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HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. \_\_\_\_\_

BY: Metcalf

1 Amend C.S.H.B. No. 2555 (house committee printing) by  
2 striking all below the enacting clause and substituting the  
3 following:

4 SECTION 1. The legislature finds that:

5 (1) extreme weather conditions, including high winds,  
6 lightning, flooding, and freezes, can cause extraordinary damage to  
7 electrical transmission and distribution facilities, resulting in  
8 power outages;

9 (2) it is in the state's interest to promote the use of  
10 resiliency measures to enable electrical transmission and  
11 distribution infrastructure to withstand extreme weather  
12 conditions, including hardening electrical transmission and  
13 distribution facilities, undergrounding certain electrical  
14 distribution lines, lightning mitigation measures, flood  
15 mitigation measures, information technology, cybersecurity  
16 measures, physical security measures, vegetation management, and  
17 wildfire mitigation and response;

18 (3) protecting electrical transmission and  
19 distribution infrastructure from extreme weather conditions can  
20 effectively reduce system restoration costs to and outage times for  
21 customers and improve system resiliency and overall service  
22 reliability for customers;

23 (4) it is in the state's interest for each electric  
24 utility to seek to mitigate system restoration costs to and outage  
25 times for customers when developing plans to enhance electrical  
26 transmission and distribution infrastructure storm resiliency; and

27 (5) all customers benefit from reduced system  
28 restoration costs.

29 SECTION 2. Subchapter D, Chapter 38, Utilities Code, is

1 amended by adding Section 38.078 to read as follows:

2 Sec. 38.078. TRANSMISSION AND DISTRIBUTION SYSTEM  
3 RESILIENCY PLAN AND COST RECOVERY. (a) In this section, "plan"  
4 means a transmission and distribution system resiliency plan  
5 described by Subsection (b).

6 (b) An electric utility may file, in a manner authorized by  
7 commission rule, a plan to enhance the resiliency of the utility's  
8 transmission and distribution system through at least one of the  
9 following methods:

10 (1) hardening electrical transmission and  
11 distribution facilities;

12 (2) modernizing electrical transmission and  
13 distribution facilities;

14 (3) undergrounding certain electrical distribution  
15 lines;

16 (4) lightning mitigation measures;

17 (5) flood mitigation measures;

18 (6) information technology;

19 (7) cybersecurity measures;

20 (8) physical security measures;

21 (9) vegetation management; or

22 (10) wildfire mitigation and response.

23 (c) A plan must explain the systematic approach the electric  
24 utility will use to carry out the plan during at least a three-year  
25 period.

26 (d) In determining whether to approve a plan filed under  
27 this section, the commission shall consider:

28 (1) the extent to which the plan is expected to enhance  
29 system resiliency, including whether the plan prioritizes areas of  
30 lower performance; and

31 (2) the estimated costs of implementing the measures

1 proposed in the plan.

2 (e) The commission shall issue an order to approve, modify,  
3 or deny a plan filed under Subsection (b) and any associated rider  
4 described by Subsection (i) not later than the 180th day after the  
5 plan is filed with the commission. The commission may not approve a  
6 plan if the commission determines that approving the plan is not in  
7 the public interest.

8 (f) For a plan approved by the commission, with or without  
9 modification, an electric utility may request a good cause  
10 exception on implementing all or some of the measures or incurring  
11 all or some of the estimated costs in the plan if operational needs,  
12 business needs, financial conditions, or supply chain or labor  
13 conditions dictate the exception. The commission's denial of a  
14 plan is not considered to be a finding of the prudence or imprudence  
15 of a measure or cost in the plan for the purposes of Chapter 36 or  
16 this chapter.

17 (g) An electric utility for which the commission has  
18 approved a plan under this section may request that the commission  
19 review an updated plan submitted by the electric utility. The  
20 updated plan must comply with any applicable commission rules and  
21 take effect on a date not earlier than the third anniversary of the  
22 approval date of the utility's most recently approved plan. The  
23 commission shall review and approve, modify, or deny the updated  
24 plan in the manner provided by Subsections (d), (e), and (f).

25 (h) An electric utility's implementation of a plan approved  
26 under this section may not be considered imprudent for the purposes  
27 of Chapter 36 or this chapter. If the commission determines that  
28 the costs to implement an approved plan were prudently incurred and  
29 otherwise reasonable, those costs are not subject to disallowance  
30 for exceeding the estimates in the plan.

31 (i) Notwithstanding any other law, an electric utility may

1 file with a plan an application for a rider to recover all or a  
2 portion of the estimated costs relating to the electric utility's  
3 implementation of the plan, other than transmission-related costs.  
4 If the commission approves the plan, the commission shall determine  
5 the appropriate terms of the rider in the approval order. A rider  
6 approved under this subsection must allow the electric utility to  
7 begin recovering the levelized cost of implementing the approved  
8 plan, other than transmission-related costs, at the time the plan  
9 is first implemented. The commission shall adopt a procedure for  
10 reconciliation of an electric utility's distribution-related  
11 expenses to implement an approved plan.

12 (j) As part of a review described by Subsection (g), the  
13 commission shall reconcile the rider authorized under Subsection  
14 (i) to determine the electric utility's reasonably and prudently  
15 incurred plan costs.

16 (k) If an electric utility that files a plan with the  
17 commission does not apply for a rider under Subsection (i), the  
18 utility may defer all or a portion of the distribution-related  
19 costs relating to the implementation of the plan for future  
20 recovery as a regulatory asset, including depreciation expense and  
21 carrying costs at the utility's weighted average cost of capital  
22 established in the commission's final order in the utility's most  
23 recent base rate proceeding, and use commission authorized cost  
24 recovery alternatives under Sections 36.209 and 36.210 or another  
25 general rate proceeding.

26 (l) Plan costs considered by the commission to be reasonable  
27 and prudent may include only incremental costs that are not already  
28 being recovered through the electric utility's base rates or any  
29 other rate rider and must be allocated to customer classes pursuant  
30 to the rate design most recently approved by the commission. If a  
31 capital investment is recoverable as a plan cost, the electric

1 utility may recover all reasonable and prudent costs associated  
2 with the investment, including the annual depreciation expense  
3 related to the investment calculated at the utility's currently  
4 approved depreciation rates, the after-tax return on the  
5 undepreciated balance of the investment calculated using the rate  
6 of return approved by the commission in the utility's last  
7 comprehensive base rate proceeding, and federal income tax and  
8 other taxes related to the investment.

9         SECTION 3. The Public Utility Commission of Texas shall  
10 adopt rules to implement Section 38.078, Utilities Code, as added  
11 by this Act, not later than the 180th day after the effective date  
12 of this Act.

13         SECTION 4. This Act takes effect immediately if it receives  
14 a vote of two-thirds of all the members elected to each house, as  
15 provided by Section 39, Article III, Texas Constitution. If this  
16 Act does not receive the vote necessary for immediate effect, this  
17 Act takes effect September 1, 2023.