states that "gross plant" includes "a gas utility's plant, facilities, or equipment that has been placed in service."<sup>5</sup> Notably, there is no timing restriction placed on the "in service date" set forth in subsection (a)(1). Subsection (a)(3) of the statute defines "unrecovered gross plant" to mean "gross plant whose cost is not yet being recovered in a gas utility's rates and not already being deferred to a regulatory asset." The plain language of these definitions supports an interpretation that the statute authorizes the deferral of all gross plant recorded on the gas utility's books and records as of June 20, 2025, and thereafter, that: (1) has been placed in service and (2) is not yet being recovered in the utility's rates and not already being deferred to a regulatory asset (*i.e.* unrecovered gross plant). To give effect to this clarification, Atmos Energy, CenterPoint Energy, and Texas Gas Service request that

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<sup>4</sup> The House and Senate votes are available for viewing at: [Texas Legislature Online - 89\(R\) History for HB 4384](#).

<sup>5</sup> Tex. Util. Code § 104.302(a)(1).

the Commission revise 16 TAC § 7.7102(a)(1) as follows:

(a) Definitions.

(1) Gross plant--A gas utility's plant, facilities, or equipment that has been placed in service and is used and useful on or after June 20, 2025.

**C. The intent and purpose of 16 TAC § 7.7102(a)(3), which defines the term “Recovery”, requires further clarity and explanation.**

Subsection (a)(3) is a new definition of a term that is not derived from Tex. Util. Code § 104.302. As ordinarily understood and used in the utility ratemaking context, recovery is a gas utility's collection of previously incurred costs via an authorized cost recovery mechanism. However, as written, the definition of the term “recovery” in proposed 16 TAC § 7.455(a)(3) is unclear and requires additional clarification. In particular, the language of the subsection does not address “recovery” as ordinarily understood but rather speaks to an adjustment to be made to the unrecovered gross plant regulatory asset for accumulated depreciation. The proposed language also seemingly conditions recovery of the unrecovered gross plant regulatory asset on the filing of an IRA filing under 16 Tex. Admin. Code § 7.7101 (relating to Interim Rate Adjustments). Tex. Util. Code § 104.302, however, does not condition the recovery of the unrecovered gross plant regulatory asset on the filing of an IRA. Rather, the statute simply directs the Commission to authorize the recovery of the deferred regulatory asset for cost recovery under Tex. Util. Code § 104.301 when such filings are made by a gas utility. In providing this directive, the Legislature makes clear that regulators should act to reduce the unrecovered gross plant regulatory asset through a rate adjustment mechanism at the first opportunity. While this may occur through IRA filings, it can also occur through other rate adjustment mechanisms, such as a Statement of Intent filing under Tex. Util. Code § 104.102.

Further, if the intent of subsection (a)(3) is to explain the methodology to be used to reduce the deferred asset once the balance begins to be recovered through rates, Atmos Energy,

CenterPoint Energy, and Texas Gas Service suggest that subsection (a)(3) be revised in a manner that is consistent with the Commission's treatment of the Rule 8.209 deferred asset as set forth in 16 Tex. Admin. Code § 8.209(j)(1)(D), relating to *Distribution Facilities Replacements*. To achieve this result, subsection (a)(3) should be revised as follows:

(a) Definitions.

(3) Recovery -- The gas utility shall reduce balances in the unrecovered gross plant regulatory account by the amounts that are included in and recovered through rates established in a subsequent Statement of Intent filing or other rate adjustment mechanism. ~~Inclusion of an unrecovered gross plant regulatory asset adjusted for accumulated depreciation in the same manner as an interim rate adjustment cost recovery mechanism under §7.7101 of this title (relating to Interim Rate Adjustments).~~

If subsection (a)(3) is intended for a different purpose, the language should be revised to provide clarity regarding the intended purpose of this subsection and the methodology to be used. Alternatively, the subsection should be deleted in its entirety or should be revised to define the term “recovery” as ordinarily understood and used. Atmos Energy, CenterPoint Energy, and Texas Gas Service request that the Commission revise 16 TAC § 7.7102(a)(3) as follows:

(a) Definitions.

(3) Recovery -- Collection of costs through a cost recovery mechanism authorized by the regulatory authority. ~~Inclusion of an unrecovered gross plant regulatory asset adjusted for accumulated depreciation in the same manner as an interim rate adjustment cost recovery mechanism under §7.7101 of this title (relating to Interim Rate Adjustments).~~

**D. Proposed 16 TAC § 7.7102(a)(2) should be revised to provide additional clarity as to the recording of post in-service carrying costs.**

The proposed rule should clarify that post in-service carrying costs accrue until recovery in rates begin and should set forth a clear accounting framework that includes the calculation of interest using post in-service carrying costs. Atmos Energy, CenterPoint Energy, and Texas Gas Service further submit that it is appropriate for the Commission to adopt the same interest

methodology applied under 16 TAC § 8.209(j)(1)(C). The inclusion of language setting forth the interest methodology will ensure the consistent application of post in-service carrying costs among gas utilities and eliminate ambiguity by clarifying that simple interest on the balance of the regulatory asset account should be recorded using a monthly interest rate equal to one-twelfth of the post in-service carrying cost last approved for the gas utility by the Commission. Atmos Energy, CenterPoint Energy, and Texas Gas Service's proposed revision to (a)(2) to provide the requested clarity is shown below:

(a) Definitions.

(2) Post in-service carrying costs - The product of unrecovered gross plant multiplied by a gas utility's pre-tax weighted average cost of capital established in the Commission's final order in the gas utility's most recent rate case until recovery in rates begins. Interest shall be calculated using a monthly interest rate equal to one-twelfth of the pre-tax weighted average cost of capital established in the Commission's final order in the gas utility's most recent rate case. The formula for post in-service carrying costs shall be calculated as follows:

Post in-service carrying costs = Unrecovered Gross Plant x The Gas Utility's Monthly Pre-Tax Weighted Average Cost of Capital

**E. Proposed 16 TAC § 7.7102(b)(1)(C) should be revised to allow for the recovery of all, not just some, ad valorem taxes associated with unrecovered gross plant.**

In authorizing the deferral of ad valorem taxes associated with unrecovered gross plant, Tex. Util. Code § 104.302(b)(3) contains no qualification or limitation. However, subsection (b)(1)(C) limits the ad valorem taxes that are eligible to be included in the regulatory asset to only the ad valorem taxes that were incurred prior to the applicable year end. Atmos Energy, CenterPoint Energy, and Texas Gas Service request that such limitation be removed and that subsection be revised as follows:

(b) Deferral of certain costs associated with gross plant.

(1) A gas utility shall only defer for future recovery the following costs in an unrecovered gross plant regulatory asset:

(C) ad valorem taxes associated with the unrecovered gross plant and incurred prior to the interim rate adjustment calendar year end.

## II. CONCLUSION

Atmos Energy, CenterPoint Energy, and Texas Gas Service appreciate the opportunity to submit these comments and respectfully requests that the Commission adopt a final version of the proposed rule that reflects the revisions proposed in these comments to give full effect to the underlying intent of H.B. 4384.

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Respectfully submitted,

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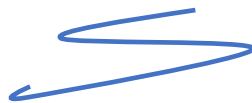
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