

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

H.B. No. 1535

Substitute the following for H.B. No. 1535:

By: Huberty

C.S.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 or 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 other known and
11 measurable adjustments to the utility's historical rate
12 information as permitted by this title and commission rules,
13 including all attendant impacts on the utility's cost of service as
14 determined by the commission.

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

1 base before the date of the adjustment.

2 (g) In a rate proceeding authorized by this subchapter,
3 notwithstanding Section 36.109(a), the final rate set in the
4 proceeding shall be made effective for consumption on and after the
5 45th day after the date the electric utility filed to initiate the
6 rate proceeding. The regulatory authority shall:

7 (1) require the electric utility to refund to
8 customers money collected in excess of the rate finally ordered on
9 or after the 45th day after the date the electric utility filed to
10 initiate the rate proceeding; or

11 (2) authorize the electric utility to surcharge bills
12 to recover the amount by which the money collected on or after the
13 45th day after the date the utility filed to initiate the rate
14 proceeding is less than the money that would have been collected
15 under the rate finally ordered.

16 (h) The regulatory authority may require recovery of
17 amounts determined under Subsection (g) over a period not to exceed
18 18 months, along with appropriate carrying costs. The regulatory
19 authority shall make any adjustments necessary to prevent
20 over-recovery of amounts reflected in riders in effect for the
21 electric utility during the pendency of the rate proceeding.

22 (i) A utility may not assess more than one surcharge
23 authorized by Subsection (g) at the same time.

24 SECTION 2. Subchapter B, Chapter 37, Utilities Code, is
25 amended by adding Section 37.058 to read as follows:

26 Sec. 37.058. CERTIFICATE AND DETERMINATION ISSUED TO
27 CERTAIN NON-ERCOT UTILITIES FOR GENERATING FACILITY. (a) This

1 section applies only to an electric utility that operates solely
2 outside of ERCOT.

3 (b) An electric utility may file with the commission a
4 request that the commission:

5 (1) grant a certificate for an electric generating
6 facility;

7 (2) make a public interest determination for the
8 purchase of an existing electric generating facility under Section
9 14.101; or

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

11 (c) Notwithstanding any other law, in a proceeding
12 involving the purchase of an existing electric generating facility,
13 the commission shall issue a final order on a certificate for the
14 facility or making a determination on the facility required by
15 Section 14.101, as applicable, not later than the 181st day after
16 the date a request for the certificate or determination is filed
17 with the commission under Subsection (b). For generating facilities
18 granted a certificate under this subsection, notwithstanding
19 Section 36.053, the utility's recoverable invested capital
20 included in rates shall be determined by the commission.

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

26 SECTION 3. The changes in law made by this Act are not
27 intended to affect the exercise of municipal jurisdiction under

1 Chapter 33, Utilities Code.

2 SECTION 4. The changes in law made by this Act apply only to
3 a proceeding before the Public Utility Commission of Texas or other
4 regulatory authority described by Section 11.003, Utilities Code,
5 that commences on or after the effective date of this Act. A
6 proceeding before the Public Utility Commission of Texas or other
7 regulatory authority described by Section 11.003, Utilities Code,
8 that commenced before the effective date of this Act is governed by
9 the law in effect on the date the proceeding commenced, and that law
10 is continued in effect for that purpose.

11 SECTION 5. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2015.