

House Bill 5247
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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 under Section 35.004.

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

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

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

SENATE VERSION (CS)

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 under Section 35.004.

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

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

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

CONFERENCE

House Bill 5247
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

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

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

(2) shall:

(A) update the allocation of costs among customer classes to reflect customer growth; and

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

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

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

(2) authorize amortization of the regulatory asset over:

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

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

SENATE VERSION (CS)

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

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

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

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

(2) shall:

(A) update the allocation of costs among customer classes to reflect customer growth; and

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

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

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

(2) authorize amortization of the regulatory asset over:

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

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

CONFERENCE

House Bill 5247
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

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

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

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

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

SENATE VERSION (CS)

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

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

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

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

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

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

CONFERENCE

House Bill 5247
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

(m) Nothing in this section is intended to:

(1) conflict with a provision of a financing order issued under Subchapter I;

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

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

(4) prevent the commission from:

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

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

(C) if applicable, refunding to customers the realized equity portion of carrying costs deferred under Subsection (d)(1) on a transmission project associated with the reliability plan described by Subsection (a) if the in-service date is unreasonably delayed beyond December 31, 2030, due to the

SENATE VERSION (CS)

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

(m) Nothing in this section is intended to:

(1) conflict with a provision of a financing order issued under Subchapter I;

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

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

(4) prevent an electric utility, including a river authority, from requesting cost recovery or rate relief under a mechanism authorized under Chapter 36 or other provisions of this title if the utility or authority is ineligible or becomes ineligible to make an election under this section; or

(5) prevent the commission from:

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

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

(C) if applicable, refunding to customers the realized equity portion of carrying costs deferred under Subsection (d)(1) on a transmission project associated with the reliability plan described by Subsection (a) if the in-service date is unreasonably delayed beyond December 31, 2030, due to the

CONFERENCE

House Bill 5247
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION (CS)	CONFERENCE
<u>utility's actions, unless the utility demonstrates that the delay is necessary to maximize the load serving capability of other transmission projects.</u>	<u>utility's actions, unless the utility demonstrates through contemporaneous documentation of the utility's analysis and decision-making that the delay is necessary to maximize the load serving capability of other transmission projects.</u> <u>(n) This section expires December 31, 2035.</u>	
SECTION 2. As soon as practicable after the effective date of this Act, the Public Utility Commission of Texas shall adopt rules necessary to implement Section 36.216, Utilities Code, as added by this Act.	SECTION 2. Same as House version.	
SECTION 3. It is the intent of the 89th Legislature, Regular Session, 2025, that the amendments made by this Act be harmonized with another Act of the 89th Legislature, Regular Session, 2025, relating to nonsubstantive additions to and corrections in enacted codes.	SECTION 3. Same as House version.	
SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2025.	SECTION 4. Same as House version.	