

JIM WRIGHT, CHAIRMAN
CHRISTI CRADDICK, COMMISSIONER
WAYNE CHRISTIAN, COMMISSIONER



RAILROAD COMMISSION OF TEXAS




MEMORANDUM

TO: Chairman Jim Wright
 Commissioner Christi Craddick
 Commissioner Wayne Christian

FROM: Olivia Alland, Attorney
 Office of General Counsel

THROUGH: Alexander C. Schoch, General Counsel
 Alyson Chensasky, Assistant General Counsel

DATE: September 30, 2025

September 30, 2025		
Approved	Denied	Abstain
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SUBJECT: Item 486: Proposed new 16 TAC §7.7102, relating to
 Regulatory Asset for Certain Costs Associated with Gross Plant

Attached is Staff's recommendation to propose new 16 Texas Administrative Code §7.7102, relating to a regulatory asset for certain costs associated with gross plant.

The proposal implements House Bill 4384 (89th Legislature, Regular Session, 2025), which added 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.

Staff requests the Commission's approval to publish the proposed rule in the Texas Register for public comment. If approved at the September 30, 2025 conference, the proposal is expected to appear in the October 15th issue of the Texas Register. The proposal and an online comment form will also be available on the Commission's website to allow interested persons additional time to review and submit comments.

cc: Wei Wang, Executive Director
 Mark Evarts, Acting Director, Oversight and Safety Division
 Sarah Montoya-Foglesong, Director, Market Oversight Section

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1 The Railroad Commission of Texas (Commission) proposes new §7.7102, relating to Regulatory
2 Asset for Certain Costs Associated with Gross Plant. The Commission proposes the new rule pursuant to
3 House Bill 4384, 89th Legislative Session (2025) which creates a new §104.302 in Subchapter G, Interim
4 Cost Recovery and Rate Adjustment, of the Texas Utilities Code.

5 House Bill (HB) 4384 authorizes a gas utility to recover certain costs from customers related to
6 new capital investment, or gross plant, placed in service. These costs, defined in HB 4384 and further
7 clarified in proposed §7.7102(a), are recoverable by a gas utility when booked in a regulatory asset
8 account and approved by the Commission in an interim rate adjustment (IRA) order pursuant to §7.7101
9 of this title (relating to Interim Rate Adjustments). Specifically, new §104.302 allows a gas utility to defer
10 for future recovery from customers in a regulatory asset account (1) post-in service carrying costs; (2)
11 depreciation associated with the unrecovered gross plant; and (3) ad valorem taxes associated with the
12 unrecovered gross plant. Authorized costs associated with unrecovered gross plant included in a
13 regulatory asset account as authorized by HB 4384 and proposed §7.7102 must be included in a Localized
14 Distribution Company's annual IRA filing as required §104.302(c). Proposed §7.7102 implements HB
15 4384 creates a process that gas utilities must follow if they elect to recover the allowable costs from
16 customers.

17 Proposed new subsection (a) defines gross plant, post in-service carrying costs, recovery,
18 unrecovered gross plant, and unrecovered gross plant regulatory asset. These terms are also defined in the
19 legislation with the exception of the definitions of unrecovered gross plant regulatory asset and recovery.
20 The Commission proposes to define unrecovered gross plant regulatory asset as a regulatory asset
21 authorized by §104.302, Utilities Code, so that it is clear that §7.7102 is referring only to a regulatory
22 asset authorized by HB 4384.

23 Proposed new subsection (b) outlines the parameters associated with the allowable costs related
24 to unrecovered gross plant that may be deferred into a regulatory asset account. A gas utility must include
25 an unrecovered gross plant regulatory asset in its IRA filing, and shall include in such IRA filing a
26 workpaper, formulas intact, using a form approved by the Commission and found in the Gas Services
27 section of its website.

28 Proposed new subsection (c) clarifies that any costs allowed by the proposed rule in the
29 unrecovered gross plant regulatory asset are fully subject to review for reasonableness and prudence by
30 the Commission in the subsequent rate case filed by the gas utility or initiated by the Commission.
31 Proposed new subsection (c) also clarifies that if the Commission by order disallows costs included in an
32 unrecovered plant regulatory asset, the disallowed costs are subject to refund to the customers with
33 interest. Interest shall be calculated at the gas utility's pre-tax weighed average cost of capital.

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1 Proposed subsection (d) clarifies that after including an unrecovered gross plant regulatory asset
2 in an IRA, the gas utility shall make appropriate accounting adjustments to its books and records to reflect
3 the recovery in rates.

4 Mark Evarts, Director, Gas Services Department, has determined that during the first five years
5 the proposed new rule would be in effect, there will be no costs to the Commission for implementation.
6 There will be no other additional cost to state government as a result of administering the new rule. There
7 is no fiscal effect on local government.

8 Mr. Evarts has determined that for each year of the first five years that the proposed new rule
9 would be in effect, the primary public benefit resulting from implementing HB 4834 will be
10 implementing required legislation.

11 Mr. Evarts has determined that for each year of the first five years the proposed new rule is in
12 effect, there will be no increase in economic cost for the gas utility industry.

13 In accordance with Texas Government Code, §2006.002, the Commission has determined there
14 will be no adverse economic effect on rural communities, small businesses or micro-businesses resulting
15 from the new rule. The proposed new rule applies to gas utilities, which do not meet the definition of a
16 rural community, small business, or micro-business in §2006.001. Therefore, the Commission has not
17 prepared the economic impact statement or regulatory flexibility analysis required under §2006.002(c).

18 The Commission has also determined that the proposed new rule will not affect a local economy.
19 Therefore, the Commission has not prepared a local employment impact statement pursuant to Texas
20 Government Code §2001.022.

21 The Commission has determined that the proposed new rule does not meet the statutory definition
22 of a major environmental rule as set forth in Texas Government Code §2001.0225(a); therefore, a
23 regulatory analysis conducted pursuant to that section is not required.

24 During the first five years that the new rule would be in effect, the proposed new rule would not:
25 create or eliminate a government program; create new employee positions or eliminate any existing
26 employee positions; increase or decrease future legislative appropriations to the agency; require an
27 increase or decrease in fees paid to the agency; increase or decrease the number of individuals subject to
28 the rule's applicability; or affect the state's economy. The proposed new rule would create a new
29 regulation in that it complies with HB 4834's requirement to adopt a new rule allowing gas utilities to
30 recover certain costs associated with unrecovered gross plant.

31 The Commission reviewed the proposed new rule and found that it is not identified in Coastal
32 Coordination Act Implementation Rules, 31 TAC §29.11(b)(4), and it would not affect any action or
33 authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11(a)(3).
34 Therefore, the proposed new rule is not subject to the Texas Coastal Management Program.

Comments on the proposal may be submitted to Rules Coordinator, Office of General Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967; online at <https://rrc.texas.gov/general-counsel/rules/comment-form-for-proposed-rulemakings/>; or by electronic mail to rulescoordinator@rrc.texas.gov. The Commission will accept comments until 5:00 p.m. on Monday, November 17, 2025. The Commission finds that this comment period is reasonable because the proposal and an online comment form will be available on the Commission's website prior to Texas Register publication of the proposal, giving interested persons additional time to review, analyze, draft, and submit comments. The Commission cannot guarantee that comments submitted after the deadline will be considered. For further information, call Mark Evarts, Director, Gas Services Department, at (512) 463-9663. The status of Commission rulemakings in progress is available at www.rrc.texas.gov/general-counsel/rules/proposed-rules.

The Commission proposes the new rule pursuant to Texas Utilities Code §104.302, which gives gas utilities the ability to book certain costs related to unrecovered gross plant in a regulatory asset account. Section 104.302 also mandates that the Commission adopt a rule no later than 270 days after the effective date of HB 4834.

Statutory authority: Texas Utilities Code §104.302.

Cross-reference to statute: Texas Utilities Code, Chapters 101-104.

§7.7102. Regulatory Asset for Certain Costs Associated with Gross Plant.

(a) Definitions.

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

(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.

(3) Recovery--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).

(4) Unrecovered gross plant--Gross plant whose cost is not yet being recovered in a gas utility's rates and not already being deferred to a regulatory asset.

(5) Unrecovered gross plant regulatory asset--A regulatory asset as authorized by §104.302, Utilities Code and this section.

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

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

- (A) post in-service carrying costs;
- (B) depreciation associated with the unrecovered gross plant; and
- (C) ad valorem taxes associated with the unrecovered gross plant and incurred prior to the interim rate adjustment calendar year end.

(2) An unrecovered gross plant regulatory asset shall be included in the Commission's interim rate adjustment cost recovery mechanism under §7.7101 of this title.

(3) A gas utility that defers for recovery an unrecovered gross plant regulatory asset shall include in its interim rate adjustment filing made pursuant to §7.7101 of this title a workpaper, with formulas intact, on a form approved by the Commission and found in the Gas Services' section of the Commission's website.

(c) Review in general rate proceeding.

(1) 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.

(2) If the Commission by order disallows unrecovered plant regulatory asset costs that were previously recovered through an interim rate adjustment tariff or rate schedule, the disallowed costs are subject to refund with interest. Interest shall be calculated at the gas utility's pre-tax weighted average cost of capital.

(d) Accounting adjustments. Upon inclusion of an unrecovered gross plant regulatory asset in an interim rate adjustment, the gas utility shall make appropriate accounting adjustments to its books and records to reflect the recovery in rates.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas on September 30, 2025.

Filed with the Office of the Secretary of State on September 30, 2025.



Olivia Allard

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Attorney, Office of General Counsel
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