

BILL ANALYSIS

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S.B. 1693
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Funding a modern and reliable electric grid depends on a regulatory structure that both allows utilities to keep pace with evolving demands and technology, and provides for timely cost recovery. The process to recover investments, revenues, and expenditures associated with electric grid infrastructure can be drawn out and administratively burdensome. In fact, traditional rate recovery of distribution investment requires lengthy and expensive contested cases. Current law addresses periodic rate adjustments for transmission costs, energy efficiency costs, and fuel costs, but does not address distribution costs. To alleviate these pressures, and therefore assist utilities with keeping up with infrastructure needs, S.B. 1693 clarifies that the Public Utility Commission of Texas (PUC), with participation from affected parties and in an expedited process, has the authority to adopt periodic rate adjustments for certain non-fuel items related to distribution costs.

While current law does not address periodic rate adjustments for distribution costs; there is statutory guidance for energy efficiency, fuel costs, and timely recovery of transmission costs outside of the Electric Reliability Council of Texas (ERCOT). Furthermore, nothing in statute prohibits or requires municipalities or PUC to approve an electric utility tariff that periodically adjusts a non-fuel rate outside a general rate case or prohibits them from doing so.

S.B. 1693 creates a new Section 36.210, Utilities Code, which allows for an electric utility to petition PUC for approval of a periodic rate adjustment of non-fuel rates. Non-fuel rates include any capital costs relating to the transmission or distribution system, but cannot include generation costs for integrated utilities. Periodic rate adjustment (PRA) can be adjusted upward or downward and cannot be used for any non-fuel generation costs. The PRA must be approved in an expedited fashion that allows for participation of affected parties and takes into account the affect load growth has on revenues recovered through the utility's base rates. The PRA must be consistent in cost allocation to various rate classes and not diminish PUC's ability to change existing rates if PUC finds the rates are unreasonable. In addition, the PRA must be applied by a utility on a system-wide basis. S.B. 1693 also requires utilities in competitive areas, to the extent possible, to combine adjustments for all non-fuel rates charged to retail electric providers into one adjustment per year. The bill grants PUC rulemaking authority to implement PRAs related to distribution costs; and these rules must allow for tariff and rate schedule procedures as well as minimum filing requirements consistent with the expedited processes set forth in the bill.

As proposed, S.B. 1693 amends current law relating to periodic rate adjustments by electric utilities.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 1 (Section 36.210, Utilities Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter E, Chapter 36, Utilities Code, by adding Section 36.210, as follows:

Sec. 36.210. PERIODIC RATE ADJUSTMENTS. (a) Authorizes 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 utility's investment. Requires a periodic rate adjustment to:

(1) be approved in compliance with an expedited procedure that provides for appropriate updates of information and allows for participation by the office and affected parties;

(2) take into account the effect that changes in the number of an electric utility's customers, energy consumption, and energy demand have on the amount of revenue recovered through the electric utility's base rates;

(3) be consistent with the manner in which costs were allocated to each rate class, as approved by PUC, in an electric utility's most recent base rate proceeding;

(4) not diminish the ability of PUC, on its own motion or on complaint by an affected person as provided by Subchapter D (Prohibited Relationships and Activities), 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; and

(5) be applied by an electric utility on a system-wide basis.

(b) Requires an electric utility in the 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 under this section, to:

(1) except as provided by Subsection (c) and to the extent possible, combine all nonfuel rates to be adjusted in a 12-month period that are charged by the utility to retail electric providers into a single, annual rate adjustment; and

(2) finalize the resulting rates and provide notice to retail electric providers of the resulting rates not later than the 45th day before the date the rates take effect.

(c) Provides that Subsection (b)(1) does not apply to a transmission cost-of-service adjustment approved under Section 35.004(d) (relating to wholesale transmission services prices) and charged to distribution and service providers.

(d) Prohibits a periodic rate adjustment approved under this section from being used to adjust a nonfuel rate relating to the generation of electricity.

(e) Provides that nothing in this section is intended to conflict with a provision contained in a financing order issued under Subchapter I (Provisions for Certain Non-ERCOT Utilities) of this chapter or Subchapter G (Securitization) or J (Transition to Competition in Certain Non-ERCOT Areas), Chapter 39 (Restructuring of Electric Utility Industry), or to affect the limitation on PUC's jurisdiction under Section 32.002 (Limitation on Commission Jurisdiction).

(f) Requires PUC to adopt rules necessary to implement this section. Requires that the rules provide for a procedure by which a tariff or rate schedule is to be reviewed and approved, and minimum filing requirements and discovery consistent with the expedited procedure described by Subsection (a)(1).

SECTION 2. Requires PUC to adopt rules as necessary to implement Section 36.210, Utilities Code, as added by this Act, not later than 120th day after the effective date of this Act.

SECTION 3. Effective date: upon passage or September 1, 2011.