

By: Turner of Harris

H.B. No. 1695

A BILL TO BE ENTITLED

AN ACT

relating to the requirement that electric utilities create and implement a plan for infrastructure improvement and maintenance.

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

SECTION 1. Chapter 38, Utilities Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. INFRASTRUCTURE IMPROVEMENT AND MAINTENANCE PLAN

Sec. 38.101. PLAN FOR INFRASTRUCTURE IMPROVEMENT AND MAINTENANCE. (a) Not later than January 1, 2010, each electric utility shall file with the commission a plan for infrastructure improvement and maintenance that minimizes the utility's risk of experiencing an extended power outage during severe weather.

(b) The commission shall prescribe the details required to be included in each electric utility's plan submitted under Subsection (a), based on:

(1) the utility's susceptibility to specific types of severe weather likely to occur in the utility's service area;

(2) the age of the utility's infrastructure;

(3) the utility's history of extended power outages caused by severe weather; and

(4) the potential improvements in preparation and response that are available to the utility.

(c) At a minimum, the commission shall require that each utility's plan submitted under Subsection (a) include:

1           (1) an established vegetation management cycle for the  
2 clearing of trees, tree limbs, and other vegetative growth from  
3 utility line easements and utility structures;

4           (2) a customer outreach program that educates property  
5 owners on proper vegetation management near electric utility  
6 structures;

7           (3) a program for the inspection of transmission  
8 structures;

9           (4) a system for identifying areas that are  
10 susceptible to damage during severe weather and modifying  
11 transmission structures in those areas, including identifying and  
12 replacing wooden poles in those areas with poles made of more  
13 durable materials;

14           (5) a system for designating high-load transmission  
15 and distribution areas and identifying potential improvements to  
16 infrastructure to prevent damage during severe weather;

17           (6) a system for determining the cost-effectiveness of  
18 placing future electricity lines underground;

19           (7) a plan that allows for or requires the expansion or  
20 installation of underground utility infrastructure to be  
21 coordinated with the repair, expansion, or installation activities  
22 of other owners of underground facilities, including  
23 municipalities, gas utilities, and pipeline companies;

24           (8) a plan for the use of distributed generation  
25 technologies and advanced meter technologies that prevent, detect,  
26 and report the failure of grid facilities and assist in the repair  
27 of those facilities;

1           (9) a priority plan for the restoration of critical  
2 facilities in areas that are particularly prone to severe weather,  
3 including:

4                   (A) facilities belonging to emergency response  
5 providers;

6                   (B) hospitals;

7                   (C) water and wastewater treatment facilities;  
8 and

9                   (D) municipal service facilities; and

10           (10) a plan to inform state and local officials of an  
11 extended power outage, the utility's restoration efforts, and the  
12 expected duration and severity of the outage.

13           (d) For each specific program or project included in a plan  
14 submitted under Subsection (a), the utility shall include  
15 sufficient detail to allow the commission to accept, modify, or  
16 reject an individual program or project based on factors such as  
17 anticipated cost or benefit.

18           Sec. 38.102. APPROVAL OF PLAN; HEARING. (a) On the filing  
19 of a plan under Section 38.101, the commission shall provide notice  
20 to interested parties and an opportunity for a hearing.

21           (b) The commission shall review and approve a new plan or an  
22 updated plan not later than the 30th day after the date the  
23 commission provides the notice required by Subsection (a), unless a  
24 request for a hearing is filed before the end of that period.

25           (c) If a request for a hearing is filed within the period  
26 prescribed by Subsection (b), the commission shall hold a hearing  
27 on the plan and shall issue an order approving the plan, approving

1 the plan with modifications, or rejecting the entire plan, not  
2 later than the 120th day after the date the plan is filed. If the  
3 commission does not issue an order regarding a plan within that  
4 120-day period, the plan is considered approved.

5 (d) If the commission rejects an electric utility's plan for  
6 infrastructure improvement and maintenance, or approves the plan  
7 with modifications, the commission shall include in the order a  
8 detailed explanation of the reasons the plan was rejected or  
9 modified. If the commission rejects an electric utility's plan,  
10 the electric utility shall file a new plan and seek commission  
11 approval of the new plan. If the commission approves a utility's  
12 plan with modifications, the electric utility may:

13 (1) accept the modifications and proceed under the  
14 plan as modified; or

15 (2) withdraw its plan, file a new plan, and seek  
16 commission approval of the new plan.

17 (e) The commission's approval of a plan, or approval of a  
18 plan with modifications that are accepted by an electric utility,  
19 does not:

20 (1) preclude the electric utility from filing a new  
21 plan before the utility is required to update an approved plan under  
22 Section 38.103; or

23 (2) affect the duty of the electric utility to prove in  
24 a ratemaking proceeding that expenditures made pursuant to the plan  
25 were reasonable, necessary, and prudently incurred.

26 (f) An expenditure made by an electric utility pursuant to a  
27 plan filed under this section may be recovered by the utility in a

1 ratemaking proceeding under Chapter 36.

2 Sec. 38.103. RENEWAL AND REVIEW OF PLAN. (a) An electric  
3 utility that files a plan for infrastructure improvement and  
4 maintenance required by Section 38.101 shall:

5 (1) file with the commission a semiannual report  
6 detailing the status of the programs and projects detailed in the  
7 plan; and

8 (2) file an updated plan with the commission every six  
9 years for the commission's approval.

10 (b) To prepare an electric utility for future severe  
11 weather, the commission shall evaluate the effectiveness of an  
12 electric utility's plan for infrastructure improvement and  
13 maintenance after each occurrence of severe weather that affects  
14 the utility's service area.

15 SECTION 2. (a) The Public Utility Commission of Texas shall  
16 adopt rules consistent with this Act not later than October 1, 2009.

17 (b) Not later than January 1, 2010, each electric utility  
18 shall file with the Public Utility Commission of Texas a proposed  
19 plan for infrastructure and improvement as required by Subchapter  
20 E, Chapter 38, Utilities Code, as added by this Act.

21 SECTION 3. This Act takes effect immediately if it receives  
22 a vote of two-thirds of all the members elected to each house, as  
23 provided by Section 39, Article III, Texas Constitution. If this  
24 Act does not receive the vote necessary for immediate effect, this  
25 Act takes effect September 1, 2009.