

By: Geren

H.B. No. 5247

A BILL TO BE ENTITLED

AN ACT

relating to 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 36.2101 to read as follows:

Sec. 36.2101. SINGLE CAPITAL INVESTMENT PROCEDURE FOR CERTAIN UTILITIES. (a) This section applies to an electric utility, other than a river authority, that:

(1) operates solely inside ERCOT;

(2) is constructing transmission as part of a reliability plan approved by the commission under Section 39.167; and

(3) before September 1, 2025, and in the prior calendar year made total capital expenditures in excess of 300% of annual depreciation.

(b) An electric utility under Subsection (a) may elect to file a single annual proceeding on a system-wide basis to adjust non-fuel rates to reflect changes in transmission and distribution invested capital in lieu of adjustments to retail and wholesale transmission and distribution rates authorized under Sections 36.210 and 38.078 and under rules adopted by the commission under Section 35.004.

(c) An electric utility making an election under this

1 section shall utilize the filing requirements adopted by the
2 commission for the adjustment proceedings referenced by Subsection
3 (b), except that:

4 (1) the utility may defer all or a portion of the
5 costs, including depreciation expense and carrying costs,
6 associated with the transmission and distribution invested capital
7 at the utility's weighted average cost of capital established in
8 the commission's final order in the utility's most recent base-rate
9 proceeding for invested capital, as described by Section 36.053,
10 not currently reflected in the utility's rates for recovery as a
11 regulatory asset. The commission shall include the regulatory
12 asset in rates set under this section and shall authorize
13 amortization of the asset over a period not to exceed 12 months,
14 unless such recovery period would cause the utility to earn in
15 excess of its authorized return on investment as normalized for
16 weather, in which case the commission shall authorize a longer
17 recovery period; and

18 (2) the utility may update the allocation of costs
19 among customer classes to reflect customer growth.

20 (d) The commission shall approve an adjustment under this
21 section not later than the 120th day after the date the request is
22 filed.

23 (1) The electric utility shall provide notice to
24 retail electric providers of the approved rates not later than the
25 45th day before the date the rates are effective.

26 (2) If the commission does not issue a final order
27 before the deadline under Subsection (d), the electric utility may

1 place the requested rates into effect on a temporary basis no
2 earlier than the 165th day after filing the request, provided that
3 the utility provides notice of its intention to place the temporary
4 rates into effect to retail electric providers not later than the
5 45th day before the date the rates take effect. The utility shall
6 refund or credit against future bills any difference between the
7 temporary rate and the final rate along with interest at the current
8 interest rate as determined by the commission.

9 (e) An electric utility making an election under this
10 section may not petition for another adjustment under this section,
11 an adjustment under Sections 36.210, 38.078, or an adjustment under
12 the commission's rules to implement Section 35.004 for a period of
13 12 months after the date the utility filed the request under
14 Subsection (b).

15 (f) Nothing in this section is intended to:

16 (1) conflict with a provision of a financing order
17 issued under Subchapter I of this chapter;

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

20 (3) limit the jurisdiction of a municipality over the
21 rates, operations, and services of an electric utility under
22 Section 33.001 or limit the ability of a municipality to obtain a
23 reimbursement under Section 33.023; or

24 (4) prevent the commission from:

25 (A) reviewing the investment costs included in an
26 adjustment under this section in the electric utility's next
27 comprehensive base-rate proceeding to determine whether the costs

1 were prudent, reasonable, and necessary; or

2 (B) refunding to customers any amount improperly
3 recovered through an adjustment under this section, with
4 appropriate carrying costs.

5 SECTION 2. As soon as practicable after the effective date
6 of this Act, the Public Utility Commission of Texas shall adopt
7 rules necessary to implement the changes in law made by this Act.

8 SECTION 3. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2025.