

BILL ANALYSIS

S.B. 1693
By: Carona
State Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

There is concern that current law does not adequately address the authority of a municipality or of the Public Utility Commission of Texas (PUC) to approve an electric utility tariff or rate schedule that periodically adjusts a nonfuel rate outside of a general rate case. There is reason to believe that an express grant of authority would encourage original jurisdiction municipalities and the PUC to modernize and bring efficiencies to their electric utility rate regulation processes through the use of periodic rate adjustments. S.B. 1693 seeks to clarify the matter by authorizing a municipality and the PUC to approve a requested tariff or rate schedule that provides for periodic adjustment of nonfuel rates under certain conditions.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTIONS 1 and 2 of this bill.

ANALYSIS

S.B. 1693 amends the Utilities Code to authorize the Public Utility Commission of Texas (PUC) or a regulatory authority, on the petition of an electric utility, to 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 that are categorized as distribution plant, distribution-related intangible plant, and distribution-related communication equipment and networks in accordance with PUC rules adopted after consideration of the uniform system of accounts prescribed by the Federal Energy Regulatory Commission. The bill requires a periodic rate adjustment to do the following:

- be approved or denied in accordance with an expedited procedure that provides for appropriate updates of information, allows for participation by the Office of Public Utility Counsel and affected parties, and extends for not less than 60 days;
- take into account changes in the number of an electric utility's customers and the effects, on a weather-normalized basis, that energy consumption and energy demand have on the amount of revenue recovered through the electric utility's base rates;
- be consistent with the manner in which the costs for invested capital were allocated to each rate class, as approved by the PUC, in an electric utility's most recent base rate statement of intent proceeding with changes to residential and commercial class rates reflected in volumetric charges, to the extent that residential and commercial class rates are collected in that manner based on the electric utility's most recent base rate statement of intent proceeding;
- not diminish the ability of the PUC or a regulatory authority, on its own motion or on complaint by an affected person, after reasonable notice and hearing, to change the existing rates of an electric utility for a service after finding that the rates are unreasonable or in violation of law;
- be applied by an electric utility on a system-wide basis; and

- be supported by the sworn statement of an appropriate employee of the electric utility that affirms that the filing is in compliance with the provisions of the tariff or rate schedule and the filing is true and correct to the best of the employee's knowledge, information, and belief.

S.B. 1693 requires an electric utility in the Electric Reliability Council of Texas (ERCOT) power region, or an unbundled electric utility outside the ERCOT power region in whose service area retail competition is available, that requests a periodic rate adjustment to implement simultaneously, to the extent possible, all nonfuel rates to be adjusted in a 12-month period that are charged by the utility to retail electric providers and to provide notice to retail electric providers of the approved rates not later than the 45th day before the date the rates take effect.

S.B. 1693 prohibits a periodic rate adjustment approved under the bill's provisions from being used to adjust the portion of a nonfuel rate relating to the generation of electricity. The bill authorizes an electric utility to adjust the utility's rates not more than once per year and not more than four times between comprehensive base rate proceedings.

S.B. 1693 establishes that nothing in its provisions is intended to do the following:

- conflict with a provision contained in a financing order issued under state law to provide for the securitization of system restoration costs or to otherwise provide for the recovery of system restoration costs;
- affect the statutory limitation on the PUC's jurisdiction;
- include in a periodic rate adjustment costs adjusted under a transmission cost-of-service adjustment;
- limit the jurisdiction of a municipality over the rates, operations, and services of an electric utility;
- limit the ability of a municipality to obtain a reimbursement for the reasonable cost of services of a person conducting investigations, presenting evidence, advising and representing the governing body, or assisting the governing body with litigation in an electric utility ratemaking proceeding; or
- prevent the PUC from reviewing the investment costs included in a periodic rate adjustment or in the following comprehensive base rate proceeding to determine whether the costs were prudent, reasonable, and necessary or from refunding to customers any amount improperly recovered through the periodic rate adjustments, with appropriate carrying costs.

S.B. 1693 requires the PUC, not later than the 120th day after the bill's effective date, to adopt rules necessary to implement the bill's provisions. The bill requires the rules to provide for the following:

- a procedure by which a tariff or rate schedule is to be reviewed and approved;
- filing requirements and discovery consistent with the expedited procedure described by the bill's provisions;
- an earnings monitoring report that allows the PUC or regulatory authority to reasonably determine whether a utility is earning in excess of the utility's allowed return on investment as normalized for weather;
- denial of the electric utility's filing if the electric utility is earning more than the utility's authorized rate of return on investment, on a weather-normalized basis, at the time the periodic rate adjustment request is filed; and
- a mechanism by which the commission is authorized to refund customers any amounts determined to be improperly recovered through a periodic rate adjustment, including any

interest on the amounts.

S.B. 1693 sets its provisions to expire on August 31, 2017.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.