

By: Kolkhorst

S.B. No. 1977

A BILL TO BE ENTITLED

AN ACT

relating to the recovery and reimbursement of certain expenses by an electric utility or a water and sewer utility in a rate proceeding.

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

SECTION 1. Section 33.023, Utilities Code, is amended by adding Subsection (c) to read as follows:

(c) For purposes of Subsection (b), the electric utility may not reimburse the governing body of a municipality for any legal expenses that the regulatory authority determines were incurred due to the municipality:

(1) filing a frivolous or groundless discovery motion;
or

(2) engaging in:

(A) an act intended to harass, delay, or needlessly increase the expense incurred for participating in the proceeding; or

(B) conduct not in the public interest.

SECTION 2. Section 36.061, Utilities Code, is amended by adding Subsections (b-1), (b-2), and (b-3) to read as follows:

(b-1) For purposes of Subsection (b)(2), the regulatory authority may not allow as a cost or expense legal expenses incurred by an electric utility for participating in a rate proceeding under this title that exceed a total of:

1 (1) \$500,000; and

2 (2) 50 percent of the legal expenses incurred by the
3 electric utility to participate in the proceeding that exceed
4 \$500,000.

5 (b-2) For purposes of Subsection (b)(2), the regulatory
6 authority may not allow as a cost or expense legal expenses incurred
7 by an electric utility for participating in a rate proceeding under
8 this title that the regulatory authority determines are
9 attributable to the following conduct by the utility:

10 (1) filing a frivolous or groundless discovery motion;
11 or

12 (2) engaging in:

13 (A) an act intended to harass, delay, or
14 needlessly increase the expense incurred for participating in the
15 proceeding; or

16 (B) conduct not in the public interest.

17 (b-3) Notwithstanding Subsection (b-1), the regulatory
18 authority shall allow as a cost or expense legal expenses incurred
19 by an electric utility in a rate proceeding under this title in any
20 amount if the expenses were:

21 (1) attributable to conduct described by Subsection
22 (b-2) by a party to the rate proceeding who was a non-utility
23 intervenor; and

24 (2) reasonable.

25 SECTION 3. Section 13.084, Water Code, is amended to read as
26 follows:

27 Sec. 13.084. AUTHORITY OF GOVERNING BODY; COST

1 REIMBURSEMENT. (a) The governing body of any municipality or the
2 commissioners court of an affected county shall have the right to
3 select and engage rate consultants, accountants, auditors,
4 attorneys, engineers, or any combination of these experts to
5 conduct investigations, present evidence, advise and represent the
6 governing body, and assist with litigation on water and sewer
7 utility ratemaking proceedings. The water and sewer utility
8 engaged in those proceedings shall be required to reimburse the
9 governing body or the commissioners court for the reasonable costs
10 of those services and shall be allowed to recover those expenses
11 through its rates with interest during the period of recovery.

12 (b) For purposes of Subsection (a), the water and sewer
13 utility may not reimburse the governing body of a municipality for
14 any legal expenses that the regulatory authority determines were
15 incurred due to the municipality:

16 (1) filing a frivolous or groundless discovery motion;
17 or

18 (2) engaging in:

19 (A) an act intended to harass, delay, or
20 needlessly increase the expense incurred for participating in the
21 proceeding; or

22 (B) conduct not in the public interest.

23 SECTION 4. Section 13.185, Water Code, is amended by
24 amending Subsection (h) and adding Subsections (h-1) and (h-2) to
25 read as follows:

26 (h) The regulatory authority may not include for ratemaking
27 purposes:

1 (1) legislative advocacy expenses, whether made
2 directly or indirectly, including legislative advocacy expenses
3 included in trade association dues;

4 (2) costs of processing a refund or credit under this
5 subchapter; ~~[or]~~

6 (3) any expenditure found by the regulatory authority
7 to be unreasonable, unnecessary, or not in the public interest,
8 including executive salaries, advertising expenses, ~~[legal~~
9 ~~expenses,~~] and civil penalties or fines; or

10 (4) legal expenses for a rate proceeding found by the
11 regulatory authority to be unreasonable, unnecessary, or not in the
12 public interest or that exceed a total of:

13 (A) \$500,000; and

14 (B) 50 percent of the legal expenses incurred by
15 the utility for the proceeding that exceed \$500,000.

16 (h-1) An expense is not considered to be in the public
17 interest under Subsection (h)(4) if the expense is attributable to
18 the following conduct by the utility:

19 (1) filing a frivolous or groundless discovery motion;
20 or

21 (2) engaging in an act intended to harass, delay, or
22 needlessly increase the expense incurred for participating in the
23 ratemaking proceeding.

24 (h-2) Notwithstanding Subsection (h)(4), the regulatory
25 authority shall allow for ratemaking purposes expenses incurred by
26 a utility in a ratemaking proceeding in any amount if the expenses
27 were:

1 (1) attributable to conduct described by Subsection
2 (h-1) by a party to the ratemaking proceeding who was a non-utility
3 intervenor; and

4 (2) reasonable.

5 SECTION 5. The changes in law made by this Act apply only to
6 a rate proceeding under Title 2, Utilities Code, or Chapter 13,
7 Water Code, as applicable, that begins on or after the effective
8 date of this Act. A rate proceeding that begins before the
9 effective date of this Act is governed by the law in effect on the
10 date the rate proceeding began, and the former law is continued in
11 effect for that purpose.

12 SECTION 6. This Act takes effect September 1, 2025.