

By: Price, Metcalf, Hefner, Dean

H.B. No. 2073

A BILL TO BE ENTITLED

AN ACT

relating to the recovery of fuel and purchased power costs by electric utilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 36.203, Utilities Code, is amended to read as follows:

Sec. 36.203. FUEL AND PURCHASED POWER COST RECOVERY; ADJUSTMENT OF FUEL FACTOR. (a) Section 36.201 does not prohibit the commission from reviewing and providing for adjustments of an electric ~~[a]~~ utility's fuel factor.

(b) The commission by rule shall implement procedures that provide for the timely adjustment of an electric ~~[a]~~ utility's fuel factor ~~[, with or without a hearing]~~. The rules ~~[procedures]~~ must require that ~~[+~~

~~[(1)]~~ the findings required by Section 36.058 regarding fuel transactions with affiliated interests be ~~[are]~~ made in a fuel reconciliation proceeding or in a rate case filed under Subchapter C or D. The rules must ensure that:

(1) the utility collects as contemporaneously as reasonably possible the electric fuel and purchased power costs that the utility incurs and that the commission determines are eligible;

(2) the total of the utility's eligible electric fuel and purchased power costs, including any under-collected or

1 over-collected amounts to be recovered through an interim fuel
2 adjustment, is allocated among customer classes based on actual
3 historical calendar month usage;

4 (3) any material balance of amounts under-collected or
5 over-collected for eligible electric fuel and purchased power costs
6 is collected from or refunded to customers through an interim fuel
7 adjustment:

8 (A) not later than the 90th day after the date the
9 balance is accrued; or

10 (B) if the adjustment would result in a total
11 bill increase of 10 percent or more compared to the total bill in
12 the month before implementation, not later than a date ordered by
13 the commission which must be after the 90th day after the date the
14 balance is accrued; and

15 (4) [~~and~~

16 [~~(2)~~] an affected party will receive notice and have
17 the opportunity to request a hearing before the commission.

18 (c) Notwithstanding Subsection (b)(3), on a finding that an
19 electric utility has an under-collected balance that is the result
20 of extraordinary electric fuel and purchased power costs that are
21 unlikely to continue, the commission may approve an interim fuel
22 adjustment that would defer recovery to take place over a period
23 longer than 90 days [~~The commission may adjust a utility's fuel~~
24 ~~factor without a hearing if the commission determines that a~~
25 ~~hearing is not necessary. If the commission holds a hearing, the~~
26 ~~commission may consider at the hearing any evidence that is~~
27 ~~appropriate and in the public interest].~~

1 (d) The commission is not required to hold a hearing on the
2 adjustment of an electric utility's fuel factor under this section.
3 If the commission holds a hearing, the commission may consider at
4 the hearing any evidence that is appropriate and in the public
5 interest [~~The commission shall render a timely decision approving,~~
6 ~~disapproving, or modifying the adjustment to the utility's fuel~~
7 ~~factor~~].

8 (e) A customer of the electric utility, a municipality with
9 original jurisdiction over the utility, or the office may protest a
10 fuel factor or interim fuel adjustment proposed under this section.
11 The prudence of costs may not be considered in a fuel factor or
12 interim fuel adjustment proceeding and may only be considered in a
13 fuel reconciliation proceeding under Subsection (h) or another
14 appropriate proceeding [~~The commission by rule shall provide for~~
15 ~~the reconciliation of a utility's fuel costs on a timely basis~~].

16 (f) The sole issue that may be considered on a protest of a
17 fuel factor under Subsection (e) is whether the factor reasonably
18 reflects costs the electric utility will incur so that the utility
19 will not substantially under-collect or over-collect the utility's
20 reasonably stated fuel and purchased power costs on an ongoing
21 basis. The commission may adjust the utility's fuel factor based on
22 its determination on that issue.

23 (g) The commission shall hold a hearing on a protest of an
24 interim fuel adjustment under Subsection (e) if the adjustment
25 would result in a total bill increase of 10 percent or more as
26 described by Subsection (b)(3) or if the adjustment results from
27 extraordinary electric fuel and purchased power costs as described

1 by Subsection (c). In response to a protest of an interim fuel
2 adjustment, if the commission finds that the electric utility is in
3 a state of material under-collection or over-collection of the
4 utility's reasonably stated eligible fuel and purchased power costs
5 and is projected to remain in that state on an ongoing basis, the
6 commission shall order the utility to establish or modify an
7 interim fuel adjustment to address the under-collection or
8 over-collection in a manner consistent with this section.

9 (h) An electric utility shall apply to reconcile the
10 utility's electric fuel and purchased power costs at least once
11 every two years. The application must be made not later than the
12 180th day after the last day of the period to be reconciled. The
13 commission may by rule establish the calendar year timing of the
14 reconciliation period for each electric utility subject to this
15 section to facilitate efficient work by the commission. To the
16 extent a reconciliation results in a change to the electric
17 utility's under-collected or over-collected fuel balance, that
18 change may be incorporated into an interim fuel adjustment as
19 directed by the commission.

20 (i) A proceeding under this section is not a rate case under
21 Subchapter C.

22 SECTION 2. The first time an electric utility applies to
23 reconcile the utility's fuel costs and purchased power costs under
24 Section 36.203(h), Utilities Code, as added by this Act, after the
25 Public Utility Commission of Texas adopts the rules required to
26 implement that subsection, the electric utility shall include in
27 the application any period that has not been addressed in a previous

1 reconciliation proceeding.

2 SECTION 3. This Act takes effect September 1, 2023.