

JIM WRIGHT, CHAIRMAN
CHRISTI CRADDICK, COMMISSIONER
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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

DATE: February 23, 2026

SUBJECT: Item 394: Adopt New 16 TAC §7.7102, relating to regulatory asset for certain costs associated with gross plant

February 24, 2026		
Approved	Denied	Abstain
DS 		
DS 		
DS 		

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

The rule implements House Bill 4384 (89th Legislature, Regular Session, 2025) 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 or a general rate proceeding. Deferred costs are subject to Commission review in a subsequent general rate proceeding.

On September 30, 2025, the Commission approved the publication in the *Texas Register* and the public comment period ended on November 17, 2025. Staff recommends that the Commission adopt new §7.7102 with changes to the proposed text published in the October 17, 2025, issue of the *Texas Register* (50 TexReg 6749). The recommended changes are described in the attached adoption preamble.

cc: Wei Wang, Executive Director
 Mark Evarts, Director, Oversight and Safety Division
 Marzi Bolhassani, Director, Market Oversight Section

1 The Railroad Commission of Texas (Commission) adopts new §7.7102, relating to Regulatory
2 Asset for Certain Costs Associated with Gross Plant, with changes from the proposed text as published in
3 the October 17, 2025, issue of the Texas Register (50 TexReg 6749); therefore, the rule text will be
4 republished. The Commission adopts the new rule pursuant to House Bill 4384, 89th Legislative Session
5 (2025), which creates a new §104.302 in Subchapter G, Interim Cost Recovery and Rate Adjustment, of
6 the Texas Utilities Code. House Bill 4384 became effective on June 20, 2025.

7 The Commission received four comments on the proposal; no comments were received from any
8 associations. Comments were submitted by the following: (1) Atmos Cities Steering Committee (ACSC);
9 (2) Atmos Energy Corporation on behalf of its Atmos Pipeline-Texas Division, Mid-Tex Division, and
10 West Texas Division, CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Entex, and Texas
11 Gas Service, a Division of ONE Gas, Inc. (Atmos); (3) City of Houston (Houston); and (4) SiEnergy Gas,
12 LLC, Pines Gas, Inc., and Pines Gas Development, Inc. (SiEnergy).

13 *General Comments*

14 Atmos expressed general support for §7.7102. ACSC expressed concerns that the value of
15 regulatory lag could be diminished and noted that overuse of interim rate recovery mechanisms could
16 undermine review of invested capital in comprehensive rate proceedings. The Commission appreciates
17 these comments.

18 Atmos stated certain proposed language could be interpreted as conditioning recovery on an
19 interim rate filing with the Commission and noted recovery may also occur through a Statement of Intent
20 filing. SiEnergy requested revisions to make clear the deferred accounting provisions are not conditioned
21 on use of the GRIP statute and recommended corresponding revisions to the preamble and subsections
22 (b)(2), (b)(3), and (c)(1). The Commission adopts revisions clarifying that a regulatory asset under this
23 section may be included in the Commission's interim rate adjustment cost recovery mechanism under
24 §7.7101 of this title (relating to Interim Rate Adjustments) or in a rate case filed by the gas utility or
25 initiated by the regulatory authority.

26 Atmos commented that the preamble should be revised to consistently use the term "gas utility."
27 The Commission agrees and makes this change for consistency.

28 *Subsection (a)*

29 Regarding subsection (a)(1), Atmos and SiEnergy requested clarification that the initial deferred
30 balance used for qualifying unrecovered gross plant is the balance recorded on or after June 20, 2025. The
31 Commission declines to make changes to the rule in response to these comments but notes the bill's
32 effective date in the preamble for clarity.

1 ACSC requested modifications to the definition of gross plant to explicitly account for plant
2 retirements consistent with the FERC Uniform System of Accounts. The Commission declines to add
3 retirements because doing so would expand the term beyond its intended purpose.

4 Houston also recommended several changes to the definition. The Commission agrees in part and
5 adopts changes to clarify that gross plant is the original cost of a gas utility's investment in plant,
6 facilities, or equipment. The Commission declines to add "new" because gross plant may include acquired
7 plant, not just new investment.

8 Regarding subsection (a)(2), Atmos proposed revising the definition to include a formula for
9 calculating post in-service carrying costs and to specify monthly interest accrual until recovery in rates.
10 Houston requested specifying a daily or monthly interest rate and clarification regarding the applicable
11 calculation period. The Commission adopts changes to specify a monthly interest rate and clarify
12 recovery in rates but declines to include the suggested formula. Calculation mechanics, including the
13 applicable period, will be addressed in the Commission-approved workpaper.

14 Regarding the proposed definition of recovery, Atmos and SiEnergy requested it be revised or
15 deleted because it is unclear and could be interpreted as limiting recovery under this section to the
16 Commission's interim rate adjustment mechanism. Houston also requested clarifying revisions. The
17 Commission agrees the definition is unclear and deletes the proposed definition for clarity. As a result, the
18 Commission renumbers the remaining definitions accordingly.

19 Regarding subsection (a)(3), Houston commented that it is unclear whether "unrecovered gross
20 plant" is intended to treat gross plant as net of amounts deferred to a regulatory asset for purposes of
21 calculating post in-service carrying costs and recommended clarifying revisions. The Commission
22 declines to adopt the requested revision because the definition already excludes amounts being deferred to
23 a regulatory asset; calculation mechanics will be addressed in the Commission-approved workpaper.

24 The Commission adopts subsection (a)(4) with conforming renumbering changes.

25 *Subsection (b)*

26 The Commission adopts subsection (b) with changes as discussed below.

27 A gas utility shall only defer for future recovery in rates the costs specified in subsection (b)(1).
28 The Commission revises subsection (b)(1) for clarity and consistency, including adding "in rates" in the
29 introductory sentence and revises subsection (b)(1)(B) to include a clarifying parenthetical regarding
30 treatment of depreciation to account for accumulated depreciation resulting from depreciation expense
31 included in the regulatory asset.

32 Atmos requested revising subsection (b)(1)(C) to allow for the recovery of all ad valorem taxes
33 associated with unrecovered gross plant. The Commission agrees and revises subsection (b)(1)(C) to
34 remove the interim rate adjustment calendar year-end limitation.

1 In subsection (b)(2), SiEnergy recommended adding “if applicable” following the reference to
2 §7.7101. The Commission declines to adopt the suggested changes but revises subsection (b)(2) to clarify
3 that an unrecovered gross plant regulatory asset shall be included in the Commission’s interim rate
4 adjustment cost recovery mechanism under §7.7101 or in a rate case filed by the gas utility or initiated by
5 the regulatory authority.

6 ACSC requested clarification regarding how the regulatory asset will be treated once the plant is
7 reflected in rates established in an IRA or in a subsequent general rate case and recommended inserting
8 clarifying language to specify that the regulatory asset should only accumulate incremental return,
9 depreciation, and taxes between IRA filings and not beyond the effective date of rates set in an IRA or in
10 a subsequent general rate case. The Commission declines to adopt the suggested changes but revises
11 subsection (b)(2) to specify the calculation period begins at the in-service date of the unrecovered gross
12 plant. Subsection (d) specifies how necessary accounting adjustments are to be made once plant amounts
13 are recovered in rates. Calculation mechanics, including the applicable period, will be addressed in the
14 Commission-approved workpaper.

15 SiEnergy recommended adding “if applicable” in subsection (b)(3). The Commission declines to
16 adopt the suggested revisions but adopts conforming revisions for consistency with subsection (b)(2).

17 ACSC recommended requiring documentation to support the in-service date of the plant in
18 subsection (b)(3). The Commission declines to add an additional documentation requirement in the rule
19 text. The Commission will review a representative sample of projects, including documentation to verify
20 in-service dates of the investment.

21 *Subsection (c)*

22 The Commission revises the subsection title for clarity.

23 Houston recommended revising subsection (c)(1) to allow review by regulatory authorities other
24 than the Commission. The Commission declines to make the requested change because the statute assigns
25 review authority to the Commission.

26 SiEnergy suggested adding a reference to clarify what costs are subject to review in subsection
27 (c)(1). The Commission declines to adopt the suggested language and revises subsection (c)(1) to clarify
28 that any costs included in a regulatory asset authorized under this section shall be fully subject to review
29 for reasonableness and prudence by the Commission.

30 The Commission adopts subsection (c)(2) with conforming changes for clarity and consistency
31 with §7.7101 terminology used elsewhere in the rule.

32 *Subsection (d)*

33 The Commission adopts subsection (d) with conforming changes for clarity and consistency,
34 including clarifying that accounting adjustments apply upon inclusion of an unrecovered gross plant

1 regulatory asset in the Commission's interim rate adjustment cost recovery mechanism under §7.7101 or
2 in a rate case and must be made in accordance with §7.310 of this title (relating to System of Accounts).

3 The Commission appreciates the input from all those who submitted comments.

4 The adopted rule language is summarized below.

5 New §7.7102 establishes definitions and requirements governing a gas utility's deferral, for future
6 recovery in rates, of post in-service carrying costs, depreciation associated with unrecovered gross plant,
7 and ad valorem taxes associated with unrecovered gross plant in an unrecovered gross plant regulatory
8 asset.

9 Subsection (a) defines gross plant, post in-service carrying costs, unrecovered gross plant, and
10 unrecovered gross plant regulatory asset.

11 Subsection (b) specifies the costs that may be deferred in an unrecovered gross plant regulatory
12 asset and provides that the regulatory asset is included in the Commission's interim rate adjustment cost
13 recovery mechanism under §7.7101 (relating to Interim Rate Adjustments) or in a rate case filed by the
14 gas utility or initiated by the regulatory authority. Subsection (b) also requires a workpaper, with formulas
15 intact, on a Commission-approved form, and specifies the period and components that must be included
16 in the calculation of the unrecovered gross plant regulatory asset balance to be recovered in rates.

17 Subsection (c) provides that any costs included in a regulatory asset authorized under this section
18 are fully subject to Commission review for reasonableness and prudence and provides that if the
19 Commission disallows regulatory asset costs previously recovered through rates established in the
20 Commission's interim rate adjustment cost recovery mechanism under §7.7101, the disallowed costs are
21 subject to refund with interest calculated at the gas utility's pre-tax weighted average cost of capital.

22 Subsection (d) requires appropriate accounting adjustments to reflect recovery in rates upon
23 inclusion of an unrecovered gross plant regulatory asset in the Commission's interim rate adjustment cost
24 recovery mechanism under §7.7101 or in a rate case and provides that the accounting adjustments must be
25 made in accordance with §7.310 (relating to System of Accounts).

26 The Commission adopts the new rule pursuant to Texas Utilities Code §104.302. Section 104.302
27 also mandates that the Commission adopt a rule no later than 270 days after the effective date of HB
28 4384.

29 Statutory authority: Texas Utilities Code §104.302.

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

31 §7.7102. Regulatory Asset for Certain Costs Associated with Gross Plant.

32 (a) Definitions.

33 (1) Gross plant—~~A~~—The original cost of a gas utility's investment in plant, facilities, or
34 equipment that has been placed in service and is used and useful.

1 (2) Post in-service carrying costs--The product of unrecovered gross plant multiplied by a
2 monthly interest rate equal to one-twelfth of a gas utility's pre-tax weighted average cost of capital
3 established in the Commission's final order in the gas utility's most recent rate case until recovery in rates.

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

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

9 (54) Unrecovered gross plant regulatory asset--A regulatory asset as authorized by
10 §104.302, Utilities Code and this section.

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

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

14 (A) post in-service carrying costs;

15 (B) depreciation associated with the unrecovered gross plant (if depreciation
16 expense associated with the unrecovered gross plant is included in the unrecovered gross plant regulatory
17 asset, the unrecovered gross plant used for purposes of calculating post in-service carrying costs shall be
18 reduced by the associated accumulated depreciation that is deferred); and

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

21 (2) An unrecovered gross plant regulatory asset shall be included in the Commission's
22 interim rate adjustment cost recovery mechanism under §7.7101 of this title (relating to Interim Rate
23 Adjustments) or in a rate case filed by the gas utility or initiated by the regulatory authority and calculated
24 for the period from the in-service date of the unrecovered gross plant.

25 (3) A gas utility that defers for recovery an unrecovered gross plant regulatory asset shall
26 include in its interim rate adjustment filing made pursuant to §7.7101 of this title or in a rate case filed by
27 the gas utility or initiated by the regulatory authority a workpaper, with formulas intact, on a form
28 approved by the Commission and found in the Gas Services' section of the Commission's website. The
29 workpaper shall include the gas utility's calculation of the unrecovered gross plant regulatory asset
30 balance to be recovered in rates calculated through the end of the interim rate adjustment calendar year or
31 test year in a rate case. The calculation shall include depreciation expense, associated accumulated
32 depreciation, ad valorem tax, and post in-service carrying costs.

33 (c) Review by the Commission in a general rate proceeding.

34 (1) Any costs included in a regulatory asset authorized under this section ~~and recovered~~

1 ~~through an interim rate adjustment tariff or rate schedule~~ shall be fully subject to review for
2 reasonableness and prudence by the Commission, ~~in the subsequent rate case filed by the gas utility or~~
3 ~~initiated by the Commission.~~

4 (2) If the Commission by order disallows unrecovered gross plant regulatory asset costs
5 that were previously recovered through ~~an~~rates established in the Commission's interim rate adjustment
6 ~~tariff or rate schedule~~cost recovery mechanism under §7.7101 of this title, the disallowed costs are subject
7 to refund with interest. Interest shall be calculated at the gas utility's pre-tax weighted average cost of
8 capital.

9 (d) Accounting adjustments. Upon inclusion of an unrecovered gross plant regulatory asset in
10 ~~an~~the Commission's interim rate adjustment cost recovery mechanism under §7.7101 of this title or in a
11 rate case filed by the gas utility or initiated by the regulatory authority, the gas utility shall make
12 appropriate accounting adjustments to its books and records, in accordance with §7.310 (relating to
13 System of Accounts), to reflect the recovery in rates.

14 This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and
15 found to be a valid exercise of the agency's legal authority.

16 Issued in Austin, Texas, on February 24, 2026.

17 Filed with the Office of the Secretary of State on February 24, 2026.

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Jim Wright, Chairman

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