

BILL ANALYSIS

Senate Research Center
89R21887 JXC-F

C.S.S.B. 1856
By: Creighton
Business & Commerce
4/22/2025
Committee Report (Substituted)

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 multistate 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.

(Original Author's/Sponsor's Statement of Intent)

C.S.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 certain changes to the level of an 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.

(c) Requires the Public Utility Commission of Texas (PUC), on application by an 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 is required to be annually updated and that allows 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 cost 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, to the extent the costs and revenues are not already being recovered through the utility's base rates.

(e) Provides that amounts recovered through a capacity cost recovery rider are subject to reconciliation in the next base rate proceeding for the electric utility. 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 this state and is not over-recovering costs. Requires the PUC, in each base rate proceeding following the establishment of a capacity cost recovery rider, to 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.

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

(g) Requires that the capacity cost recovery rider charges be derived using:

(1) the same production demand allocation factors approved in the electric utility's most recent base rate case; and

(2) the projected billing determinants for the rate effective period.

(h) Requires that the billing determinants be derived using each customer class's projected kilowatt-hour usage, except for customer classes with demand meters for which the billing determinants is required to be derived using each customer class's projected kilowatt billing demand.

(i) Provides that, until the time the electric utility removes from base rates the costs eligible for rider recovery under Subsection (d), and the costs eligible for rider recovery described in Subsection (g)(2), and these costs are recovered solely through the capacity cost recovery rider, the calculation of the capacity cost recovery rider is required to 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 revenue recovered through the utility's base rates.

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

(k) 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.

(l) Requires that the application be fully documented, including testimony and all supporting work papers in native format.

(m) 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 15th day after the date of the utility's filing; and

(2) authorized to address only whether the application conforms with any rule the PUC adopts to implement this section and the mathematical accuracy of the utility's proposed capacity cost recovery rider revenue requirement and rates.

(n) Authorizes any other inaccuracy identified under Subsection (m)(2) to be addressed only in the electric utility's next capacity cost recovery rider application.

(o) Provides that the PUC is authorized to review costs and revenues and is required to 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.

(p) Provides that this section expires September 1, 2035.

SECTION 2. Authorizes an electric utility to which Section 36.216, Utilities Code, as added by this Act, applies to file an application with the PUC 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 PUC, not later than the 60th day after the date the application is filed, to issue an order approving, modifying, or denying the proposed or updated capacity cost recovery rider. 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.

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