

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 2555
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Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

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. 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.

(Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 2555 amends current law relating to transmission and distribution system resiliency planning by and cost recovery for electric utilities.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 2 (Section 38.078, Utilities Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Provides that the legislature finds that:

- (1) extreme weather conditions, including high winds, lightning, flooding, and freezes, can cause extraordinary damage to electrical transmission and distribution facilities, resulting in power outages;
- (2) it is in the state's interest to promote the use of resiliency measures to enable electrical transmission and distribution infrastructure to withstand extreme weather conditions, including hardening electrical transmission and distribution facilities, undergrounding certain electrical distribution lines, lightning mitigation measures, flood mitigation measures, information technology, cybersecurity measures, physical security measures, vegetation management, and wildfire mitigation and response;
- (3) protecting electrical transmission and distribution infrastructure from extreme weather conditions can effectively reduce system restoration costs to and outage times for customers and improve system resiliency and overall service reliability for customers;
- (4) it is in 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

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

SECTION 2. Amends Subchapter D, Chapter 38, Utilities Code, by adding Section 38.078, as follows:

Sec. 38.078. TRANSMISSION AND DISTRIBUTION SYSTEM RESILIENCY PLAN AND COST RECOVERY. (a) Defines "plan."

(b) Authorizes an electric utility to file, in a manner authorized by Public Utility Commission of Texas (PUC) rule, a plan to enhance the resiliency of the utility's transmission and distribution system through at least one of the following methods:

- (1) hardening electrical transmission and distribution facilities;
- (2) modernizing electrical transmission and distribution facilities;
- (3) undergrounding certain electrical distribution lines;
- (4) lightning mitigation measures;
- (5) flood mitigation measures;
- (6) information technology;
- (7) cybersecurity measures;
- (8) physical security measures;
- (9) vegetation management; or
- (10) wildfire mitigation and response.

(c) Requires that a plan explain the systematic approach the electric utility will use to carry out the plan during at least a three-year period.

(d) Requires the PUC, in determining whether to approve a plan filed under this section, to consider:

- (1) the extent to which the plan is expected to enhance system resiliency, including whether the plan prioritizes areas of lower performance; and
- (2) the estimated costs of implementing the measures proposed in the plan.

(e) Requires the PUC to issue an order to approve, modify, or deny a plan filed under Subsection (b) and any associated rider described by Subsection (i) not later than the 180th day after the plan is filed with the PUC. Authorizes the PUC to approve a plan only if the PUC determines that approving the plan is necessary for the service, accommodation, convenience, or safety of the public.

(f) Authorizes an electric utility, for a plan approved by the PUC, with or without modification, to request a good cause exception on implementing all or some of the measures in the plan if operational needs, business needs, financial conditions, or supply chain or labor conditions dictate the exception. Provides that the PUC's denial of a plan is not considered to be a finding of the prudence or imprudence of a measure or cost in the plan for the purposes of Chapter 36 (Rates) or Chapter 38 (Regulation of Electric Services).

(g) Authorizes an electric utility for which the PUC has approved a plan under this section to request that the PUC review an updated plan submitted by the electric utility. Requires that the updated plan comply with any applicable PUC rules and take effect on a date that is not earlier than the third anniversary of the approval date of the utility's most recently approved plan. Requires the PUC to review and approve,

modify, or deny the updated plan in the manner provided by Subsections (d), (e), and (f).

(h) Authorizes an electric utility's implementation of a plan approved under this section to be reviewed for the purposes of Chapter 36 or this chapter. Provides that if the PUC determines that the costs to implement an approved plan were imprudently incurred and otherwise reasonable, those costs are subject to disallowance.

(i) Authorizes an electric utility, notwithstanding any other law, to file with a plan an application for a rider to recover the electric utility's distribution investment that is made to implement a plan and is used and useful to the electric utility in providing service to the public. Authorizes the electric utility to file the application before the electric utility places into service the distribution investment to implement an approved plan. Authorizes the PUC to approve the rider application before the electric utility places into service the distribution investment to implement an approved plan. Authorizes an approved rider to take effect only on the date that the distribution investment begins providing service to the public. Requires the PUC, if the PUC approves or modifies the plan, to determine the appropriate terms of the rider in the approval order. Requires the PUC to adopt a procedure for reconciliation of an electric utility's distribution-related expenses to implement an approved plan.

(j) Requires the PUC, as part of a review described by Subsection (g), to reconcile the rider authorized under Subsection (i) to determine the electric utility's reasonably and prudently incurred plan costs.

(k) Authorizes the utility, if an electric utility that files a plan with the PUC does not apply for a rider under Subsection (i), after PUC review, to defer all or a portion of the distribution-related costs relating to the implementation of the plan for future recovery as a regulatory asset, including depreciation expense and carrying costs at the utility's weighted average cost of capital established in the PUC's final order in the utility's most recent base rate proceeding in a manner consistent with Chapter 36, and use PUC authorized cost recovery alternatives under Sections 36.209 (Recovery by Certain Non-ERCOT Utilities of Certain Transmission Costs) and 36.210 (Periodic Rate Adjustments) or another general rate proceeding.

(l) Provides that plan costs considered by the PUC to be reasonable and prudent are authorized to include only incremental costs that are not already being recovered through the electric utility's base rates or any other rate rider and are required to be allocated to customer classes pursuant to the rate design most recently approved by the PUC.

SECTION 3. Requires the PUC to adopt rules to implement Section 38.078, Utilities Code, as added by this Act, not later than the 180th day after the effective date of this Act.

SECTION 4. Effective date: upon passage or September 1, 2023.