

By: Otto

H.B. No. 3115

A BILL TO BE ENTITLED

AN ACT

relating to the computation of income tax expense for electric utilities.

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

SECTION 1. The heading to Section 36.060, Utilities Code, is amended to read as follows:

Sec. 36.060. COMPUTATION OF [~~CONSOLIDATED~~] INCOME TAX EXPENSE [~~RETURNS~~].

SECTION 2. Sections 36.060(a) and (b) are amended to read as follows:

(a) An electric utility's income tax expense shall be computed on a stand-alone basis using only the regulated utility cost of service used to determine the electric utility's rates and the applicable income tax rates. If an expense is disallowed or not included in the utility's cost of service, or if an investment is not included in the utility's rate base, the related income tax deduction or benefit may not be included in the computation of income tax expense for the purpose of reducing the utility's rates  
~~[Unless it is shown to the satisfaction of the regulatory authority that it was reasonable to choose not to consolidate returns, an electric utility's income taxes shall be computed as though a consolidated return had been filed and the utility had realized its fair share of the savings resulting from that return, if:~~

~~[(1) the utility is a member of an affiliated group~~

1 ~~eligible to file a consolidated income tax return, and~~

2 ~~[(2) it is advantageous to the utility to do so].~~

3 (b) The amount of income tax that a consolidated group of  
4 which an electric utility is a member pays or saves through filing  
5 a[, because the] consolidated return may not be considered directly  
6 or indirectly for ratemaking purposes ~~[eliminates the intercompany~~  
7 ~~profit on purchases by the utility from an affiliate, shall be~~  
8 ~~applied to reduce the cost of the property or service purchased from~~  
9 ~~the affiliate].~~

10 SECTION 3. This Act takes effect September 1, 2009.