

By: Thompson, Harless, Reynolds, Chisum,
Miller of Comal, et al.

H.B. No. 3610

Substitute the following for H.B. No. 3610:

By: Cook

C.S.H.B. No. 3610

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. Subchapter E, Chapter 36, Utilities Code, is amended by adding Section 36.210 to read as follows:

Sec. 36.210. PERIODIC RATE ADJUSTMENTS. (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 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;

(2) take into account changes in the number of an

1 electric utility's customers and the effects, on a
2 weather-normalized basis, that energy consumption and energy
3 demand have on the amount of revenue recovered through the electric
4 utility's base rates;

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

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

18 (5) be applied by an electric utility on a system-wide
19 basis; and

20 (6) be supported by the sworn statement of an
21 appropriate employee of the electric utility that affirms that:

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

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

26 (b) An electric utility in the ERCOT power region, or an
27 unbundled electric utility outside the ERCOT power region in whose

1 service area retail competition is available, that requests a
2 periodic rate adjustment under this section shall:

3 (1) except as provided by Subsection (e)(3) and to the
4 extent possible, implement simultaneously all nonfuel rates to be
5 adjusted in a 12-month period that are charged by the utility to
6 retail electric providers; and

7 (2) provide notice to retail electric providers of the
8 approved rates not later than the 45th day before the date the rates
9 take effect.

10 (c) A periodic rate adjustment approved under this section
11 may not be used to adjust the portion of a nonfuel rate relating to
12 the generation of electricity.

13 (d) An electric utility may adjust the utility's rates under
14 this section not more than once per year and not more than four
15 times between comprehensive base rate proceedings.

16 (e) Nothing in this section is intended to:

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

20 (2) affect the limitation on the commission's
21 jurisdiction under Section 32.002;

22 (3) include in a periodic rate adjustment authorized
23 by this section costs adjusted under a transmission cost-of-service
24 adjustment approved under Section 35.004(d);

25 (4) limit the jurisdiction of a municipality over the
26 rates, operations, and services of an electric utility as provided
27 by Section 33.001;

1 (5) limit the ability of a municipality to obtain a
2 reimbursement under Section 33.023 for the reasonable cost of
3 services of a person engaged in an activity described by that
4 section; or

5 (6) prevent the commission from:

6 (A) reviewing the investment costs included in a
7 periodic rate adjustment or in the following comprehensive base
8 rate proceeding to determine whether the costs were prudent,
9 reasonable, and necessary; or

10 (B) refunding to customers any amount improperly
11 recovered through the periodic rate adjustments, with appropriate
12 carrying costs.

13 (f) The commission shall adopt rules necessary to implement
14 this section. The rules must provide for:

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

17 (2) filing requirements and discovery consistent with
18 the expedited procedure described by Subsection (a)(1);

19 (3) an earnings monitoring report that allows the
20 commission or regulatory authority to reasonably determine whether
21 a utility is earning in excess of the utility's allowed return on
22 investment as normalized for weather;

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

27 (5) a mechanism by which the commission may refund

1 customers any amounts determined to be improperly recovered through
2 a periodic rate adjustment, including any appropriate carrying
3 costs.

4 (g) This section expires August 31, 2017.

5 SECTION 2. The Public Utility Commission of Texas shall
6 adopt rules as necessary to implement Section 36.210, Utilities
7 Code, as added by this Act, not later than the 120th day after the
8 effective date of this Act.

9 SECTION 3. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2011.