BILL ANALYSIS

C.S.H.B. 2555
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State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Inclement weather is common in Texas and tornadoes, hurricanes, ice, windstorms, and drought can create conditions that threaten electric infrastructure. Severe weather events in recent years, such as Tropical Storm Nicholas and Winter Storm Mara, resulted in severe damage to transmission and distribution infrastructure. Increasing the resiliency of utility infrastructure in Texas will result in more rapid outage restoration times and less damage to existing structures, which reduces the long-term costs for utilities and their customers. Because the impact of electric system threats varies greatly from year to year due to weather, it is difficult for utilities to financially plan for preventative activity using current regulatory processes. C.S.H.B. 2555 seeks to provide the opportunity for electric utilities to develop and file resiliency plans with the Public Utility Commission of Texas (PUC). By addressing resiliency in a proactive approach, rather than waiting for an extreme weather event, electric utilities would be able to plan and procure the necessary equipment and labor to prepare for weather emergencies. Moreover, the bill would allow the PUC to review, on a case-by-case basis dependent on each utility's needs, whether certain associated costs were reasonable and whether cost-recovery measures are permissible.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 2 of this bill.

ANALYSIS

C.S.H.B. 2555 amends the Utilities Code to authorize an electric utility to file a plan to enhance the resiliency of its transmission and distribution system through at least one of the following methods:

- hardening electrical transmission and distribution facilities;
- modernizing electrical transmission and distribution facilities;
- undergrounding certain electrical distribution lines;
- lightning mitigation measures;
- flood mitigation measures;
- information technology;
- cyber security measures;
- physical security measures;
- vegetation management; or
- wildfire mitigation and response.

The bill requires the plan to explain the systematic approach the utility will use to carry out the plan during at least a three-year period. The bill authorizes the utility to file with the plan an application for a rider to recover all or a portion of the estimated costs relating to the plan's implementation. The plan must be filed in a manner authorized by Public Utility Commission of Texas (PUC) rule and the PUC must adopt rules to implement the bill's provisions relating to transmission and distribution resiliency plans not later than the 180th day after the bill's effective date.

C.S.H.B. 2555 requires the PUC by order to approve, approve with modification, or deny a resiliency plan that complies with any applicable PUC rules not later than the 180th day after the utility files the plan. In determining whether to approve a plan, the PUC must consider the extent to which the plan is expected to enhance system resiliency, including whether the plan prioritizes areas of lower performance, and the estimated costs of implementing the measures proposed in the plan. The bill prohibits the PUC from approving a plan that it determines is not in the public interest and establishes that, if the PUC does not issue an order by the 180th day, the plan and any associated rider are considered to have been approved.

C.S.H.B. 2555 establishes that the PUC's approval of a plan is not considered to be a requirement for purposes of the Public Utility Regulatory Act (PURA) provisions regarding electric utility rates and the regulation of electric services that an electric utility implement all the measures or incur all the estimated costs in the plan if business needs, financial conditions, or supply chain or labor conditions dictate otherwise. The bill further establishes that the PUC's denial of a plan is not considered to be a finding of prudence or imprudence of a measure or cost in the plan for purposes of those same PURA provisions.

C.S.H.B. 2555 requires the PUC, on approving a resiliency plan with which an application for an associated rider was filed, to determine the appropriate terms of the rider in the approval order. An approved rider must allow the utility to begin recovering the levelized cost of implementing the approved plan at the time the plan is first implemented. The bill requires the PUC to reconcile any rider approved in connection with the previously approved plan to determine the utility's reasonably and prudently incurred plan costs as part of a review of a plan. The bill authorizes a utility that files a plan with the PUC without applying for a rider to defer all or a portion of the plan's implementation costs for future recovery as a regulatory asset, including carrying costs at the utility's weighted average cost of capital established in the final PUC order in the utility's most recent base rate proceeding, and to use certain PUC-authorized cost recovery alternatives or another general rate proceeding.

C.S.H.B. 2555 authorizes a utility with an approved resiliency plan to request that the PUC review an updated plan submitted by the utility. The updated plan must comply with any applicable PUC rules and take effect on a date that is not earlier than the third anniversary of the approval of the utility's most recently approved plan. The bill requires the PUC to review and approve, modify, or deny the updated plan in the manner provided for an original plan.

C.S.H.B. 2555 prohibits a utility's implementation of an approved resiliency plan from being considered imprudent for purposes of the previously mentioned PURA provisions. If the PUC determines that the implementation costs were prudently incurred, those costs are not subject to disallowance for exceeding the estimates in the plan. The bill prohibits plan costs considered by the PUC to be reasonable and prudent from including the same costs otherwise recovered through the utility's base rates and requires those costs to be allocated to customer classes pursuant to the rate design most recently approved by the PUC.

C.S.H.B. 2555 authorizes a utility to recover all reasonable and prudent costs associated with a capital investment that is recoverable as a plan cost, including the annual depreciation expense related to the investment calculated at the utility's currently approved depreciation rates, the after-tax return on the undepreciated balance of the investment calculated using the rate of return approved by the PUC in the utility's last comprehensive base rate proceeding, and federal income tax and other taxes related to the investment.

C.S.H.B. 2555 establishes that a utility for which the PUC has approved a resiliency plan is not required to submit to the PUC during the period in which the plan is in effect any required annual report, except the annual service quality report.

C.S.H.B. 2555 includes legislative findings relating to the following:

- the extraordinary damage to electrical transmission and distribution facilities, resulting in power outages, that can be caused by extreme weather conditions;
- the state's interest in promoting the use of certain resiliency measures to enable electrical transmission and distribution infrastructure to withstand extreme weather conditions;
- that the protection of electrical transmission and distribution infrastructure from extreme weather conditions can reduce system restoration costs to and outage times for customers and improve system resiliency and overall service reliability for customers;
- the state's interest for each electric utility to seek to mitigate system restoration costs to and outage times for customers when developing plans to enhance electrical transmission and distribution infrastructure storm resiliency; and
- the benefit to customers from reduced system restoration costs.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 2555 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute revises the provision in the introduced authorizing a utility to file a plan to enhance the resiliency of its transmission and distribution system through at least one of several listed methods by including physical security measures and modernizing electrical transmission and distribution facilities among those methods, which were not included in the introduced version's listed methods.

The substitute includes a provision not present in the introduced establishing that the PUC's approval of a plan is not considered to be a requirement for purposes of applicable PURA provisions that the utility implement all the measures or incur all the estimated costs in the plan if business needs, financial conditions, or supply chain or labor conditions dictate otherwise.

While both the introduced and substitute require the PUC, as part of its review of a utility's updated plan, to reconcile the rider to determine the utility's reasonably and prudently incurred plan costs, the substitute includes a specification not present in the introduced that the rider to be reconciled is any rider approved in connection with the previously approved plan. Additionally, while both the introduced and substitute prohibit plan costs considered by the PUC to be reasonable and prudent from including costs recovered through the utility's base rates, the substitute includes a specification not present in the introduced that the costs that may not be included are the same costs otherwise recovered through those rates.