

BILL ANALYSIS

Senate Research Center

H.B. 5247
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2023, the 88th Legislature passed H.B. 5066, establishing a comprehensive plan to develop transmission infrastructure to support existing and projected electric load in the Permian Basin region. The Public Utility Commission of Texas (PUC) has since approved the construction of extra high voltage transmission lines as part of the Permian Basin Plan.

For utilities responsible for constructing new transmission under the Permian Basin Plan, H.B. 5247 establishes an alternative rate adjustment process. Specifically, H.B. 5247 would authorize certain ERCOT-only electric utilities that exceed 300 percent of annual depreciation in capital spending to elect a single annual system-wide rate adjustment for transmission and distribution investments, in place of other periodic retail and wholesale rate adjustment mechanisms.

An electric utility seeking to make an election allowed by H.B. 5247 would be required to follow PUC filing requirements for adjustment proceedings, submit notice and supporting documentation of capital expenditures to the PUC at least 60 days in advance, provide evidence of ongoing eligibility in the annual proceeding, and notify the PUC if it no longer qualifies for the adjustment. The utility may defer transmission and distribution capital costs as a regulatory asset at its most recent weighted average cost of capital. It must also update cost allocations among customer classes to reflect customer growth and changes in consumption and demand.

H.B. 5247 requires the PUC to include the regulatory asset in the new approved rates and allow amortization over up to 18 months or longer if needed to avoid over-collecting. The bill would require utilities earning above their allowed return to apply excess earnings to the asset balance. The PUC would approve rate adjustment requests within 120 days, and utilities must give retail electric providers at least 45 days' notice before rates take effect. If the PUC does not issue a final order by the deadline, the utility could implement temporary rates after 165 days and refund any difference with interest.

A utility that made an election allowed by H.B. 5247 could not petition for another adjustment under the bill, certain other provisions of the Utilities Code, or certain PUC rules for one year after filing the adjustment request. H.B. 5247 would authorize the PUC to expressly consider the effect of an adjustment under the bill on a utility's financial risk and rate of return in setting the rate of return in a comprehensive base rate proceeding.

H.B. 5247 amends current law relating to an alternative capital recovery process for certain utilities.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 2 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter E, Chapter 36, Utilities Code, by adding Section 36.216, as follows:

Sec. 36.216. SINGLE CAPITAL INVESTMENT PROCEDURE FOR CERTAIN UTILITIES. (a) Provides that this section applies only to an electric utility, other than a river authority, that operates solely inside ERCOT and was identified by the Public Utility Commission of Texas (PUC) as responsible for constructing transmission as part of the reliability plan for the Permian Basin approved by the PUC under Section 39.167 (Reliability Plan for Permian Basin), as added by Chapter 892 (H.B. 5066), Acts of the 88th Legislature, Regular Session, 2023.

(b) Authorizes an electric utility that makes total capital expenditures that exceed 300 percent of annual depreciation in a calendar year to elect in the following calendar year to file a single annual proceeding to adjust nonfuel rates on a system-wide basis to reflect changes in transmission and distribution invested capital in lieu of adjustments to retail and wholesale transmission and distribution rates authorized under Section 36.210 (Periodic Rate Adjustments), Section 38.078 (Transmission and Distribution System Resiliency Plan and Cost Recovery), as added by Chapter 836 (H.B. 2555), Acts of the 88th Legislature, Regular Session, 2023, and PUC rules adopted under Section 35.004 (Provision of Transmission Service).

(c) Requires an electric utility seeking to make an election under this section to:

(1) except as provided by Subsection (d), use the filing requirements adopted by the PUC for the adjustment proceedings described by Subsection (b);

(2) file a notice with the PUC of the utility's intent to make the election and supporting documentation of the capital expenditures described by Subsection (b) at least 60 days before the date the utility makes a filing under Subsection (b);

(3) provide evidence of the utility's ongoing eligibility in the annual proceeding under Subsection (b); and

(4) notify the PUC if the utility determines that the utility no longer qualifies for continued use of the adjustment under this section.

(d) Provides that an electric utility that makes an election under this section is:

(1) authorized to defer all or a portion of the costs, including depreciation expense and carrying costs, associated with the transmission and distribution invested capital at the utility's weighted average cost of capital established in the PUC's final order in the utility's most recent base rate proceeding for invested capital, as described by Section 36.053 (Components of Invested Capital), not currently reflected in the utility's rates for recovery as a regulatory asset; and

(2) required to update the allocation of costs among customer classes to reflect customer growth and take into account changes in the number of the utility's customers and the effects, on a weather-normalized basis, that energy consumption and energy demand have on the amount of revenue recovered through the utility's base rates.

(e) Requires the PUC, unless otherwise agreed to by an electric utility that makes an election under this section, to:

(1) include the regulatory asset in rates set under this section; and

(2) authorize amortization of the regulatory asset over:

(A) a period not to exceed 18 months; or

(B) if a recovery period described by Paragraph (A) would cause the utility to earn more than the utility's allowed return on investment as normalized for weather, a longer recovery period.

(f) Requires an electric utility that makes an election under this section, during a period when the utility earns more than the utility's allowed return on investment, on a weather-adjusted basis, to apply the over-earnings to the balance of the regulatory asset under Subsections (d) and (e).

(g) Requires the PUC to approve an adjustment under this section not later than the 120th day after the date an electric utility files a request for the adjustment.

(h) Requires the electric utility to provide notice to retail electric providers of rates approved under this section not later than the 45th day before the date the rates take effect.

(i) Authorizes the electric utility, if the PUC does not issue a final order in the period described by Subsection (g) and the utility complies with Subsection (h), to place the requested rates into effect on a temporary basis not earlier than the 165th day after filing the request. Requires the utility to refund or credit against future bills any difference between the temporary rate and the final rate along with interest at the current interest rate as determined by the PUC.

(j) Prohibits an electric utility that makes an election under this section from petitioning for another adjustment under this section, Section 36.210, Section 38.078, as added by Chapter 836 (H.B. 2555), Acts of the 88th Legislature, Regular Session, 2023, or PUC rules adopted under Section 35.004 before the first anniversary of the date the utility files a request under Subsection (b).

(k) Authorizes the PUC, notwithstanding any other law, in setting the rate of return in a comprehensive base rate proceeding for an electric utility receiving a rate adjustment under this section, to expressly consider the effect of the adjustment on the utility's financial risk and rate of return.

(l) Provides that an electric utility's use of this section terminates when the utility no longer qualifies for an adjustment under this section, except that the utility's rates in effect on the date the utility no longer qualifies remain in effect until modified in a future proceeding.

(m) Provides that nothing in this section is intended to:

(1) conflict with a provision of a financing order issued under Subchapter I (Securitization for Recovery of System);

(2) affect the limitation on the PUC's jurisdiction under Section 32.002 (Limitation on Commission Jurisdiction);

(3) limit the jurisdiction of a municipality over the rates, operations, and services of an electric utility under Section 33.001 (Municipal Jurisdiction) or limit the ability of a municipality to obtain a reimbursement under Section 33.023 (Ratemaking Proceedings); or

(4) prevent the PUC from reviewing the investment costs included in an adjustment under this section in the electric utility's next comprehensive base rate proceeding to determine whether the costs were prudent, reasonable, and necessary; refunding to customers any amount improperly recovered through an adjustment under this section, with appropriate carrying costs; or if applicable, refunding to customers the realized equity portion of carrying costs deferred under Subsection (d)(1) on a

transmission project associated with the reliability plan described by Subsection (a) if the in-service date is unreasonably delayed beyond December 31, 2030, due to the utility's actions, unless the utility demonstrates that the delay is necessary to maximize the load serving capability of other transmission projects.

SECTION 2. Requires the PUC, as soon as practicable after the effective date of this Act, to adopt rules necessary to implement Section 36.216, Utilities Code, as added by this Act.

SECTION 3. Provides that it is the intent of the 89th Legislature, Regular Session, 2025, that the amendments made by this Act be harmonized with another Act of the 89th Legislature, Regular Session, 2025, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 4. Effective date: upon passage or September 1, 2025.