

AN ACT

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

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

SECTION 1. 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

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 approve a
16 plan only if the commission determines that approving the plan is 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 in the plan if
21 operational needs, business needs, financial conditions, or supply
22 chain or labor conditions dictate the exception. The commission's
23 denial of a plan is not considered to be a finding of the prudence or
24 imprudence of a measure or cost in the plan for the purposes of
25 Chapter 36 or this chapter.

26 (g) An electric utility for which the commission has
27 approved a plan under this section may request that the commission

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

8 (h) An electric utility's implementation of a plan approved
9 under this section may be reviewed for the purposes of Chapter 36 or
10 this chapter. If the commission determines that the costs to
11 implement an approved plan were imprudently incurred or otherwise
12 unreasonable, those costs are subject to disallowance.

13 (i) Notwithstanding any other law, an electric utility may
14 file with a plan an application for a rider to recover the electric
15 utility's distribution investment that is made to implement a plan
16 and is used and useful to the electric utility in providing service
17 to the public. The electric utility may file the application before
18 the electric utility places into service the distribution
19 investment to implement an approved plan. The commission may
20 approve the rider application before the electric utility places
21 into service the distribution investment to implement an approved
22 plan. The commission may not approve a rider that would allow an
23 electric utility to begin recovering the distribution investment
24 before the utility begins to use the investment to provide service
25 to the public. If the commission approves or modifies the plan, the
26 commission shall determine the appropriate terms of the rider in
27 the approval order. The commission shall adopt a procedure for

1 reconciliation of an electric utility's distribution-related costs
2 to implement an approved plan.

3 (j) As part of a review described by Subsection (g), the
4 commission shall reconcile the rider authorized under Subsection
5 (i) to determine the electric utility's reasonably and prudently
6 incurred plan costs.

7 (k) If an electric utility that files a plan with the
8 commission does not apply for a rider under Subsection (i), after
9 commission review, the utility may defer all or a portion of the
10 distribution-related costs relating to the implementation of the
11 plan for future recovery as a regulatory asset, including
12 depreciation expense and carrying costs at the utility's weighted
13 average cost of capital established in the commission's final order
14 in the utility's most recent base rate proceeding in a manner
15 consistent with Chapter 36, and use commission authorized cost
16 recovery alternatives under Sections 36.209 and 36.210 or another
17 general rate proceeding.

18 (l) Plan costs considered by the commission to be reasonable
19 and prudent may include only incremental costs that are not already
20 being recovered through the electric utility's base rates or any
21 other rate rider and must be allocated to customer classes pursuant
22 to the rate design most recently approved by the commission.

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

27 SECTION 4. This Act takes effect immediately if it receives

H.B. No. 2555

1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I certify that H.B. No. 2555 was passed by the House on April 28, 2023, by the following vote: Yeas 147, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2555 on May 25, 2023, by the following vote: Yeas 134, Nays 7, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2555 was passed by the Senate, with amendments, on May 17, 2023, by the following vote: Yeas 29, Nays 2.

Secretary of the Senate

APPROVED: _____

Date

Governor