

# **Bond Case Briefs**

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## **PUBLIC UTILITIES - TEXAS**

### **Texas Coast Utilities Coalition v. Railroad Com'n of Texas**

**Supreme Court of Texas - January 17, 2014 - S.W.3d - 2014 WL 185030**

Coalition of nine cities that formed utilities coalition and state agencies that were gas utility's customers sought judicial review of Railroad Commission's order approving a new rate schedule. The Judicial District Court reversed order. Commission and utility appealed. The Austin Court of Appeals reversed and remanded. Coalition and agencies sought review which was granted.

The Supreme Court of Texas held that:

- Cost of service adjustment (COSA) was a rate, and, thus, Gas Utility Regulation Act (GURA) expressly authorized the Commission to include COSA clauses in rate schedules;
- COSA complied with GURA mandate that utility seeking increased rate be required to timely file a statement of intent; and
- COSA complied with GURA clause giving municipalities exclusive jurisdiction to establish rates within their borders.

COSA was a rate, and, thus, GURA expressly authorized the Railroad Commission to include COSA clauses in rate schedules. Rate schedule established utility's charges and compensation, the COSA clause provided that the charges and compensation would adjust annually to account for differences between utility's estimated and recorded expenses, and by including the COSA clause in the rate schedule, the Commission established a practice that affected utility's charges and compensation.

COSA complied with GURA mandate that utility seeking to increase its rate be required to timely file a statement of intent, although the rate did not have to be re-approved each time it was applied, and COSA clause could change the basis by which the amount of a customer's bill was determined, and that change could result in an increase in the amount of the customer's bill. COSA rate changes only needed to be approved once, Railroad Commission's rate-making authority included the authority to establish practices that affected the basis by which the amount of a customer's bill was determined, and it was not possible for such a practice to affect the basis without changing it in some way.

COSA complied with GURA clause giving municipalities exclusive jurisdiction to establish rates within their borders, although COSA clause allowed Railroad Commission to adjust rate each year based on data regarding costs incurred in successive years. COSA clause did not have to provide for a full GURA rate case prior to an annual adjustment in gas utility's rate because the COSA clause and the adjustment were the product of a full rate case, in which the municipalities were afforded all of the jurisdiction, powers, and duties that GURA granted to them, and utilities retained the authority to deny an annual adjustment, just as it could deny a proposed rate increase, and to participate in any appeal of that decision to the Commission.