

## **BILL ANALYSIS**

Senate Research Center

S.B. 735  
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Business & Commerce  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Under current law, the Public Utility Commission of Texas (PUC) has broad authority to regulate electric utilities through the practice of setting transmission and distribution rates in order to ensure fair and timely recovery for costs a utility may experience in providing service to the public. As such, PUC monitors utility earnings, and has the authority to initiate a comprehensive rate proceeding at any time it believes that a utility is earning more than a reasonable rate of return.

As part of the 2016 annual Earnings Monitoring Report (EMR), however, PUC staff noted that within a certain class of utilities, a large percentage had not been subject to a comprehensive or even cursory review by PUC for many years. Specifically, of the 38 utilities considered in this class, 19 had not had a comprehensive rate proceeding in over 10 years, and of these, eight had not been reviewed in over two decades. In this report, PUC also identified some structural deficiencies with the current cost recovery system.

The report highlights the possibility that utilities operating a significant portion of the state's transmission system are recovering costs within rates for transmission projects that have already been paid off, in some cases for more than a decade. Both PUC staff and PUC itself, through the EMR and Alternative Ratemaking Report, have each noted deficiencies in how the current system holds electric utilities accountable throughout all utility classes. They have recommended changes in policy that S.B. 735 seeks to implement.

S.B. 735 would address PUC's recommendations by establishing a requirement for PUC to periodically and efficiently review all electric utility rates, including a periodic adjustment of transmission rates to reduce rates as certain costs go down. It further clarifies how taxes should be treated within utility rates, and that consumers should share in the benefits that utilities gain through innovative corporate structures. The bill would allow PUC additional time to consider important utility mergers and different ownership and governance proposals. And finally, the bill would allow the current periodic rate adjustment for distribution costs to become a permanent expedited recovery mechanism to reduce regulatory lag in the build out of distribution infrastructure. (Original Author's / Sponsor's Statement of Intent)

S.B. 735 amends current law relating to periodic rate adjustment by and to certain transactions involving electric utilities.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 1 (Section 36.157, Utilities Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter D, Chapter 36, Utilities Code, by adding Section 36.157, as follows:

Sec. 36.157. RATE REVIEW SCHEDULE. (a) Provides that this section applies only to an electric utility, other than a river authority, that operates solely inside the Electric Reliability Council of Texas (ERCOT).

(b) Requires the Public Utility Commission of Texas (PUC), notwithstanding any other provision of this title (Public Utility Regulatory Act) and not later than June 1, 2018, by rule, to establish a schedule that requires an electric utility to make periodic filings with PUC to modify or review base rates charged by the electric utility. Authorizes the schedule to be established on the basis of certain criteria.

(c) Requires PUC to extend the date for the proceeding required by Subsection (b) by one year on a year-to-year basis if, 180 days before the date the proceeding is required, the electric utility's most recent earnings monitoring report shows the electric utility is earning, on a weather-normalized basis, less than 50 basis points above a certain average.

(d) Authorizes PUC to extend the date for the proceeding required by Subsection (b) for good cause shown or because of resource constraints of PUC.

(e) Provides that this section does not limit the ability of a regulatory authority to initiate a base rate proceeding at any time under this title.

SECTION 2. Amends Section 36.210, Utilities Code, by amending Subsection (d) and adding Subsection (d-1), as follows:

(d) Creates an exception under Subsection (d-1).

(d-1) Authorizes the electric utility, for an electric utility subject to Section 36.157, beginning on the effective date of the schedule adopted by PUC under Section 36.157(b), to adjust the utility's rates under this section more than four times between base rate proceedings.

SECTION 3. Amends Section 39.262(m), Utilities Code, as follows:

(m) Authorizes PUC to extend the deadline provided by this subsection for not more than 60 days if PUC determines the extension is needed to evaluate additional information, to consider actions taken by other jurisdictions concerning the transaction, to provide for administrative efficiency, or for other good cause. Provides that if PUC has not made a determination before the expiration of the deadline provided by or extended under this subsection, rather than before the 181st day after that date, the transaction is considered approved.

SECTION 4. Amends Section 39.915(b), Utilities Code, as follows:

(b) Authorizes PUC to extend the deadline provided by this subsection for not more than 60 days if PUC determines the extension is needed to evaluate additional information, to consider actions taken by other jurisdictions concerning the transaction, to provide for administrative efficiency, or for other good cause. Provides that if PUC has not made a determination before the expiration of the deadline provided by or extended under this subsection, rather than before the 181st day after that date, the transaction is considered approved.

SECTION 5. Repealers: Sections 36.210(h) (relating to requiring PUC to undertake a study and conduct a report analyzing certain periodic rate adjustments), (h-1) (relating to requiring PUC to conduct a study and make a report relating to alternative ratemaking processes in other states), and (i) (relating to providing that this section expires September 1, 2019), Utilities Code.

SECTION 6. Effective date: upon passage or September 1, 2017.