PROPOSED NEW 16 TAC §7.7102, RELATING TO REGULATORY ASSET FOR CERTAIN COSTS ASSOCIATED WITH GROSS PLANT	**§ § § §**	**RAILROAD COMMISSION OF TEXAS**

CITY OF HOUSTON'S INITIAL COMMENTS

The City of Houston (Houston) respectfully submits the following comments regarding the Railroad Commission's (Commission) proposed new rule 16 Texas Administrative Code (TAC) §7.7102, relating to Regulatory Asset for Certain Costs Associated with Gross Plant. The proposed new rule implements House Bill 4384 (89th Legislative Session), which added Texas Utilities Code §104.302, authorizing a gas utility to defer certain costs associated with gross plant to a regulatory asset account for recovery through the Commission's authorized cost-recovery mechanism. Deferred costs are subject to Commission review in a subsequent general rate proceeding. Houston appreciates the opportunity to provide the Commission with its comments on the proposed new rule. Houston submits the following comments on selected sections of the proposed rule.

<u>Definition of Gross Plant - §7.7102 (a)(1)</u>

The proposed rule includes a definition for *gross plant* that refers to the assets themselves, without specific reference to the utility investment in those assets. Additionally, the proposed definition fails to mention the proper valuation of gross plant investments and the applicability of the original cost principle. Addressing these issues would provide clarity and ensure implementation of House Bill 4384 is consistent with Commission precedent and TAC §7.7101(f)(3), and prevents the potential for a gas utility recovering a return on amounts above the actual capital invested in new plant additions or its original cost. Houston recommends amending the definition for clarity and completeness. Houston recommends the following modifications to the definition:

> Gross plant--A gas utility's investment in new plant, facilities, or equipment that has been placed in service and is used and useful in providing gas utility service. The value of the gas utility's gross plant shall be based on the original cost of the investment at the time the investment was first dedicated to public use.

Definition of Post In-Service Carrying Costs and Unrecovered Plant - §7.7102 (a)(2) and (4)

Post in-service carrying costs are defined in the proposed rule as the result of multiplying the amount of *unrecovered gross plant* by the utility's pre-tax weighted average cost of capital. Unrecovered gross plant is further defined in subsection (a)(4) as "Gross plant whose cost is not yet being recovered in a gas utility's rates and not already being deferred to a regulatory asset." It is not clear whether these definitions are intended to limit carrying costs to investments in gross plant, less the accumulated amount of depreciation deferred as a regulatory asset. Alternatively, it could be understood to represent the value of investments in gross plant prior to being recovered in gas utility rates and prior to the deferral of depreciation amounts to the regulatory asset. Houston recommends modifying the definition to clarify that post in-service carrying costs recognize only the return on the net investment that would occur over the period when the plant is placed in service and the time it is included in the utility's interim rate adjustment application. The City believes that a daily or monthly rate reflective of the utility's annual weighted average cost of capital should be used to avoid over-recovery on investment when assets are not in service for a full year. Houston makes the following recommended changes:

> Post in-service carrying costs--Carrying costs shall be applied to ~~The product of~~ unrecovered gross plant ~~multiplied by a~~ and use the 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. Carrying costs cease upon inclusion of unrecovered gross plant in the utility's rates.

> Unrecovered gross plant--Gross plant investments whose cost is not yet being recovered in a gas utility's rates, less amounts ~~and not~~ already ~~being~~ deferred to a regulatory asset.

<u>Definition of Recovery - §7.7102 (a)(3)</u>

Section 7.7102(b)(1) of the proposed rule defines the costs deferred in an unrecovered gross plant regulatory asset as (A) post in-service carrying costs, (B) depreciation related to the unrecovered gross plant and (C) ad valorem taxes associated with the unrecovered gross plant. The use of "adjusted for accumulated depreciation" in the definition of 'Recovery' does not appropriately recognize that a regulatory asset is amortized and written off from the regulatory asset balance consistent with rate recovery. Houston proposes the following clarifying modifications to the definition:

> Recovery--Inclusion of an unrecovered gross plant regulatory asset adjusted for <u>the amortization and recovery of the regulatory asset</u> ~~accumulated depreciation~~ in ~~the same~~ <u>a similar</u> manner as <u>accumulated depreciation in</u> an interim rate adjustment cost recovery mechanism under §7.7101 of this title (relating to Interim Rate Adjustments).

<u>Review in General Rate Case Proceeding – §7.7102 (c)(1)</u>

Section 7.7102 (c)(1) explains that the costs authorized for a regulatory asset and recovered through an interim rate adjustment or rate schedule will be subject to review of reasonableness and prudence by the Commission in the subsequent rate case filed by the gas utility or initiated by the Commission. Houston notes that, as a regulatory authority, the City could initiate a rate review. Houston also seeks to clarify that the parties eligible to review the reasonableness and prudence of any cost included in the regulatory asset during the rate case is not limited to the Commission but includes all intervening parties, with the understanding that the Commission will ultimately rule on the reasonableness and prudence of costs when challenged. Accordingly, Houston recommends amending §7.7102 (c)(1) as follows:

> "Any costs included in a regulatory asset authorized under this section and recovered through an interim rate adjustment tariff or rate schedule shall be fully subject to review for reasonableness and prudence ~~by the Commission~~ in the subsequent rate case filed by the gas utility or initiated by the ~~Commission~~ <u>Regulatory Authority</u>."

Houston appreciates the opportunity to provide its comments on proposed new 16 TAC §7.7102, relating to Regulatory Asset for Certain Costs Associated with Gross Plant.

Respectfully Submitted,

CITY OF HOUSTON, TEXAS

DocuSigned by:
Alisa Talley
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Alisa Talley, Sr. Staff Analyst
Administration & Regulatory Affairs
611 Walker, 13th Floor
Houston, TX 77002
(832) 393-8531
(832) 393-8527 fax
BUSINESS REPRESENTATIVE FOR THE
CITY OF HOUSTON, TEXAS