

BILL ANALYSIS

Senate Research Center
80R14842 SMH-F

H.B. 3273
By: Crownover (Averitt)
Natural Resources
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, there is a need for additional transparency in the natural gas pipeline industry, a need to prevent discrimination, and a need to improve the informal complaint process at the Railroad Commission of Texas (railroad commission).

H.B. 3273 prohibits retaliation and discrimination between a natural gas pipeline operator and a well operator. This bill also requires participation in an informal complaint proceeding. This bill authorizes the railroad commission to establish market based or cost-of-service rates in a formal complaint proceeding.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 81, Natural Resources Code, by adding Sections 81.058, 81.059, 81.060, and 81.061, as follows:

Sec. 81.058. ADMINISTRATIVE PENALTY FOR CERTAIN NATURAL GAS-RELATED ACTIVITIES. (a) Authorizes the Railroad Commission of Texas (railroad commission), after notice and opportunity for hearing, to impose an administrative penalty against a purchaser, transporter, gatherer, shipper, or seller of natural gas, a person described by Section 81.051(a) (relating to a civil penalty) or 111.081(a) (relating to the definition of common purchaser), or any other entity under its jurisdiction under this code that it determines has violated a railroad commission rule adopting standards or a code of conduct for entities in the natural gas industry prohibiting unlawful discrimination, or unreasonably discriminated against a seller of natural gas in the purchase of natural gas from the seller.

(b) Authorizes the railroad commission, after notice and opportunity for hearing, to impose an administrative penalty against a purchaser, transporter, or gatherer of natural gas if it determines that the person engaged in prohibited discrimination against a shipper or seller of natural gas because the shipper or seller filed a formal or informal complaint with the railroad commission against the person relating to the person's purchase, transportation, or gathering of the gas.

(c) Authorizes the railroad commission, after notice and opportunity for hearing, to impose an administrative penalty against a purchaser, transporter, gatherer, shipper, or seller of natural gas who is a party to an informal complaint resolution proceeding and is determined by the railroad commission to have failed to participate in the proceeding, or failed to provide information requested by a mediator in the proceeding.

(d) Prohibits an administrative penalty imposed under this section from exceeding \$5,000 a day for each violation. Provides that each day a violation continues or occurs is a separate violation for purposes of imposing a penalty under this section.

(e) Authorizes the railroad commission to issue any order necessary and reasonable to prevent the discrimination from continuing if it determines after notice and opportunity for hearing that an entity has engaged in prohibited discrimination for which a penalty may be imposed under this section.

(f) Provides that the remedy provided by this section is cumulative of any other remedy the railroad commission may order.

Sec. 81.059. APPOINTMENT OF MEDIATORS FOR INFORMAL COMPLAINTS.

(a) Authorizes the railroad commission to provide for the appointment of a commission staff member as the mediator of an informal complaint filed with the railroad commission, or the parties may agree to employ and pay an independent mediator for the purpose of mediating the complaint.

(b) Requires parties to reimburse the railroad commission for its costs related to travel to those other locations if the parties request that the mediation be conducted at a location other than the railroad commission offices in Austin.

(c) Provides that this section does not prohibit the railroad commission from requiring that the parties participate in a formal complaint resolution proceeding.

(d) Requires the railroad commission, at least annually, to notify oil and gas producers of the existence of any informal complaint resolution process provided for by the railroad commission.

(e) Provides that filing an informal complaint is not a prerequisite for filing a formal complaint.

Sec. 81.060. CONFIDENTIALITY PROVISIONS. (a) Prohibits a confidentiality provision from being required in a contract to which a producer is a party for the sale, transportation, or gathering of natural gas that is entered into on or after September 1, 2007.

(b) Provides that a confidentiality provision in a contract to which a producer is a party for the sale, transportation, or gathering of natural gas that was entered into before September 1, 2007, becomes unenforceable on the date the term of the contract expires.

Sec. 81.061. AUTHORITY TO ESTABLISH MARKET-BASED RATES. (a) Provides that this section does not apply to rates established under Chapter 103 (Jurisdiction and Powers of Municipality), Utilities Code, or Subchapter C (Rate Changes Proposed by Utility) or G (Interim Cost Recovery and Rate Adjustment), Chapter 104, of that code.

(b) Authorizes the railroad commission to use a cost-of-service method or a market-based rate method in setting a rate in a formal rate proceeding.

(c) Authorizes the railroad commission, on the filing of a complaint by a shipper or seller of natural gas, to set a transportation or gathering rate in a formal rate proceeding if it determines that the rate is necessary to remedy unreasonable discrimination in the provision of transportation or gathering services. Authorizes the railroad commission to set a rate regardless of whether the transporter or gatherer is classified as a utility by other law.

SECTION 2. Effective date: September 1, 2007.