

BILL ANALYSIS

Senate Research Center
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S.B. 1856
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Capacity-related costs, under the current regulatory framework, are reviewed and set once every four years during a base rate case. This method overlooks market changes and external factors beyond the utility's control. This structure does not allow a utility to adjust rates up or down to match its actual costs of providing power to customers. Consequently, a fixed rate can lead to imbalances in collection, with no structured process for addressing shortages or returning excess funds to customers.

The legislation includes eligible costs and revenues associated with the participation in a multi-state auction operated by a regional transmission organization or independent system organization authorized by the Federal Energy Regulatory Commission (FERC), or a power purchase agreement under the jurisdiction of FERC, and any associated refund or surcharge.

S.B. 1856 amends Subchapter E, Chapter 36, Utilities Code, by adding Section 36.216 to establish a capacity-related costs recovery rider. This only applies to an electric utility that operates solely outside of ERCOT in Texas included in the Southeastern Electric Reliability Council.

It is the intent of the legislature that the electric utility's recovery of capacity-related costs incurred, or revenues received, which may fluctuate, be recovered at least annually.

The proposed legislation is similar to fuel cost recovery, reflecting only the actual costs incurred and ensuring the utility does not profit from the capacity-related costs.

As proposed, S.B. 1856 amends current law relating to a capacity cost recovery rider for certain electric utilities.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

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

Sec. 36.216. RECOVERY OF ANNUAL CAPACITY-RELATED COSTS. (a) Provides that this section applies only to an electric utility that operates solely outside of the Electric Reliability Council of Texas (ERCOT) in areas of this state included in the Southeastern Electric Reliability Council.

(b) Provides that it is the intent of the legislature that:

(1) an electric utility's recovery of capacity-related costs and return of capacity-related revenues, which may fluctuate, should be accomplished as contemporaneously as possible with the incurrence of those costs and the receipt of those revenues; and

(2) a regulatory authority should presume to be just and reasonable capacity-related costs incurred or capacity-related revenues received through an electric utility's participation in a multi-state auction operated by a regional transmission organization or independent system organization authorized by the Federal Energy Regulatory Commission (FERC), as well as those costs and revenues incurred or received under a power purchase agreement under the jurisdiction of FERC, and any associated refund or surcharge.

(c) Requires the Public Utility Commission of Texas (PUC), on application by an electric utility, to establish a capacity cost recovery rider that can be updated at least annually and that ensures timely recovery of the utility's costs that are eligible as provided by Subsection (d) and return of the utility's revenues that are eligible as provided by Subsection (d).

(d) Provides that, in this section, eligible costs and revenues include 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 FERC and capacity-related costs and revenues associated with the utility's participation in power purchase agreements under the jurisdiction of FERC, including associated refunds and surcharges ordered by FERC, to the extent the costs and revenues are not included in the utility's base rates.

(e) Requires the regulatory authority, in each base rate proceeding following the establishment of a capacity cost recovery rider, to adjust the revenue requirement and rates of the electric utility's capacity cost recovery rider to include all eligible costs and revenues. Prohibits the electric utility from continuing to include eligible costs or revenues in the utility's base rates unless the utility seeks and the PUC approves termination of the utility's capacity cost recovery rider in a subsequent base rate proceeding.

(f) Requires that the annual revenue requirement and rates for a proposed capacity cost recovery rider include certain calculated costs and amounts.

(g) Requires the PUC to process an application to establish or update a capacity cost recovery rider in accordance with Subsections (h)-(k).

(h) Requires an electric utility, for a capacity cost recovery rider that will include the utility's costs to be incurred beginning on June 1 of a given year, to 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.

(i) Provides that a response to the electric utility's filing that is made by PUC staff or an intervenor is:

(1) required to be filed not later than the seventh day after the date of the utility's filing; and

(2) authorized to address only the mathematical accuracy of the utility's proposed capacity cost recovery rider revenue requirement and rates.

(j) Authorizes an inaccuracy identified under Subsection (i)(2) to be addressed only in the electric utility's next capacity cost recovery rider application.

(k) Requires the regulatory authority to issue an order approving an electric utility's proposed capacity cost recovery rider not later than the 10th day after receipt of the utility's application. Authorizes the electric utility to begin billing the rates proposed in the approved application for service rendered after the May 31 after the application is filed.

SECTION 2. Authorizes an electric utility to which Section 36.216, Utilities Code, as added by this Act, applies to file an application with a regulatory authority to recover eligible costs described by Section 36.216(d), Utilities Code, as added by this Act, to be incurred before September 1, 2026, regardless of whether the PUC has adopted any rules regarding capacity cost recovery riders. Requires the regulatory authority, not later than the 10th date after the date the application is filed, to issue an order authorizing the electric utility to begin imposing the rates proposed in the application for service rendered during or after the first billing cycle of the month following the issuance of the order.

SECTION 3. Effective date: upon passage or September 1, 2025.