

1-1 By: Metcalf, Bumgarner, Raymond H.B. No. 2555
 1-2 (Senate Sponsor - Schwertner)
 1-3 (In the Senate - Received from the House May 1, 2023;
 1-4 May 1, 2023, read first time and referred to Committee on Business
 1-5 & Commerce; May 12, 2023, reported adversely, with favorable
 1-6 Committee Substitute by the following vote: Yeas 10, Nays 1;
 1-7 May 12, 2023, sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14		X		
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19	X			
1-20	X			

1-21 COMMITTEE SUBSTITUTE FOR H.B. No. 2555 By: Schwertner

1-22 A BILL TO BE ENTITLED
 1-23 AN ACT

1-24 relating to transmission and distribution system resiliency
 1-25 planning by and cost recovery for electric utilities.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. The legislature finds that:

1-28 (1) extreme weather conditions, including high winds,
 1-29 lightning, flooding, and freezes, can cause extraordinary damage to
 1-30 electrical transmission and distribution facilities, resulting in
 1-31 power outages;

1-32 (2) it is in the state's interest to promote the use of
 1-33 resiliency measures to enable electrical transmission and
 1-34 distribution infrastructure to withstand extreme weather
 1-35 conditions, including hardening electrical transmission and
 1-36 distribution facilities, undergrounding certain electrical
 1-37 distribution lines, lightning mitigation measures, flood
 1-38 mitigation measures, information technology, cybersecurity
 1-39 measures, physical security measures, vegetation management, and
 1-40 wildfire mitigation and response;

1-41 (3) protecting electrical transmission and
 1-42 distribution infrastructure from extreme weather conditions can
 1-43 effectively reduce system restoration costs to and outage times for
 1-44 customers and improve system resiliency and overall service
 1-45 reliability for customers;

1-46 (4) it is in the state's interest for each electric
 1-47 utility to seek to mitigate system restoration costs to and outage
 1-48 times for customers when developing plans to enhance electrical
 1-49 transmission and distribution infrastructure storm resiliency; and

1-50 (5) all customers benefit from reduced system
 1-51 restoration costs.

1-52 SECTION 2. Subchapter D, Chapter 38, Utilities Code, is
 1-53 amended by adding Section 38.078 to read as follows:

1-54 Sec. 38.078. TRANSMISSION AND DISTRIBUTION SYSTEM
 1-55 RESILIENCY PLAN AND COST RECOVERY. (a) In this section, "plan"
 1-56 means a transmission and distribution system resiliency plan
 1-57 described by Subsection (b).

1-58 (b) An electric utility may file, in a manner authorized by
 1-59 commission rule, a plan to enhance the resiliency of the utility's
 1-60 transmission and distribution system through at least one of the

2-1 following methods:
2-2 (1) hardening electrical transmission and
2-3 distribution facilities;
2-4 (2) modernizing electrical transmission and
2-5 distribution facilities;
2-6 (3) undergrounding certain electrical distribution
2-7 lines;
2-8 (4) lightning mitigation measures;
2-9 (5) flood mitigation measures;
2-10 (6) information technology;
2-11 (7) cybersecurity measures;
2-12 (8) physical security measures;
2-13 (9) vegetation management; or
2-14 (10) wildfire mitigation and response.
2-15 (c) A plan must explain the systematic approach the electric
2-16 utility will use to carry out the plan during at least a three-year
2-17 period.
2-18 (d) In determining whether to approve a plan filed under
2-19 this section, the commission shall consider:
2-20 (1) the extent to which the plan is expected to enhance
2-21 system resiliency, including whether the plan prioritizes areas of
2-22 lower performance; and
2-23 (2) the estimated costs of implementing the measures
2-24 proposed in the plan.
2-25 (e) The commission shall issue an order to approve, modify,
2-26 or deny a plan filed under Subsection (b) and any associated rider
2-27 described by Subsection (i) not later than the 180th day after the
2-28 plan is filed with the commission. The commission may approve a
2-29 plan only if the commission determines that approving the plan is
2-30 necessary for the service, accommodation, convenience, or safety of
2-31 the public.
2-32 (f) For a plan approved by the commission, with or without
2-33 modification, an electric utility may request a good cause
2-34 exception on implementing all or some of the measures in the plan if
2-35 operational needs, business needs, financial conditions, or supply
2-36 chain or labor conditions dictate the exception. The commission's
2-37 denial of a plan is not considered to be a finding of the prudence or
2-38 imprudence of a measure or cost in the plan for the purposes of
2-39 Chapter 36 or this chapter.
2-40 (g) An electric utility for which the commission has
2-41 approved a plan under this section may request that the commission
2-42 review an updated plan submitted by the electric utility. The
2-43 updated plan must comply with any applicable commission rules and
2-44 take effect on a date that is not earlier than the third anniversary
2-45 of the approval date of the utility's most recently approved plan.
2-46 The commission shall review and approve, modify, or deny the
2-47 updated plan in the manner provided by Subsections (d), (e), and
2-48 (f).
2-49 (h) An electric utility's implementation of a plan approved
2-50 under this section may be reviewed for the purposes of Chapter 36 or
2-51 this chapter. If the commission determines that the costs to
2-52 implement an approved plan were imprudently incurred or otherwise
2-53 unreasonable, those costs are subject to disallowance.
2-54 (i) Notwithstanding any other law, an electric utility may
2-55 file with a plan an application for a rider to recover the electric
2-56 utility's distribution investment that is made to implement a plan
2-57 and is used and useful to the electric utility in providing service
2-58 to the public. The electric utility may file the application before
2-59 the electric utility places into service the distribution
2-60 investment to implement an approved plan. The commission may
2-61 approve the rider application before the electric utility places
2-62 into service the distribution investment to implement an approved
2-63 plan. An approved rider may take effect only on the date that the
2-64 distribution investment begins providing service to the public.
2-65 If the commission approves or modifies the plan, the commission
2-66 shall determine the appropriate terms of the rider in the approval
2-67 order. The commission shall adopt a procedure for reconciliation of
2-68 an electric utility's distribution-related expenses to implement
2-69 an approved plan.

3-1 (j) As part of a review described by Subsection (g), the
3-2 commission shall reconcile the rider authorized under Subsection
3-3 (i) to determine the electric utility's reasonably and prudently
3-4 incurred plan costs.

3-5 (k) If an electric utility that files a plan with the
3-6 commission does not apply for a rider under Subsection (i), after
3-7 commission review, the utility may defer all or a portion of the
3-8 distribution-related costs relating to the implementation of the
3-9 plan for future recovery as a regulatory asset, including
3-10 depreciation expense and carrying costs at the utility's weighted
3-11 average cost of capital established in the commission's final order
3-12 in the utility's most recent base rate proceeding in a manner
3-13 consistent with Chapter 36, and use commission authorized cost
3-14 recovery alternatives under Sections 36.209 and 36.210 or another
3-15 general rate proceeding.

3-16 (l) Plan costs considered by the commission to be reasonable
3-17 and prudent may include only incremental costs that are not already
3-18 being recovered through the electric utility's base rates or any
3-19 other rate rider and must be allocated to customer classes pursuant
3-20 to the rate design most recently approved by the commission.

3-21 SECTION 3. The Public Utility Commission of Texas shall
3-22 adopt rules to implement Section 38.078, Utilities Code, as added
3-23 by this Act, not later than the 180th day after the effective date
3-24 of this Act.

3-25 SECTION 4. This Act takes effect immediately if it receives
3-26 a vote of two-thirds of all the members elected to each house, as
3-27 provided by Section 39, Article III, Texas Constitution. If this
3-28 Act does not receive the vote necessary for immediate effect, this
3-29 Act takes effect September 1, 2023.

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