

By: Metcalf

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) undergrounding certain electrical distribution  
19 lines;

20 (3) lightning mitigation measures;

21 (4) flood mitigation measures;

22 (5) information technology and cyber security  
23 measures;

24 (6) vegetation management; or

25 (7) wildfire mitigation and response.

26 (c) A plan must explain the systematic approach the electric  
27 utility will use to carry out the plan during at least a three-year

1 period.

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

4 (1) the extent to which the plan is expected to enhance  
5 system resiliency, including whether the plan prioritizes areas of  
6 lower performance; and

7 (2) the estimated costs of implementing the measures  
8 proposed in the plan.

9 (e) Not later than the 180th day after an electric utility  
10 files a plan under Subsection (b) that complies with any applicable  
11 commission rules, the commission shall by order approve, approve  
12 with modification, or deny the plan. The commission may not approve  
13 a plan if the commission determines that approving the plan is not  
14 in the public interest. If the commission does not issue an order  
15 by the 180th day, the plan and any associated rider described by  
16 Subsection (i) are considered to have been approved.

17 (f) If the commission denies the plan, the denial is not  
18 considered to be a finding of the prudence or imprudence of a  
19 measure or cost in the plan for the purposes of Chapter 36 or this  
20 chapter.

21 (g) An electric utility for which the commission has  
22 approved a plan under this section may request that the commission  
23 review an updated plan submitted by the electric utility. The  
24 updated plan must comply with any applicable commission rules and  
25 take effect on a date that is not earlier than the third anniversary  
26 of the approval of the utility's most recently approved plan. The  
27 commission shall review and approve, modify, or deny the updated

1 plan in the manner provided by Subsections (d), (e), and (f).

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

8 (i) Notwithstanding any other law, an electric utility may  
9 file with a plan an application for a rider to recover all or a  
10 portion of the estimated costs relating to the electric utility's  
11 implementation of the plan. If the commission approves the plan,  
12 the commission shall determine the appropriate terms of the rider  
13 in the approval order. A rider approved under this subsection must  
14 allow the electric utility to begin recovering the levelized cost  
15 of implementing the approved plan at the time the plan is first  
16 implemented.

17 (j) As part of a review described by Subsection (g), the  
18 commission shall reconcile the rider to determine the electric  
19 utility's reasonably and prudently incurred plan costs.

20 (k) If an electric utility that files a plan with the  
21 commission does not apply for a rider under Subsection (i), the  
22 utility may defer all or a portion of the costs relating to the  
23 implementation of the plan for future recovery as a regulatory  
24 asset, including carrying costs at the utility's weighted average  
25 cost of capital established in the commission's final order in the  
26 utility's most recent base rate proceeding, and use commission  
27 authorized cost recovery alternatives under Sections 35.004,

1 36.209, and 36.210 or another general rate proceeding.

2 (1) Plan costs considered by the commission to be reasonable  
3 and prudent may not include costs recovered through the electric  
4 utility's base rates and must be allocated to customer classes  
5 pursuant to the rate design most recently approved by the  
6 commission. If a capital investment is recoverable as a plan cost,  
7 the electric utility may recover all reasonable and prudent costs  
8 associated with the investment, including the annual depreciation  
9 expense related to the investment calculated at the utility's  
10 currently approved depreciation rates, the after-tax return on the  
11 undepreciated balance of the investment calculated using the rate  
12 of return approved by the commission in the utility's last  
13 comprehensive base rate proceeding, and federal income tax and  
14 other taxes related to the investment.

15 (m) An electric utility for which the commission has  
16 approved a plan under this section is not required to submit to the  
17 commission during the period in which the plan is in effect any  
18 annual report required by Section 38.005 or 38.101 or by commission  
19 rule adopted under those sections. This subsection does not apply  
20 to an annual service quality report required by commission rule.

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

25 SECTION 4. This Act takes effect immediately if it receives  
26 a vote of two-thirds of all the members elected to each house, as  
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2023.