

BILL ANALYSIS

Senate Research Center

S.B. 853
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Austin Energy is the municipally owned utility that serves the City of Austin, including the Capitol Complex, and other surrounding areas, and has its rates set by the Austin City Council. Under current law, ratepayers inside the City of Austin do not have ability to seek review of those rates by the Public Utility Commission of Texas (PUC). Ratepayers who are located outside of city boundaries have the right to seek review. While other municipalities operate their utility services in the same manner, Austin Energy services the Capitol Complex area and the state should have the ability to review rates that are set to state agencies.

This legislation would give ratepayers in the City of Austin the ability to have the rates that are set by Austin City Council be reviewed by the PUC.

As proposed, S.B. 853 amends current law relating to electricity service provided by certain municipally owned utilities.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 32, Utilities Code, by adding Subchapter D, as follows:

SUBCHAPTER D. REVIEW OF RATES OF CERTAIN MUNICIPAL UTILITIES

Sec. 32.151. **APPLICABILITY.** Provides that this subchapter applies only to a municipally owned utility that provides service in the Capitol complex, as defined by Section 443.0071 (Review of Construction in Capitol Complex), Government Code.

Sec. 32.152. **REVIEW OF RATES; CUSTOMER CHOICE.** (a) Authorizes a retail customer or group of customers, notwithstanding any other law, to file a petition for Public Utility Commission of Texas (PUC) review of current or proposed rates of a municipally owned utility that apply to the petitioning customer or group if the customer or group:

(1) has a non-demand metered total usage of more than 100,000 kilowatt hours per year; or

(2) is served through a demand meter at secondary or primary voltage.

(b) Requires the PUC to initiate a proceeding not later than the 90th day after the petition is submitted to determine whether the rates of the municipally owned utility are consistent with the rates available to similarly situated customers in areas of the state that have access to customer choice. Requires the PUC, if the PUC determines that the rates of the municipally owned utility are consistent with the rates available to similarly situated customers in areas of the state that have access to customer choice, to deny the petition.

(c) Requires the municipally owned utility, if the PUC does not deny the petition under Subsection (b), not later than the 90th day after the date of the determination described by Subsection (b), to file a rate application with the PUC that complies in all material respects with the rules and forms prescribed by the PUC. Authorizes the PUC for good cause to extend the deadline for filing the rate application.

(d) Requires the PUC to conduct a full review of the rates applicable to the petitioning customer or group to determine whether those rates are just and reasonable using the standards prescribed by Chapter 36 (Rates), notwithstanding the lack of consistency between those rates and rates available to similarly situated customers in areas of the state that have access to customer choice. Requires the PUC, if the PUC determines that the rates are just and reasonable, to deny the petition. Requires the PUC, if the PUC determines that the rates are not just and reasonable, to set rates for the petitioning customer or group that are just, reasonable, and consistent with the rates available to similarly situated customers in areas of the state that have access to customer choice.

SECTION 2. Amends Section 40.004, Utilities Code, as follows:

Sec. 40.004. JURISDICTION OF COMMISSION. Provides that the PUC, except as specifically otherwise provided in Chapter 40 (Competition for Municipally Owned Utilities and River Authorities), has jurisdiction over municipally owned utilities only for the following purposes:

- (1)-(2) makes no changes to these subdivisions;
- (3) to regulate rates:
 - (A) under Subchapter D, Chapter 32, subject to Section 40.051(c); and
 - (B) creates this paragraph from existing text; and
- (4)-(8) makes no change to these subdivisions.

SECTION 3. Amends Section 40.051(c), Utilities Code, as follows:

(c) Provides that Subchapter D, Chapter 32, and Subchapters D (Provisions Applicable to Appeal by Ratepayers Outside Municipality) and E (Rate Determination and Appeal of Orders of Certain Municipal Utilities), Chapter 33, do not apply to any action taken under this chapter after a decision to offer customer choice has been made.

SECTION 4. Effective date: September 1, 2023.