



Comments on the Texas Railroad Commission Sunset Review

by **Bill Peacock**

Vice President of Research & Director, Center for Economic Freedom

Key Finding

- Texas should eliminate the original jurisdiction of cities in natural gas and electricity rate cases and stop subsidizing legal fees for cities, two changes that would save Texas consumers a lot of money.

Issue

Overlapping Rate Regulation of Natural Gas (and Electricity) is Inefficient and Increases Consumer Costs

Foundation Recommendations

- Eliminate original jurisdiction for municipalities in electricity and natural gas rate setting; instead, shift original jurisdiction to the PUC (for electricity) and the RRC (for natural gas)
- Eliminate the mandated reimbursement of legal fees for municipalities in rate cases before the PUC and RRC

Related Sunset Staff Report Recommendations

- None

Overlapping Regulation of Rates

In Texas, municipalities and state regulators have overlapping authority in the rate setting process over investor-owned utilities that sell electricity or natural gas in a monopoly setting. The Texas Railroad Commission (RRC) and the Public Utility Commission (PUC) are the state-level regulatory bodies for electricity and natural gas, respectively. Cities have original jurisdiction concerning rate changes; however, they can surrender this authority to the state regulatory body through decree.

In the case of electricity rates, the utility starts off the rate change process by issuing to the municipality or respective regulatory agent a request to alter the rates for the area. This request, also called a statement of intent, needs to be filed to the “appropriate officer”¹ of both the original ju-

risdiction (i.e., the main municipality serviced, unless the PUC or RRC acts as original jurisdiction), as well as any other affected municipalities 35 days ahead of the intended date that the rate change is to take effect.² After filing the intent statement, the utility must notify the public of the proposed change by publishing notice of the change once a week for four weeks, generally through newspaper advertisements in each affected county.³ In addition, rate change notices must be mailed to each person affected by the change.³

If all parties are satisfied with the outcome at the municipal level, the process ends there. However, this rarely, if ever, happens. In fact, often the rate request simply goes through the motions at the municipal level since cases most often proceed to the PUC, which may occur when one of the parties is unhappy with the results at the municipal level. The party may appeal the case to the PUC for a further hearing within 30 days of the original jurisdiction’s final decision on the matter.⁴ In the case of a utility, they may appeal without any difficulty;⁵ for citizens, a threshold (of either 20,000 voters or 10 percent of registered voters, whichever is lower) must be met on a petition to grant appeal.⁶ If the Commission accepts the appeal, they have a 185-day period in which to hold hearings and decide whether to uphold the lower body’s decision, reject it and institute the rates requested by the utility, or modify the decision. If a decision is not reached and a final order is not filed within the 185 day mark, the rates requested by the utility go into effect regardless of the decision from the lower advisory body.⁷

continued on next page

* An exception is made for rate decreases; in that case, only the mailing is required. The authority holding jurisdiction can also waive requirements in some cases at their discretion.