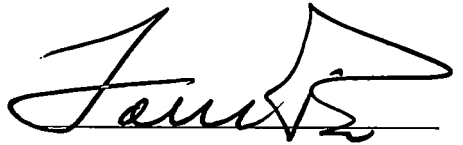




2023 APR 27 PM07:11
HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. _____

BY: 

1 Amend H.B. No. 2073 (house committee printing) by striking
2 all below the enacting clause and substituting the following:

3 SECTION 1. Section 36.203, Utilities Code, is amended to
4 read as follows:

5 Sec. 36.203. FUEL AND PURCHASED POWER COST RECOVERY;
6 ADJUSTMENT OF FUEL FACTOR. (a) Section 36.201 does not prohibit
7 the commission from reviewing and providing for adjustments of an
8 electric [a] utility's fuel factor.

9 (b) The commission by rule shall implement procedures that
10 provide for the timely adjustment of an electric [a] utility's fuel
11 factor[, ~~with or without a hearing~~]. The rules [~~procedures~~] must
12 require that[+]

13 [~~(1)~~] the findings required by Section 36.058 regarding
14 fuel transactions with affiliated interests be [~~are~~] made in a fuel
15 reconciliation proceeding or in a rate case filed under Subchapter
16 C or D. The rules must ensure that:

17 (1) the utility collects as contemporaneously as
18 reasonably possible the electric fuel and purchased power costs
19 that the utility incurs and that the commission determines are
20 eligible;

21 (2) the total of the utility's eligible electric fuel
22 and purchased power costs, including any under-collected or
23 over-collected amounts to be recovered through an interim fuel
24 adjustment, is allocated among customer classes based on actual
25 historical calendar month usage;

26 (3) any material balance of amounts under-collected or
27 over-collected for eligible electric fuel and purchased power costs
28 is collected from or refunded to customers through an interim fuel
29 adjustment:

1 (A) not later than the 90th day after the date the
2 balance is accrued; or

3 (B) if the adjustment would result in a total
4 bill increase of 10 percent or more compared to the total bill in
5 the month before implementation, not later than a date ordered by
6 the commission which must be after the 90th day after the date the
7 balance is accrued; and

8 (4) ~~[, and~~

9 ~~[-(2)-]~~ an affected party will receive notice and have
10 the opportunity to request a hearing before the commission.

11 (c) Notwithstanding Subsection (b)(3), on a finding that an
12 electric utility has an under-collected balance that is the result
13 of extraordinary electric fuel and purchased power costs that are
14 unlikely to continue, the commission may approve an interim fuel
15 adjustment that would defer recovery to take place over a period
16 longer than 90 days ~~[The commission may adjust a utility's fuel~~
17 ~~factor without a hearing if the commission determines that a~~
18 ~~hearing is not necessary. If the commission holds a hearing, the~~
19 ~~commission may consider at the hearing any evidence that is~~
20 ~~appropriate and in the public interest].~~

21 (d) The commission is not required to hold a hearing on the
22 adjustment of an electric utility's fuel factor under this section.
23 If the commission holds a hearing, the commission may consider at
24 the hearing any evidence that is appropriate and in the public
25 interest ~~[The commission shall render a timely decision approving,~~
26 ~~disapproving, or modifying the adjustment to the utility's fuel~~
27 ~~factor].~~

28 (e) A customer of the electric utility, a municipality with
29 original jurisdiction over the utility, or the office may protest a
30 fuel factor or interim fuel adjustment proposed under this section.
31 The prudence of costs may not be considered in a fuel factor or

1 interim fuel adjustment proceeding and may only be considered in a
2 fuel reconciliation proceeding under Subsection (h) or another
3 appropriate proceeding [The commission by rule shall provide for
4 the reconciliation of a utility's fuel costs on a timely basis].

5 (f) The sole issue that may be considered on a protest of a
6 fuel factor under Subsection (e) is whether the factor reasonably
7 reflects costs the electric utility will incur so that the utility
8 will not substantially under-collect or over-collect the utility's
9 reasonably stated fuel and purchased power costs on an ongoing
10 basis. The commission may adjust the utility's fuel factor based on
11 its determination on that issue.

12 (g) The commission shall hold a hearing on a protest of an
13 interim fuel adjustment under Subsection (e) if the adjustment
14 would result in a total bill increase of 10 percent or more as
15 described by Subsection (b)(3) or if the adjustment results from
16 extraordinary electric fuel and purchased power costs as described
17 by Subsection (c). In response to a protest of an interim fuel
18 adjustment, if the commission finds that the electric utility is in
19 a state of material under-collection or over-collection of the
20 utility's reasonably stated eligible fuel and purchased power costs
21 and is projected to remain in that state on an ongoing basis, the
22 commission shall order the utility to establish or modify an
23 interim fuel adjustment to address the under-collection or
24 over-collection in a manner consistent with this section.

25 (h) An electric utility shall apply to reconcile the
26 utility's electric fuel and purchased power costs at least once
27 every two years. The application must be made not later than the
28 180th day after the last day of the period to be reconciled. The
29 commission may by rule establish the calendar year timing of the
30 reconciliation period for each electric utility subject to this
31 section to facilitate efficient work by the commission. To the

1 extent a reconciliation results in a change to the electric
2 utility's under-collected or over-collected fuel balance, that
3 change may be incorporated into an interim fuel adjustment as
4 directed by the commission.

5 (i) A proceeding under this section is not a rate case under
6 Subchapter C.

7 SECTION 2. The first time an electric utility applies to
8 reconcile the utility's fuel costs and purchased power costs under
9 Section 36.203(h), Utilities Code, as added by this Act, after the
10 Public Utility Commission of Texas adopts the rules required to
11 implement that subsection, the electric utility shall include in
12 the application any period that has not been addressed in a previous
13 reconciliation proceeding.

14 SECTION 3. This Act takes effect September 1, 2023.