

SUBJECT: Relating to the right of a county to intervene in an water rate proceeding

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 5 ayes — Farias, M. González, Hunter, Kolkhorst, Krause  
0 nays  
4 absent — Coleman, Hernandez Luna, Simpson, Stickland

WITNESSES: For — Jim Boyle, East Aldine Management District; Deece Eckstein, Travis County Commissioners Court; David Frederick, Texans Against Monopolies' Excessive Rates; Joshua Houston, Texas Impact; Linda Kneeland, Huntington Estates; Donald Lee, Texas Conference of Urban Counties; Helen Lewis, Pine Trails Community Improvement Association; Jack Millikan, Kerr Community Action Group; Larry Westfall, Kerrville South Community Action Group; (*Registered, but did not testify*: Leonardo Coello and Mark Mendez, Travis County; Rick Thompson, Texas Association of Counties)  
  
Against — John McClellan, Southwest Water Company; Mark Zeppa (*Registered, but did not testify*: Kurt Scheibelhut, Aqua Texas Inc.)  
  
On — Doug Holcomb, TCEQ

BACKGROUND: Current law authorizes the Texas Commission on Environmental Quality (TCEQ) to approve rate changes for investor-owned water and sewer utilities. Investor-owned water and sewer utilities must provide notice to customers of a rate change at least 60 days beforehand. Customers have another 90 days to protest the rate change. If protests are received from the lesser of 10 percent or 1,000 affected customers, TCEQ or another applicable regulatory authority must set the matter for a hearing.

DIGEST: HB 1465 would amend Water Code, ch. 13 to allow a county commissioners court to intervene as a party in a water ratemaking hearing by a regulatory authority if a utility sought to increase rates for county residents by more than 25 percent or if the utility served more than 3,000 customers who resided in the county.

The bill would require an authority to set a hearing if it received a complaint from a county about a water rate increase within 90 days after the effective date of the rate change.

HB 1465 would apply only to rate proceedings beginning on or after September 1, 2013.

The bill would take effect September 1, 2013.

**SUPPORTERS  
SAY:**

Typically, customers who reside in unincorporated areas of a county have few resources from which to draw when challenging a rate increase by a private water company.

HB 1456 would allow a county government to help challenge a rate increase by a private water company on behalf of residents living outside of city limits. This would provide these county residents in very specific cases access to experts such as engineers, attorneys, and auditors who are necessary to challenge a rate. The high cost in taking on a rate hike, which often prevents a ratepayer from making a challenge, would be less of a factor.

The bill would require a county commissioners court to choose to participate in a rate challenge and a provision would ensure that this mechanism was used only when a rate increase was extreme or there were more than 3,000 customers in the county. Allowing a county to challenge a rate on behalf of customers is necessary. Rates have increased in many communities that do not enjoy the protection municipalities can offer residents who seek a challenge. In some cases, residents living just beyond a city's jurisdiction have been charged water service rates that were up to 300 percent more than the rates of residents living within the boundaries of a municipality.

Although customers can use the Office of Public Utility Counsel for help in seeking a water-rate challenge, the state office is underfunded and does not provide the needed assistance to meet the demand of ratepayers. The bill would not prompt rate case expenses to skyrocket, as some contend. State authorities already have the discretion to determine whether a case is reasonable. County intervention would allow more customers to propose settlements that were fair and with expert assistance. Both the Public Utility Commission and TCEQ have authority to align parties so that experts in a rate case can be shared and costs in rate cases kept low.

**OPPONENTS  
SAY:**

The state's Office of the Public Utility Counsel already provides help to customers of private water companies in rate challenges, so HB 1456 is unnecessary. Allowing counties to be involved in a rate case would only yield more litigation and slow the process for hearing a challenge.