

BILL ANALYSIS

Senate Research Center

S.B. 1364
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Section 36.060(a), Utilities Code, has been interpreted to require the Public Utility Commission of Texas to implement a consolidated tax savings adjustment in rate proceedings involving an electric utility that is part of an affiliated group eligible to file a federal consolidated income tax return. Current law allows the comingling of electric utility and non-electric utility costs. This comingling violates legislative intent that the activities of an electric utility's affiliates should not affect the utility service provided to ratepayers or the rates that they pay for such service.

Consistent with how rates are set for gas utilities under Section 104.055 of the Utilities Code, S.B. 1364 provides that electric utility rates should reflect income tax expense calculated on a stand-alone basis using only the electric utility's income and expenses and the income tax rates that would apply to the utility's stand-alone net income. As a result, the income, gains, losses, and deductions of an electric utility's affiliates, including the federal income tax consequences of such income, gains, losses, and deductions, will not affect the electric utility's cost of service and rates charged for utility service.

S.B. 1364 amends current law relating to the computation of an electric utility's income taxes.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 36.060(a), Utilities Code, as follows:

(a) Requires that the related income tax benefit, if an expense is allowed to be included in utility rates or an investment is included in the utility rate base, be included in the computation of income tax expense to reduce the rates. Prohibits the related income tax benefit, if an expense is not allowed to be included in utility rates or an investment is not included in the utility rate base, from being included in the computation of income tax expense to reduce the rates. Requires that the income tax expense be computed using the statutory income tax rates.

Deletes existing text requiring an electric utility's income taxes, unless it is shown to the satisfaction of the regulatory authority that it was reasonable to choose not to consolidate returns, to 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 the utility is a member of an affiliated group eligible to file a consolidated income tax return and it is advantageous to the utility to do so.

SECTION 2. Effective date: September 1, 2013.