

By: Frullo, Huberty, Phelan, Deshotel, Otto,
et al.

H.B. No. 1535

A BILL TO BE ENTITLED

AN ACT

relating to rates of and certificates of convenience and necessity
for certain non-ERCOT electric utilities; authorizing a surcharge.

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

SECTION 1. Subchapter C, Chapter 36, Utilities Code, is
amended by adding Section 36.112 to read as follows:

Sec. 36.112. COST RECOVERY AND RATE ADJUSTMENT STANDARDS
AND PROCEDURES FOR CERTAIN NON-ERCOT UTILITIES. (a) This section
applies only to an electric utility that operates solely outside of
ERCOT.

(b) In establishing the base rates of the electric utility
under this subchapter or Subchapter D, the regulatory authority
shall determine the utility's revenue requirement based on, at the
election of the utility:

(1) information submitted for a test year; or

(2) information submitted for a test year, updated to
include information that reflects the most current actual or
estimated information regarding increases and decreases in the
utility's cost of service, including expenses, capital investment,
cost of capital, and sales.

(c) An electric utility that elects to provide updated
information under Subsection (b)(2) must provide the information
for a period ending not later than the 30th day before the date the
applicable rate proceeding is filed.

1 (d) An electric utility that includes estimated information
2 in the initial filing of a proceeding shall supplement the filing
3 with actual information not later than the 45th day after the date
4 the initial filing was made. The regulatory authority shall extend
5 the deadline for concluding the rate proceeding for a period of time
6 equal to the period between the date the initial filing of the
7 proceeding was made and the date of the supplemental filing, except
8 that the extension period may not exceed 45 days.

9 (e) An electric utility that makes an election under
10 Subsection (b) is not precluded from proposing known and measurable
11 adjustments to the utility's historical rate information as
12 permitted by this title and regulatory authority rules.

13 (f) Without limiting the availability of known and
14 measurable adjustments described by Subsection (e), the regulatory
15 authority shall allow an affected electric utility to make a known
16 and measurable adjustment to include in the utility's rates the
17 prudent capital investment, a reasonable return on such capital
18 investment, depreciation expense, reasonable and necessary
19 operating expenses, and all attendant impacts, including any
20 offsetting revenue, as determined by the regulatory authority,
21 associated with a newly constructed or acquired natural gas-fired
22 generation facility. The regulatory authority is required to allow
23 the adjustment only if the facility is in service before the
24 effective date of new rates. The adjustment may be made regardless
25 of whether the investment is less than 10 percent of the utility's
26 rate base before the date of the adjustment.

27 (g) This section expires September 1, 2023.

1 SECTION 2. Subchapter E, Chapter 36, Utilities Code, is
2 amended by adding Section 36.211 to read as follows:

3 Sec. 36.211. RELATION BACK OF RATES FOR CERTAIN NON-ERCOT
4 UTILITIES. (a) This section applies only to an electric utility
5 that operates solely outside of ERCOT.

6 (b) In a rate proceeding under Subchapter D, or if requested
7 by an electric utility in the utility's statement of intent
8 initiating a rate proceeding under Subchapter C, notwithstanding
9 Section 36.109(a), the final rate set in the proceeding, whether a
10 rate increase or rate decrease, shall be made effective for
11 consumption on and after the 155th day after the date the
12 rate-filing package is filed.

13 (c) The regulatory authority shall:

14 (1) require the electric utility to refund to
15 customers money collected in excess of the rate finally ordered on
16 or after the 155th day after the date the rate-filing package is
17 filed; or

18 (2) authorize the electric utility to surcharge bills
19 to recover the amount by which the money collected on or after the
20 155th day after the date the rate-filing package is filed is less
21 than the money that would have been collected under the rate finally
22 ordered.

23 (d) The regulatory authority may require refunds or
24 surcharges of amounts determined under Subsection (c) over a period
25 not to exceed 18 months, along with appropriate carrying costs. The
26 regulatory authority shall make any adjustments necessary to
27 prevent over-recovery of amounts reflected in riders in effect for

1 the electric utility during the pendency of the rate proceeding.

2 (e) A utility may not assess more than one surcharge
3 authorized by Subsection (c)(2) at the same time.

4 (f) This section expires September 1, 2023.

5 SECTION 3. Subchapter E, Chapter 36, Utilities Code, is
6 amended by adding Section 36.212 to read as follows:

7 Sec. 36.212. RATE CASE REQUIREMENT FOR CERTAIN NON-ERCOT
8 UTILITIES. (a) This section applies only to an electric utility
9 that operates solely outside of ERCOT.

10 (b) The commission shall require an electric utility to make
11 the filings with regulatory authorities required by Subchapter B,
12 Chapter 33, and to file a rate-filing package under Subchapter D
13 with the commission to initiate a comprehensive base rate
14 proceeding before all of the utility's regulatory authorities:

15 (1) on or before the fourth anniversary of the date of
16 the final order in the electric utility's most recent comprehensive
17 base rate proceeding; or

18 (2) if, before the anniversary described by
19 Subdivision (1), the electric utility earns materially more than
20 the utility's authorized rate of return on investment, on a
21 weather-normalized basis, in the utility's two most recent
22 consecutive commission earnings monitoring reports.

23 (c) The electric utility must make the filings described by
24 Subsection (b) not later than the 120th day after the date the
25 commission notifies the utility of the requirement described by
26 Subsection (b). The 120-day period may be extended in the manner
27 provided by Section 36.153(b).

1 (d) The commission may extend the time period described by
2 Subsection (b)(1) and set a new deadline if the commission
3 determines that a comprehensive base rate case would not result in
4 materially different rates. The commission shall give interested
5 parties a reasonable opportunity to present materials and argument
6 before making a determination under this subsection.

7 (e) The commission shall adopt rules implementing this
8 section, including appropriate notice and scheduling requirements.

9 (f) This section does not limit the authority of a
10 regulatory authority under Subchapter D.

11 (g) This section expires September 1, 2023.

12 SECTION 4. Subchapter B, Chapter 37, Utilities Code, is
13 amended by adding Section 37.058 to read as follows:

14 Sec. 37.058. CERTIFICATE AND DETERMINATION ISSUED TO
15 CERTAIN NON-ERCOT UTILITIES FOR GENERATING FACILITY. (a) This
16 section applies only to an electric utility that operates solely
17 outside of ERCOT.

18 (b) An electric utility may file with the commission a
19 request that the commission:

20 (1) grant a certificate for an electric generating
21 facility;

22 (2) make a public interest determination for the
23 purchase of an existing electric generating facility under Section
24 14.101; or

25 (3) both grant a certificate and make a determination.

26 (c) Notwithstanding any other law, in a proceeding
27 involving the purchase of an existing electric generating facility,

1 the commission shall issue a final order on a certificate for the
2 facility or making a determination on the facility required by
3 Section 14.101, as applicable, not later than the 181st day after
4 the date a request for the certificate or determination is filed
5 with the commission under Subsection (b). For generating facilities
6 granted a certificate under this subsection, notwithstanding
7 Section 36.053, the utility's recoverable invested capital
8 included in rates shall be determined by the commission.

9 (d) Notwithstanding any other law, in a proceeding
10 involving a newly constructed generating facility, the commission
11 shall issue a final order on a certificate for the facility not
12 later than the 366th day after the date a request for the
13 certificate is filed with the commission under Subsection (b).

14 SECTION 5. The changes in law made by this Act are not
15 intended to affect the exercise of municipal jurisdiction under
16 Chapter 33, Utilities Code.

17 SECTION 6. The changes in law made by this Act apply only to
18 a proceeding before the Public Utility Commission of Texas or other
19 regulatory authority described by Section 11.003, Utilities Code,
20 that commences on or after the effective date of this Act. A
21 proceeding before the Public Utility Commission of Texas or other
22 regulatory authority described by Section 11.003, Utilities Code,
23 that commenced before the effective date of this Act is governed by
24 the law in effect on the date the proceeding commenced, and that law
25 is continued in effect for that purpose.

26 SECTION 7. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2015.