

RAILROAD COMMISSION OF TEXAS  
Oversight and Safety Division  
Gas Services Department



## NOTICE TO GAS UTILITIES

*Procedure for Gas Utilities to File an Application for Regulatory Asset Determination Pursuant to H.B. No. 1520, Texas Utilities Code, chapter 104, subchapter I, and Participate in Securitization of Extraordinary Costs Incurred as a Result of the February 2021 Winter Weather Event*

### Background

On February 12, 2021, Governor Greg Abbott declared a State of Disaster in Texas for all Texas counties in response to the unprecedented cold winter weather event that began in Texas on Thursday, February 11, 2021 ("February 2021 Winter Weather Event" or "Winter Storm Uri").

On February 13, 2021, the Commission issued a [Notice to Local Distribution Companies](#) (the "Regulatory Asset NTO") authorizing each natural gas utility local distribution company "to record in a regulatory asset account the extraordinary expenses associated with the 2021 Winter Weather Event, including but not limited to gas cost and other costs related to the procurement and transportation of gas supply." The Regulatory Asset NTO only authorized the ability to record extraordinary expenses related to the February 2021 Winter Weather Event and deferred the Commission's determination regarding the reasonableness, necessity, and accuracy of the extraordinary expenses recorded in the regulatory asset account.

### H.B. 1520

On June 16, 2021, H.B. 1520 (87th Regular Session), *relating to certain extraordinary costs incurred by certain gas utilities relating to Winter Storm Uri and a study of measures to mitigate similar future costs; providing authority to issue bonds and impose fees and assessments*, became effective. H.B. 1520 authorizes the Commission to issue a Financing Order directing the Texas Public Finance Authority ("TFPA") to issue bonds for the purposes of reducing the costs that customers would otherwise experience due to extraordinary costs that gas utilities incurred to secure gas supply and to provide service during Winter Storm Uri. The new law provides securitization financing ("customer rate relief bonds") for gas utilities that choose to participate to recover those extraordinary costs, thereby (1) providing rate relief to customers by extending the period during which these extraordinary costs would otherwise be recovered; and (2) supporting the financial strength and stability of gas utility companies.

H.B. 1520 requires that the Commission undertake two specific actions. First, Texas Utilities Code section 104.365, as added by H.B. 1520, requires the Commission to determine the regulatory asset amount to be recovered by a gas utility upon application by the gas utility within 150 days after the date of the application. Second, section 104.366 authorizes the Commission, after it has issued all of the regulatory asset determinations and determined that customer rate relief bonds are the most cost-

effective method of funding regulatory asset reimbursements, to issue a Financing Order requesting that the TPFA direct an issuing financing entity to issue the customer rate relief bonds.

### **Procedure for Filing Applications for Regulatory Asset Determination**

The Commission expects to convene one or more proceeding(s) to issue the regulatory asset determinations and Financing Order if the statutory requirements are met.

Gas utilities as defined in Tex. Util. Code § 104.362(12) desiring to participate in securitization pursuant to H.B. 1520 are encouraged to file an *Application for Regulatory Asset Determination* **on Friday, July 30, 2021** in accordance with Tex. Util. Code § 104.365(b). Before a gas utility may file its application, the company must be set up to file its documents through the Commission's Case Administration Service Electronic System ("CASES"). The company must contact Gas Services at (512) 463-7167 or [MOS@rrc.texas.gov](mailto:MOS@rrc.texas.gov) before filing its application to be fully authorized to file its application through CASES and be assigned a case number for this filing.

After each *Application for Regulatory Asset Determination* has been received, the Commission's Hearings Division may consolidate the cases into one or multiple proceeding(s). An Administrative Law Judge will be assigned and will make pre-hearing rulings, issue a procedural schedule, issue a protective order, if applicable, and issue any other necessary rulings as may arise. The procedural schedule deadlines will be expedited as the Commission expects to complete the regulatory asset determinations within the deadline set forth in H.B. 1520.

### **Information to be Included in an Application for Regulatory Asset Determination**

Due to the expedited nature of the regulatory asset review and determination, the Commission directs each applicant to propose for recovery only extraordinary gas procurement costs incurred during the February 2021 Winter Weather Event in its application. Such costs may include taxes, any financing and other costs incurred to secure and pay for natural gas volumes purchased during the 2021 Winter Weather Event, and the gas utility's legal and consulting expenses relating to its gas procurement costs and this proceeding. Other extraordinary costs associated with the 2021 Winter Weather Event, such as overtime, equipment charges, or similar non-fuel related expenses, may be recorded in a separate regulatory asset, which will be reviewed for reasonableness in each gas utility's subsequent rate proceeding, as applicable.

The Commission requires each gas utility to include in its application pre-filed testimony, supporting documentation, and evidence of, at a minimum, the following information:

1. The gas utility's total gas costs incurred for February 2021.
2. The gas utility's total gas costs recovered for February 2021.
3. The gas utility's total volumes (Mcf) for February 2021.
4. The gas utility's total gas costs for February 2021 using the Normalized Market Pricing definition set forth in section 104.362(15).
5. The total extraordinary costs proposed by the gas utility to be approved in a regulatory asset determination, including the following:
  - a. The gas utility's proposed extraordinary gas procurement costs for February 2021, calculated as the lesser of: 1) the difference between the gas utility's total gas

- procurement costs incurred for February 2021 and the gas utility's total gas procurement costs recovered for February 2021; or 2) the difference between the gas utility's total gas procurement costs incurred for February 2021 and the gas utility's total gas procurement costs for February 2021 using the Normalized Market Pricing definition set forth in section 104.362(15);
- b. The gas utility's financing costs or any other costs incurred to secure and pay for natural gas volumes that are included in extraordinary gas cost;
  - c. The gas utility's estimate of its legal and consulting expenses resulting from its election to participate in a securitization pursuant to H.B. 1520;
  - d. Carrying costs included in the proposed regulatory asset, including the basis for the carrying costs and the calculation of the carrying costs; and
  - e. The gas utility's expected tax obligation if securitization financing is authorized.
6. Support and evidence for the reasonableness, necessity, and prudence of all costs included in the gas utility's regulatory asset, including:
- a. General ledger entries (by FERC account) associated with the regulatory asset and supporting documentation for each entry, including but not limited to:
    - i. Invoices
      1. Gas Purchases (FERC accounts 800-804);
      2. Transportation (FERC account 858);
      3. Other Gas Supply Expenses (FERC accounts 805-813);
      4. Imbalances or other penalties and fees incurred;
      5. Adjustments;
      6. Meter Statements;
      7. Proof of Payment/Payment Arrangements;
      8. Gas Withdrawn from Storage (FERC account 808.1); and
      9. Gas Delivered to Storage (FERC account 808.2).
    - ii. Contracts
      1. Gas Purchase (including penalties, if applicable);
      2. Spot Purchases (Confirmation Agreements); and
      3. Transportation.
    - iii. Customer Bills
      1. One or more residential bill(s); and
      2. One or more commercial bill(s).
  - b. Invoices and supporting documentation of the gas utility's legal and consulting expenses resulting from its election to participate in a securitization pursuant to H.B. 1520. Include a summary spreadsheet that ties to supporting documentation.
7. The information required in Paragraph 6(a)(i)-(iii) above for January, February, and March 2021.

8. Evidence as to how securitization would provide tangible and quantifiable benefits to utility customers, greater than would be achieved absent the issuance of customer rate relief bonds.
9. Evidence that customer rate relief bond financing for extraordinary costs is the most cost-effective method of funding regulatory asset reimbursements to the gas utility including:
  - a. Evidence that proposed structuring, expected pricing, and proposed financing costs of customer rate relief bonds are reasonably expected to provide benefits to customers by considering customer affordability and comparing:
    - i. The estimated monthly costs to customers resulting from issuance of customer rate relief bonds; and
    - ii. The estimated monthly costs to customers that would result from the application of conventional recovery methods.
  - b. Include an Excel worksheet that models this comparison and provides for sensitivity analysis using key variables.
10. Evidence of how a securitization financing mechanism would be in the public interest and is consistent with the purposes of subchapter I, chapter 104, Texas Utilities Code.
11. Evidence and detail of any expected tax obligation arising or resulting from receipt of customer rate relief bond proceeds; or collection or remittance of customer rate relief charges through the gas utilities' gas cost recovery mechanism or other means that the Commission may determine as reasonable.
12. Normalized volumes by customer class for the year ending December 31, 2020 and total customer count by customer class as of December 31, 2020.
13. A statement of commitment that if the gas utility receives proceeds pursuant to a securitization, those proceeds are in lieu of recovery of costs through the regular ratemaking process or other mechanism.
14. Any other information the gas utility deems pertinent to its application.

Additionally, gas utilities are encouraged to file proposed procedural schedules with their applications that anticipate expedited timelines. Gas utilities are likewise encouraged to file proposed protective orders to the extent the gas utility will be filing information it deems confidential and/or proprietary. Gas utilities should not upload any documents through the CASES Online Portal that are considered confidential. Any files containing potentially confidential information should be delivered to the RRC using previously established processes in accordance with RRC rules. To the extent applicable, gas utilities shall disclose the terms of the contracts and related transaction confirmations related to gas procurement costs to be securitized pursuant to the terms of the governing protective order. Gas utilities may adopt portions of other gas utilities' testimony, as necessary.

*Please Forward to the Appropriate Section of Your Company*