

By: Metcalf

H.B. No. 2555

Substitute the following for H.B. No. 2555:

By: Smithee

C.S.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 and cyber security  
17 measures, vegetation management, and wildfire mitigation and  
18 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) cyber security 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) Not later than the 180th day after an electric utility  
13 files a plan under Subsection (b) that complies with any applicable  
14 commission rules, the commission shall by order approve, approve  
15 with modification, or deny the plan. The commission may not approve  
16 a plan if the commission determines that approving the plan is not  
17 in the public interest. If the commission does not issue an order  
18 by the 180th day, the plan and any associated rider described by  
19 Subsection (i) are considered to have been approved.

20           (f) If the commission approves the plan, the approval is not  
21 considered to be a requirement for the purposes of Chapter 36 or  
22 this chapter that an electric utility implement all the measures or  
23 incur all the estimated costs in the plan if business needs,  
24 financial conditions, or supply chain or labor conditions dictate  
25 otherwise. If the commission denies the plan, the denial is not  
26 considered to be a finding of the prudence or imprudence of a  
27 measure or cost in the plan for the purposes of Chapter 36 or this

1 chapter.

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

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

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

26 (j) As part of a review described by Subsection (g), the  
27 commission shall reconcile any rider approved in connection with

1 the previously approved plan to determine the electric utility's  
2 reasonably and prudently incurred plan costs.

3 (k) If an electric utility that files a plan with the  
4 commission does not apply for a rider under Subsection (i), the  
5 utility may defer all or a portion of the costs relating to the  
6 implementation of the plan for future recovery as a regulatory  
7 asset, including carrying costs at the utility's weighted average  
8 cost of capital established in the commission's final order in the  
9 utility's most recent base rate proceeding, and use commission  
10 authorized cost recovery alternatives under Sections 35.004,  
11 36.209, and 36.210 or another general rate proceeding.

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

25 (m) An electric utility for which the commission has  
26 approved a plan under this section is not required to submit to the  
27 commission during the period in which the plan is in effect any

1 annual report required by Section 38.005 or 38.101 or by commission  
2 rule adopted under those sections. This subsection does not apply  
3 to an annual service quality report required by commission rule.

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

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