

All Published Pre-filed Amendments for HB 2555

Metcalf

Barcode

Amendment

880406

**The following amendment was
published on 4/26/23 8:29 PM**



880406

2023 APR 26 PM04:27
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.