

By: Creighton

S.B. No. 1856

A BILL TO BE ENTITLED

AN ACT

relating to a capacity cost recovery rider for certain electric 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. RECOVERY OF ANNUAL CAPACITY-RELATED COSTS.

(a) This section applies only to an electric utility that operates solely outside of ERCOT in areas of this state included in the Southeastern Electric Reliability Council.

(b) 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) 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, the commission shall establish a capacity cost recovery rider that must be annually updated and that allows:

(1) recovery of the utility's costs that are eligible as provided by Subsection (d); and

(2) return to ratepayers of the utility's revenues

1 that are eligible as provided by Subsection (d).

2 (d) In this section, eligible costs and revenues are
3 capacity-related costs and revenues associated with the electric
4 utility's participation in a multi-state capacity auction operated
5 by a regional transmission organization or independent system
6 organization authorized by the Federal Energy Regulatory
7 Commission, to the extent the costs and revenues are not already
8 being recovered through the utility's base rates.

9 (e) Amounts recovered through a capacity cost recovery
10 rider are subject to reconciliation in the next base rate
11 proceeding for the electric utility. As part of the
12 reconciliation, the commission shall review the costs and revenues
13 to determine if they were reasonable and prudently incurred and to
14 ensure the electric utility is only recovering costs allocable to
15 retail customers in this state and is not over-recovering costs. In
16 each base rate proceeding following the establishment of a capacity
17 cost recovery rider, the commission shall remove from the electric
18 utility's base rates all cost and revenue items eligible for
19 recovery through the electric utility's capacity cost recovery
20 rider.

21 (f) The annual revenue requirement and rates for a proposed
22 capacity cost recovery rider must include:

23 (1) the electric utility's calculated costs and
24 revenues for the upcoming year beginning on the June 1 associated
25 with the utility's participation in a multi-state capacity auction;
26 and

27 (2) a true-up amount that accounts for any difference

1 between the utility's actual eligible costs and revenues and the
2 utility's actual collections under any capacity cost recovery rider
3 put into effect two years before the proposed effective date of the
4 proposed rider, plus:

5 (A) an amount to account for any mathematical
6 error identified in the utility's most recent capacity cost
7 recovery rider application proceeding; and

8 (B) an amount to account for any refunds or
9 surcharges ordered by the Federal Energy Regulatory Commission or
10 by a regional transmission organization or independent system
11 organization related to a previous year's capacity auction that:

12 (i) are identified on a regional
13 transmission organization or independent system operator
14 settlement statement; or

15 (ii) were directed by a Federal Energy
16 Regulatory Commission order issued in the preceding 12-month
17 period.

18 (g) The capacity cost recovery rider charges must be derived
19 using:

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

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

24 (h) The billing determinants must be derived using each
25 customer class's projected kilowatt-hour usage, except for
26 customer classes with demand meters for which the billing
27 determinants must be derived using each customer class's projected

1 kilowatt billing demand.

2 (i) Until the time the electric utility removes from base
3 rates the costs eligible for rider recovery under Subsection (d),
4 and the costs eligible for rider recovery described in Subsection
5 (g)(2), and these costs are recovered solely through the capacity
6 cost recovery rider, the calculation of the capacity cost recovery
7 rider must include a load growth adjustment to take into account
8 changes in the number of the utility's customers and the effects, on
9 a weather-normalized basis, that energy consumption and energy
10 demand have on the amount of revenue recovered through the
11 utility's base rates.

12 (j) The commission shall process an application to
13 establish or update a capacity cost recovery rider in accordance
14 with Subsections (k)-(o).

15 (k) For a capacity cost recovery rider that will include an
16 electric utility's costs to be incurred beginning on June 1 of a
17 given year, the utility must submit the rider application not later
18 than:

19 (1) May 15 of that year; or

20 (2) if the regional transmission organization or
21 independent system operator publishes its capacity auction cost
22 results after the 20th business day of April of that year, a date
23 that is the same number of days after May 15 of that year as the
24 number of days after the 20th business day of April the results were
25 published.

26 (l) The application must be fully documented, including
27 testimony and all supporting work papers in native format.

1 (m) A response to the electric utility's filing that is made
2 by commission staff or an intervenor:

3 (1) must be filed not later than the 15th day after the
4 date of the utility's filing; and

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

9 (n) Any other inaccuracy identified under Subsection (m)(2)
10 may be addressed only in the electric utility's next capacity cost
11 recovery rider application.

12 (o) The commission may review costs and revenues and shall
13 issue an order approving, modifying, or denying an electric
14 utility's proposed or updated capacity cost recovery rider not
15 later than the 60th day after the date the application is filed.

16 (p) This section expires September 1, 2035.

17 SECTION 2. An electric utility to which Section 36.216,
18 Utilities Code, as added by this Act, applies may file an
19 application with the Public Utility Commission of Texas to recover
20 eligible costs described by Section 36.216(d), Utilities Code, as
21 added by this Act, to be incurred before September 1, 2026,
22 regardless of whether the commission has adopted any rules
23 regarding capacity cost recovery riders. Not later than the 60th
24 day after the date the application is filed, the commission shall
25 issue an order approving, modifying, or denying the proposed or
26 updated capacity cost recovery rider. The electric utility shall
27 begin imposing the rates approved by the commission for service

1 rendered during or after the first billing cycle of the month
2 following the issuance of the order.

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