

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:

(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, as well as those costs and revenues incurred or received under a power purchase agreement under the jurisdiction of the Federal Energy Regulatory Commission, and any associated refund or surcharge.

1 (c) On application by an electric utility, the commission
2 shall establish a capacity cost recovery rider that can be updated
3 at least annually and that ensures timely:

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

6 (2) return of the utility's revenues that are eligible
7 as provided by Subsection (d).

8 (d) In this section, eligible costs and revenues include:

9 (1) costs and revenues associated with the electric
10 utility's participation in a multi-state capacity auction operated
11 by a regional transmission organization or independent system
12 organization authorized by the Federal Energy Regulatory
13 Commission; and

14 (2) capacity-related costs and revenues associated
15 with the utility's participation in power purchase agreements under
16 the jurisdiction of the Federal Energy Regulatory Commission,
17 including associated refunds and surcharges ordered by the Federal
18 Energy Regulatory Commission, to the extent the costs and revenues
19 are not included in the utility's base rates.

20 (e) In each base rate proceeding following the
21 establishment of a capacity cost recovery rider, the regulatory
22 authority shall adjust the revenue requirement and rates of the
23 electric utility's capacity cost recovery rider to include all
24 eligible costs and revenues. The electric utility may not continue
25 to include eligible costs or revenues in the utility's base rates
26 unless the utility seeks and the commission approves termination of
27 the utility's capacity cost recovery rider in a subsequent base

1 rate proceeding.

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

4 (1) the electric utility's calculated costs or
5 revenues for the upcoming year beginning on the June 1 associated
6 with the utility's participation in a multi-state capacity auction;

7 (2) the utility's costs or revenues for the upcoming
8 year beginning on the June 1 associated with any power purchase
9 agreements under the jurisdiction of the Federal Energy Regulatory
10 Commission, including any associated refunds or surcharges
11 required by a Federal Energy Regulatory Commission order issued in
12 the previous 12-month period; and

13 (3) a true-up amount that accounts for any difference
14 between the utility's actual eligible costs and revenues and the
15 utility's actual collections under any capacity cost recovery rider
16 put into effect two years before the proposed effective date of the
17 proposed rider, plus:

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

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

25 (i) are identified on a regional
26 transmission organization or independent system operator
27 settlement statement; or

1 (ii) were directed by a Federal Energy
2 Regulatory Commission order issued in the previous 12-month period.

3 (g) The commission shall process an application to
4 establish or update a capacity cost recovery rider in accordance
5 with Subsections (h)-(k).

6 (h) For a capacity cost recovery rider that will include an
7 electric utility's costs to be incurred beginning on June 1 of a
8 given year, the utility must submit the rider application not later
9 than:

10 (1) May 15 of that year; or

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

17 (i) A response to the electric utility's filing that is made
18 by commission staff or an intervenor:

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

21 (2) may address only the mathematical accuracy of the
22 utility's proposed capacity cost recovery rider revenue
23 requirement and rates.

24 (j) An inaccuracy identified under Subsection (i)(2) may be
25 addressed only in the electric utility's next capacity cost
26 recovery rider application.

27 (k) The regulatory authority shall issue an order approving

1 an electric utility's proposed capacity cost recovery rider not
2 later than the 10th day after receipt of the utility's application.
3 The electric utility may begin billing the rates proposed in the
4 approved application for service rendered after the May 31 after
5 the application is filed.

6 SECTION 2. An electric utility to which Section 36.216,
7 Utilities Code, as added by this Act, applies may file an
8 application with a regulatory authority to recover eligible costs
9 described by Section 36.216(d), Utilities Code, as added by this
10 Act, to be incurred before September 1, 2026, regardless of whether
11 the Public Utility Commission of Texas has adopted any rules
12 regarding capacity cost recovery riders. Not later than the 10th
13 date after the date the application is filed, the regulatory
14 authority shall issue an order authorizing the electric utility to
15 begin imposing the rates proposed in the application for service
16 rendered during or after the first billing cycle of the month
17 following the issuance of the order.

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