

By: Metcalf, Raymond, et al.

H.B. No. 2555

A BILL TO BE ENTITLED

AN ACT

1
2 relating to transmission and distribution system resiliency
3 planning by and cost recovery for electric utilities.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. The legislature finds that:

6 (1) extreme weather conditions, including high winds,
7 lightning, flooding, and freezes, can cause extraordinary damage to
8 electrical transmission and distribution facilities, resulting in
9 power outages;

10 (2) it is in the state's interest to promote the use of
11 resiliency measures to enable electrical transmission and
12 distribution infrastructure to withstand extreme weather
13 conditions, including hardening electrical transmission and
14 distribution facilities, undergrounding certain electrical
15 distribution lines, lightning mitigation measures, flood
16 mitigation measures, information technology, cybersecurity
17 measures, physical security measures, vegetation management, and
18 wildfire mitigation and response;

19 (3) protecting electrical transmission and
20 distribution infrastructure from extreme weather conditions can
21 effectively reduce system restoration costs to and outage times for
22 customers and improve system resiliency and overall service
23 reliability for customers;

24 (4) it is in the state's interest for each electric

1 utility to seek to mitigate system restoration costs to and outage
2 times for customers when developing plans to enhance electrical
3 transmission and distribution infrastructure storm resiliency; and
4 (5) all customers benefit from reduced system
5 restoration costs.

6 SECTION 2. Subchapter D, Chapter 38, Utilities Code, is
7 amended by adding Section 38.078 to read as follows:

8 Sec. 38.078. TRANSMISSION AND DISTRIBUTION SYSTEM
9 RESILIENCY PLAN AND COST RECOVERY. (a) In this section, "plan"
10 means a transmission and distribution system resiliency plan
11 described by Subsection (b).

12 (b) An electric utility may file, in a manner authorized by
13 commission rule, a plan to enhance the resiliency of the utility's
14 transmission and distribution system through at least one of the
15 following methods:

16 (1) hardening electrical transmission and
17 distribution facilities;

18 (2) modernizing electrical transmission and
19 distribution facilities;

20 (3) undergrounding certain electrical distribution
21 lines;

22 (4) lightning mitigation measures;

23 (5) flood mitigation measures;

24 (6) information technology;

25 (7) cybersecurity measures;

26 (8) physical security measures;

27 (9) vegetation management; or

1 (10) wildfire mitigation and response.

2 (c) A plan must explain the systematic approach the electric
3 utility will use to carry out the plan during at least a three-year
4 period.

5 (d) In determining whether to approve a plan filed under
6 this section, the commission shall consider:

7 (1) the extent to which the plan is expected to enhance
8 system resiliency, including whether the plan prioritizes areas of
9 lower performance; and

10 (2) the estimated costs of implementing the measures
11 proposed in the plan.

12 (e) The commission shall issue an order to approve, modify,
13 or deny a plan filed under Subsection (b) and any associated rider
14 described by Subsection (i) not later than the 180th day after the
15 plan is filed with the commission. The commission may not approve a
16 plan if the commission determines that approving the plan is not in
17 the public interest.

18 (f) For a plan approved by the commission, with or without
19 modification, an electric utility may request a good cause
20 exception on implementing all or some of the measures or incurring
21 all or some of the estimated costs in the plan if operational needs,
22 business needs, financial conditions, or supply chain or labor
23 conditions dictate the exception. The commission's denial of a
24 plan is not considered to be a finding of the prudence or imprudence
25 of a measure or cost in the plan for the purposes of Chapter 36 or
26 this chapter.

27 (g) An electric utility for which the commission has

1 approved a plan under this section may request that the commission
2 review an updated plan submitted by the electric utility. The
3 updated plan must comply with any applicable commission rules and
4 take effect on a date that is not earlier than the third anniversary
5 of the approval date of the utility's most recently approved plan.
6 The commission shall review and approve, modify, or deny the
7 updated plan in the manner provided by Subsections (d), (e), and
8 (f).

9 (h) An electric utility's implementation of a plan approved
10 under this section may not be considered imprudent for the purposes
11 of Chapter 36 or this chapter. If the commission determines that
12 the costs to implement an approved plan were prudently incurred and
13 otherwise reasonable, those costs are not subject to disallowance
14 for exceeding the estimates in the plan.

15 (i) Notwithstanding any other law, an electric utility may
16 file with a plan an application for a rider to recover all or a
17 portion of the estimated costs relating to the electric utility's
18 implementation of the plan, other than transmission-related costs.
19 If the commission approves the plan, the commission shall determine
20 the appropriate terms of the rider in the approval order. A rider
21 approved under this subsection must allow the electric utility to
22 begin recovering the levelized cost of implementing the approved
23 plan, other than transmission-related costs, at the time the plan
24 is first implemented. The commission shall adopt a procedure for
25 reconciliation of an electric utility's distribution-related
26 expenses to implement an approved plan.

27 (j) As part of a review described by Subsection (g), the

1 commission shall reconcile the rider authorized under Subsection
2 (i) to determine the electric utility's reasonably and prudently
3 incurred plan costs.

4 (k) If an electric utility that files a plan with the
5 commission does not apply for a rider under Subsection (i), the
6 utility may defer all or a portion of the distribution-related
7 costs relating to the implementation of the plan for future
8 recovery as a regulatory asset, including depreciation expense and
9 carrying costs at the utility's weighted average cost of capital
10 established in the commission's final order in the utility's most
11 recent base rate proceeding, and use commission authorized cost
12 recovery alternatives under Sections 36.209 and 36.210 or another
13 general rate proceeding.

14 (l) Plan costs considered by the commission to be reasonable
15 and prudent may include only incremental costs that are not already
16 being recovered through the electric utility's base rates or any
17 other rate rider and must be allocated to customer classes pursuant
18 to the rate design most recently approved by the commission. If a
19 capital investment is recoverable as a plan cost, the electric
20 utility may recover all reasonable and prudent costs associated
21 with the investment, including the annual depreciation expense
22 related to the investment calculated at the utility's currently
23 approved depreciation rates, the after-tax return on the
24 undepreciated balance of the investment calculated using the rate
25 of return approved by the commission in the utility's last
26 comprehensive base rate proceeding, and federal income tax and
27 other taxes related to the investment.

1 SECTION 3. The Public Utility Commission of Texas shall
2 adopt rules to implement Section 38.078, Utilities Code, as added
3 by this Act, not later than the 180th day after the effective date
4 of this Act.

5 SECTION 4. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2023.