

By: Spiller

H.B. No. 3043

A BILL TO BE ENTITLED

AN ACT

relating to periodic rate adjustments by electric utilities.

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

SECTION 1. Section 36.210, Utilities Code, is amended by amending Subsections (a), (d), (f), and (g) and adding Subsections (h) and (i) to read as follows:

(a) The commission [~~or a regulatory authority~~], on the petition of an electric utility, may approve a tariff or rate schedule in which a nonfuel rate may be periodically adjusted upward or downward, based on changes in the parts of the utility's invested capital, as described by Section 36.053, that are categorized or functionalized as distribution plant, distribution-related intangible plant, and distribution-related communication equipment and networks in accordance with commission rules adopted after consideration of the uniform system of accounts prescribed by the Federal Energy Regulatory Commission. A periodic rate adjustment must:

(1) [~~be approved or denied in accordance with an expedited procedure that:~~

~~[(A) provides for appropriate updates of information,~~

~~[(B) allows for participation by the office and affected parties, and~~

~~[(C) extends for not less than 60 days,~~

1           ~~[(2) take into account changes in the number of an~~  
2 ~~electric utility's customers and the effects, on a~~  
3 ~~weather-normalized basis, that energy consumption and energy~~  
4 ~~demand have on the amount of revenue recovered through the electric~~  
5 ~~utility's base rates;~~

6           ~~[(3)]~~ be consistent with the manner in which costs for  
7 invested capital described by this subsection were allocated to  
8 each rate class, as approved by the commission, in an electric  
9 utility's most recent base rate statement of intent proceeding with  
10 changes to residential and commercial class rates reflected in  
11 volumetric charges to the extent that residential and commercial  
12 class rates are collected in that manner based on the electric  
13 utility's most recent base rate statement of intent proceeding;

14           (2) ~~[(4)]~~ not diminish the ability of the commission  
15 or a regulatory authority, on its own motion or on complaint by an  
16 affected person as provided by Subchapter D, after reasonable  
17 notice and hearing, to change the existing rates of an electric  
18 utility for a service after finding that the rates are unreasonable  
19 or in violation of law;

20           (3) ~~[(5)]~~ be applied by an electric utility on a  
21 system-wide basis; and

22           (4) ~~[(6)]~~ be supported by the sworn statement of an  
23 appropriate employee of the electric utility that affirms that:

24                   (A) the filing is in compliance with the  
25 provisions of the tariff or rate schedule; and

26                   (B) the filing is true and correct to the best of  
27 the employee's knowledge, information, and belief.

1 (d) An [~~Except as provided by Subsection (d-1), an~~] electric  
2 utility may adjust the utility's rates under this section not more  
3 than twice [~~once~~] per year [~~and not more than four times between~~  
4 ~~comprehensive base rate proceedings~~].

5 (f) Nothing in this section is intended to:

6 (1) conflict with a provision contained in a financing  
7 order issued under Subchapter I of this chapter or Subchapter G or  
8 J, Chapter 39;

9 (2) affect the limitation on the commission's  
10 jurisdiction under Section 32.002;

11 (3) include in a periodic rate adjustment authorized  
12 by this section costs adjusted under a transmission cost-of-service  
13 adjustment approved under Section 35.004(d); or

14 (4) [~~limit the jurisdiction of a municipality over the~~  
15 ~~rates, operations, and services of an electric utility as provided~~  
16 ~~by Section 33.001,~~

17 [~~(5) limit the ability of a municipality to obtain a~~  
18 ~~reimbursement under Section 33.023 for the reasonable cost of~~  
19 ~~services of a person engaged in an activity described by that~~  
20 ~~section; or~~

21 [~~(6)~~] prevent the commission from:

22 (A) reviewing the investment costs included in a  
23 periodic rate adjustment or in the following comprehensive base  
24 rate proceeding to determine whether the costs were prudent,  
25 reasonable, and necessary; or

26 (B) refunding to customers any amount improperly  
27 recovered through the periodic rate adjustments, with appropriate

1 carrying costs.

2 (g) The commission shall adopt rules necessary to implement  
3 this section. The rules must provide for:

4 (1) a procedure by which a tariff or rate schedule is  
5 to be reviewed and approved;

6 (2) filing requirements and discovery consistent with  
7 ~~[the expedited procedure described by]~~ Subsection (a) ~~[(a)(1)]~~;

8 (3) an earnings monitoring report that allows the  
9 commission ~~[or regulatory authority]~~ to reasonably determine  
10 whether a utility is earning in excess of the utility's allowed  
11 return on investment as normalized for weather;

12 (4) denial of the electric utility's filing if the  
13 electric utility is earning more than the utility's authorized rate  
14 of return on investment, on a weather-normalized basis, at the time  
15 the periodic rate adjustment request is filed; and

16 (5) a mechanism by which the commission may refund  
17 customers any amounts determined to be improperly recovered through  
18 a periodic rate adjustment, including any interest on the amounts.

19 (h) An electric utility may file a request for a periodic  
20 rate adjustment under this section on any day on which the  
21 commission is open for business. The fact that an electric utility  
22 has a base rate proceeding pending during a proceeding conducted  
23 under this section does not establish grounds for dismissal of  
24 either proceeding.

25 (i) The commission shall enter a final order on a request  
26 for a periodic rate adjustment under this section not later than the  
27 60th day after the date the request is filed.

1           SECTION 2. Section 36.210(d-1), Utilities Code, is  
2 repealed.

3           SECTION 3. The changes in law made by this Act apply only to  
4 a proceeding before the Public Utility Commission of Texas, or  
5 other regulatory authority described by Section 11.003, Utilities  
6 Code, that commences on or after the effective date of this Act. A  
7 proceeding before the Public Utility Commission of Texas or other  
8 regulatory authority described by Section 11.003, Utilities Code,  
9 that commenced before the effective date of this Act is governed by  
10 the law in effect on the date the proceeding commenced, and that law  
11 is continued in effect for that purpose.

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