

BILL ANALYSIS

S.B. 1856
By: Creighton
State Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The bill sponsor has informed the committee that Entergy Texas, which serves customers as part of the Southeastern Electric Reliability Council and operates outside ERCOT, is building new power generation to meet rising electric demand and in the meantime is buying more power from the market, but the current regulatory system does not accurately reflect the fluctuating capacity-related costs, which are reviewed and set once every four years during a base rate case. The bill sponsor has further informed the committee that this system overlooks market changes and external factors beyond a utility's control and does not allow a utility to adjust rates up or down to match its actual costs of providing power to customers. A fixed rate can lead to imbalances in collection, with no structured process for addressing shortages or returning excess funds to customers. S.B. 1856 seeks to establish a capacity cost recovery rider that only applies to an electric utility that operates solely outside of ERCOT in areas of Texas included in the Southeastern Electric Reliability Council and is updated annually.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 1856 amends the Utilities Code to set out provisions relating to the recovery of annual capacity-related costs that apply only to an electric utility that operates solely outside of ERCOT in areas of Texas included in the Southeastern Electric Reliability Council. The bill establishes legislative intent that certain changes to the level of an applicable electric utility's capacity-related costs and capacity-related revenues due to wholesale rate decisions and determinations by a federal agency or a regional transmission organization subject to federal jurisdiction should be timely reflected in the utility's rates.

S.B. 1856 requires the Public Utility Commission of Texas (PUC), on application by an applicable electric utility that has not exceeded the utility's authorized return on equity as shown in the utility's most recent earnings monitoring report at the time of the application, to establish a capacity cost recovery rider that must be annually updated and that allows recovery of the utility's eligible costs and allows return to ratepayers of the utility's eligible revenues. For the bill's purposes, eligible costs and revenues are capacity-related costs and revenues associated with the electric utility's participation in a multi-state capacity auction operated by a regional transmission organization or independent system organization authorized by the Federal Energy

Regulatory Commission (FERC), to the extent the costs and revenues are not already being recovered through the utility's base rates.

S.B. 1856 subjects amounts recovered through a capacity cost recovery rider to reconciliation in the next base rate proceeding for the electric utility. The bill requires the PUC, as part of the reconciliation, to review the costs and revenues to determine if they were reasonable and prudently incurred and to ensure the electric utility is only recovering costs allocable to retail customers in Texas and is not over-recovering costs. In each base rate proceeding following the establishment of a capacity cost recovery rider, the PUC must remove from the electric utility's base rates all cost and revenue items eligible for recovery through the electric utility's capacity cost recovery rider.

S.B. 1856 requires the annual revenue requirement and rates for a proposed capacity cost recovery rider to include the following:

- the electric utility's calculated costs and revenues for the upcoming year beginning on the June 1 associated with the utility's participation in a multi-state capacity auction; and
- a true-up amount that accounts for any difference between the utility's actual eligible costs and revenues and the utility's actual collections under any capacity cost recovery rider put into effect two years before the proposed effective date of the proposed rider, plus the following amounts:
 - an amount to account for any mathematical error identified in the utility's most recent capacity cost recovery rider application proceeding; and
 - an amount to account for any refunds or surcharges ordered by FERC or by a regional transmission organization or independent system organization related to a previous year's capacity auction that:
 - are identified on a regional transmission organization or independent system operator settlement statement; or
 - were directed by a FERC order issued in the preceding 12-month period.

S.B. 1856 requires the capacity cost recovery rider charges to be derived using the following:

- the same production demand allocation factors approved in the electric utility's most recent base rate case; and
- the projected billing determinants for the rate effective period.

The bill requires the billing determinants to be derived using each customer class's projected kilowatt-hour usage, except for customer classes with demand meters for which the billing determinants must be derived using each customer class's projected kilowatt billing demand. Until the time the electric utility removes from base rates the capacity-related costs eligible for rider recovery because they are capacity-related costs associated with the electric utility's participation in an applicable multi-state capacity auction, and the costs eligible for rider recovery under the bill provision requiring capacity cost recovery rider charges to be derived using projected billing determinants, and these costs are recovered solely through the capacity cost recovery rider, the calculation of the capacity cost recovery rider must include a load growth adjustment to 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.

S.B. 1856 requires the PUC to process an application to establish or update a capacity cost recovery rider in accordance with the following provisions set out by the bill:

- for a capacity cost recovery rider that will include an electric utility's costs to be incurred beginning on June 1 of a given year, the utility must submit the rider application not later than:
 - May 15 of that year; or
 - if the regional transmission organization or independent system operator publishes its capacity auction cost results after the 20th business day of April of that year, a date that is the same number of days after May 15 of that year as the number of days after the 20th business day of April the results were published;

- the application must be fully documented, including testimony and all supporting work papers in native format;
- a response to the electric utility's filing that is made by PUC staff or an intervenor must be filed not later than the 15th day after the date of the utility's filing;
- such a response may address only whether the application conforms with any rule the PUC adopts to implement the bill's provisions and the mathematical accuracy of the utility's proposed capacity cost recovery rider revenue requirement and rates, and any other inaccuracy identified may be addressed only in the electric utility's next capacity cost recovery rider application; and
- the PUC may review costs and revenues and must issue an order approving, modifying, or denying an electric utility's proposed or updated capacity cost recovery rider not later than the 60th day after the date the application is filed.

S.B. 1856 sets its provisions to expire September 1, 2035.

S.B. 1856 authorizes an applicable electric utility to file an application with the PUC to recover eligible capacity-related costs associated with participation in an applicable multi-state capacity auction to be incurred before September 1, 2026, regardless of whether the PUC has adopted any rules regarding capacity cost recovery riders. Not later than the 60th day after the date the application is filed, the PUC must issue an order approving, modifying, or denying the proposed or updated capacity cost recovery rider. The bill requires the electric utility to begin imposing the rates approved by the PUC for service rendered during or after the first billing cycle of the month following the issuance of the order.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2025.