

By: Hancock

S.B. No. 735

A BILL TO BE ENTITLED

AN ACT

relating to periodic rate adjustment by electric utilities.

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

SECTION 1. Section 35.004, Utilities Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) The commission shall price wholesale transmission services within ERCOT based on the postage stamp method of pricing under which a transmission-owning utility's rate is based on the ERCOT utilities' combined annual costs of transmission divided by the total demand placed on the combined transmission systems of all such transmission-owning utilities within a power region. An electric utility subject to the freeze period imposed by Section 39.052 may treat transmission costs in excess of transmission revenues during the freeze period as an expense for purposes of determining annual costs in the annual report filed under Section 39.257. Notwithstanding Section 36.201, the commission may approve wholesale rates that may be periodically adjusted to ensure timely recovery of transmission investment and shall establish a schedule that requires an electric utility to make periodic filings with the commission to modify or review a rate charge by the electric utility. The schedule may be established on the basis of the period since the electric commission last reviewed the electric utility's rate, whether the electric utility has earned materially more than

1 the utility's authorized rate of return as demonstrated by earnings  
2 monitoring reports, or other criteria that the commission  
3 determines is in the public interest. Notwithstanding Section  
4 36.054(a), if the commission determines that conditions warrant the  
5 action, the commission may authorize the inclusion of construction  
6 work in progress in the rate base for transmission investment  
7 required by the commission under Section 39.203(e).

8 (d-1) The commission shall adopt rules establishing rate  
9 adjustments, on a periodic basis determined by the commission, to  
10 reflect changed transmission cost for:

- 11 (1) depreciation;  
12 (2) plant retirement; and  
13 (3) other factors that reduce rates.

14 SECTION 2. The heading to Section 36.060, Utilities Code,  
15 is amended to read as follows:

16 Sec. 36.060. UTILITY [~~CONSOLIDATED~~] INCOME TAX EXPENSES  
17 [~~RETURNS~~].

18 SECTION 3. Section 36.060, Utilities Code, is amended by  
19 adding Subsection (d) to read as follows:

20 (d) Notwithstanding any other provision of this chapter, if  
21 the income of an electric utility is not subject to corporate  
22 federal income tax because of the corporate organization of the  
23 utility and the utility's upstream owners, the commission may not  
24 include federal tax on the income as an expense in setting the  
25 utility's rates.

26 SECTION 4. Subchapter D, Chapter 36, Utilities Code, is  
27 amended by adding Section 36.157 to read as follows:

1       Sec. 36.157. RATE REVIEW SCHEDULE. Notwithstanding any  
2 other provision of this title, the commission shall establish a  
3 schedule that requires an electric utility to make periodic filings  
4 with the commission to modify or review a rate charged by the  
5 electric utility. The schedule may be established on the basis of:

6           (1) the period since the electric commission last  
7 reviewed the electric utility's rate;

8           (2) whether the electric utility has earned materially  
9 more than the utility's authorized rate of return as demonstrated  
10 by earnings monitoring reports; or

11           (3) other criteria that the commission determines is  
12 in the public interest.

13       SECTION 5. Section 39.262(m), Utilities Code, is amended to  
14 read as follows:

15       (m) The commission shall approve a transaction under  
16 Subsection (1) if the commission finds that the transaction is in  
17 the public interest. In making its determination, the commission  
18 shall consider whether the transaction will adversely affect the  
19 reliability of service, availability of service, or cost of service  
20 of the electric utility or transmission and distribution  
21 utility. The commission shall make the determination concerning a  
22 transaction under this subsection not later than the 180th day  
23 after the date the commission receives the relevant report. The  
24 commission may extend the deadline provided by this subsection for  
25 not more than 60 days if the commission determines the extension is  
26 needed to evaluate additional information, to consider actions  
27 taken by other jurisdictions concerning the transaction, to provide

1 for administrative efficiency, or for other good cause. If the  
2 commission has not made a determination before the expiration of  
3 the deadline provided by or extended under this subsection [~~181st~~  
4 ~~day after that date~~], the transaction is considered approved.

5 SECTION 6. Section 39.915(b), Utilities Code, is amended to  
6 read as follows:

7 (b) The commission shall approve a transaction under  
8 Subsection (a) if the commission finds that the transaction is in  
9 the public interest. In making its determination, the commission  
10 shall consider whether the transaction will adversely affect the  
11 reliability of service, availability of service, or cost of service  
12 of the electric utility or transmission and distribution  
13 utility. The commission shall make the determination concerning a  
14 transaction under this subsection not later than the 180th day  
15 after the date the commission receives the relevant report. The  
16 commission may extend the deadline provided by this subsection for  
17 not more than 60 days if the commission determines the extension is  
18 needed to evaluate additional information, to consider actions  
19 taken by other jurisdictions concerning the transaction, to provide  
20 for administrative efficiency, or for other good cause. If the  
21 commission has not made a determination before the expiration of  
22 the deadline provided by or extended under this subsection [~~181st~~  
23 ~~day after that date~~], the transaction is considered approved.

24 SECTION 7. Sections 36.210(h), (h-1), and (i), Utilities  
25 Code, are repealed.

26 SECTION 8. 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, 2017.