

## **BILL ANALYSIS**

Senate Research Center  
88R3204 JXC-F

S.B. 1111  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

As severe weather events that cause significant damages to the electric grid become more frequent in Texas, a comprehensive mechanism to plan for and invest in system resilience is needed to bring improvements to electric utility systems in the state.

S.B. 1111, the Texas Electric Infrastructure Act, strengthens electric utility infrastructure to promote resilience measures by allowing electric utilities to develop plans that address strengthening electrical transmission and distribution facilities, undergrounding of certain electrical distribution lines, lighting or flood mitigation measures, information technology and cybersecurity measures, vegetation management, or wildlife mitigation and response for transmission and distribution systems.

S.B. 1111 allows utilities (TDUs and non-ERCOTs) to file a resiliency plan with the Public Utility Commission (PUC) that includes measures to achieve their resiliency goals and covers a minimum of three years. The PUC will assess the plans based on the resiliency benefits they will provide to the area, and balance those benefits with the expected costs. The PUC would then approve, modify, or deny the plan within 180 days of the filing. Utilities would be allowed to recover prudently incurred plan costs through a rate rider, regulatory asset, or another alternative rate recovery mechanism authorized by the PUC. If a capital investment is recoverable, the utility may recover all costs associated with the investment through existing capital recovery mechanisms.

As proposed, S.B. 1111 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 3 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 and cyber 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) undergrounding certain electrical distribution lines;

(3) lightning mitigation measures;

(4) flood mitigation measures;

(5) information technology and cyber security measures;

(6) vegetation management; or

(7) 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, not later than the 180th day after an electric utility files a plan under Subsection (b) that complies with any applicable PUC rules, to by order approve, approve with modification, or deny the plan. Prohibits the PUC from approving a plan if the PUC determines that approving the plan is not in the public interest. Provides that the plan and any associated rider described by Subsection (i), if the PUC does not issue an order by the 180th day, are considered to have been approved.

(f) Provides that the denial, if the PUC denies the 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 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) Prohibits an electric utility's implementation of a plan approved under this section from being considered imprudent for the purposes of Chapter 36 or this chapter. Provides that if the PUC determines that the costs to implement an approved plan were prudently incurred, those costs are not subject to disallowance for exceeding the estimates in the plan.

(i) Provides that an electric utility is authorized, notwithstanding any other law, to file with a plan an application for a rider to recover all or a portion of the estimated costs relating to the electric utility's implementation of the plan. Requires the PUC, if the PUC approves the plan, to determine the appropriate terms of the rider in the approval order. Requires that a rider approved under this subsection allow the electric utility to begin recovering the levelized cost of implementing the approved plan at the time the plan is first implemented.

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

(k) Authorizes the PUC, if an electric utility that files a plan with the PUC does not apply for a rider under Subsection (i), to defer all or a portion of the costs relating to the implementation of the plan for future recovery as a regulatory asset, including 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, and use PUC authorized cost recovery alternatives under Sections 35.004 (Provision of Transmission Service), 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 prohibited from including costs recovered through the electric utility's base rates and are required to be allocated to customer classes pursuant to the rate design most recently approved by the PUC. Authorizes the electric utility, if a capital investment is recoverable as a plan cost, to recover all reasonable and prudent costs associated with the investment, 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.

(m) Provides that an electric utility for which the PUC has approved a plan under this section is not required to submit to the PUC during the period in which the plan is in effect any annual report required by Section 38.005 (Electric Service Reliability Measures) or 38.101 (Report on Infrastructure Improvement and Maintenance) or by PUC rule adopted under those sections. Provides that this subsection does not apply to an annual service quality report required by PUC rule.

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.