

By: Geren

H.B. No. 5247

A BILL TO BE ENTITLED

AN ACT

relating to an alternative capital recovery process for certain utilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter E, Chapter 36, Utilities Code, is amended by adding Section 36.216 to read as follows:

Sec. 36.216. SINGLE CAPITAL INVESTMENT PROCEDURE FOR CERTAIN UTILITIES. (a) This section applies only to an electric utility, other than a river authority, that:

(1) operates solely inside ERCOT; and

(2) was identified by the commission as responsible for constructing transmission as part of the reliability plan for the Permian Basin approved by the commission under Section 39.167, as added by Chapter 892 (H.B. 5066), Acts of the 88th Legislature, Regular Session, 2023.

(b) An electric utility that makes total capital expenditures that exceed 300 percent of annual depreciation in a calendar year may 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, Section 38.078, as added by Chapter 836 (H.B. 2555), Acts of the 88th Legislature, Regular Session, 2023, and commission rules adopted

1 under Section 35.004.

2 (c) An electric utility seeking to make an election under
3 this section shall:

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

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

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

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

16 (d) An electric utility that makes an election under this
17 section:

18 (1) may defer all or a portion of the costs, including
19 depreciation expense and carrying costs, associated with the
20 transmission and distribution invested capital at the utility's
21 weighted average cost of capital established in the commission's
22 final order in the utility's most recent base rate proceeding for
23 invested capital, as described by Section 36.053, not currently
24 reflected in the utility's rates for recovery as a regulatory
25 asset; and

26 (2) shall:

27 (A) update the allocation of costs among customer

1 classes to reflect customer growth; and

2 (B) take into account changes in the number of
3 the utility's customers and the effects, on a weather-normalized
4 basis, that energy consumption and energy demand have on the amount
5 of revenue recovered through the utility's base rates.

6 (e) Unless otherwise agreed to by an electric utility that
7 makes an election under this section, the commission shall:

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

10 (2) authorize amortization of the regulatory asset
11 over:

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

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

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

22 (g) The commission shall approve an adjustment under this
23 section not later than the 120th day after the date an electric
24 utility files a request for the adjustment.

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

1 (i) If the commission does not issue a final order in the
2 period described by Subsection (g) and the electric utility
3 complies with Subsection (h), the utility may place the requested
4 rates into effect on a temporary basis not earlier than the 165th
5 day after filing the request. The utility shall refund or credit
6 against future bills any difference between the temporary rate and
7 the final rate along with interest at the current interest rate as
8 determined by the commission.

9 (j) An electric utility that makes an election under this
10 section may not petition for another adjustment under this section,
11 Section 36.210, Section 38.078, as added by Chapter 836 (H.B.
12 2555), Acts of the 88th Legislature, Regular Session, 2023, or
13 commission rules adopted under Section 35.004 before the first
14 anniversary of the date the utility files a request under
15 Subsection (b).

16 (k) Notwithstanding any other law, in setting the rate of
17 return in a comprehensive base rate proceeding for an electric
18 utility receiving a rate adjustment under this section, the
19 commission may expressly consider the effect of the adjustment on
20 the utility's financial risk and rate of return.

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

26 (m) Nothing in this section is intended to:

27 (1) conflict with a provision of a financing order

1 issued under Subchapter I;

2 (2) affect the limitation on the commission's
3 jurisdiction under Section 32.002;

4 (3) limit the jurisdiction of a municipality over the
5 rates, operations, and services of an electric utility under
6 Section 33.001 or limit the ability of a municipality to obtain a
7 reimbursement under Section 33.023; or

8 (4) prevent the commission from:

9 (A) reviewing the investment costs included in an
10 adjustment under this section in the electric utility's next
11 comprehensive base rate proceeding to determine whether the costs
12 were prudent, reasonable, and necessary;

13 (B) refunding to customers any amount improperly
14 recovered through an adjustment under this section, with
15 appropriate carrying costs; or

16 (C) if applicable, refunding to customers the
17 realized equity portion of carrying costs deferred under Subsection
18 (d)(1) on a transmission project associated with the reliability
19 plan described by Subsection (a) if the in-service date is
20 unreasonably delayed beyond December 31, 2030, due to the utility's
21 actions, unless the utility demonstrates that the delay is
22 necessary to maximize the load serving capability of other
23 transmission projects.

24 SECTION 2. As soon as practicable after the effective date
25 of this Act, the Public Utility Commission of Texas shall adopt
26 rules necessary to implement Section 36.216, Utilities Code, as
27 added by this Act.

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

6 SECTION 4. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2025.