

By: Schwertner

S.B. No. 1111

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.