

AN ACT

relating to periodic rate adjustments by 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 36.210 to read as follows:

Sec. 36.210. PERIODIC RATE ADJUSTMENTS. (a) The commission or a regulatory authority, on the petition of an electric utility, may approve a tariff or rate schedule in which a nonfuel rate may be periodically adjusted upward or downward, based on changes in the parts of the utility's invested capital, as described by Section 36.053, that are categorized as distribution plant, distribution-related intangible plant, and distribution-related communication equipment and networks in accordance with commission rules adopted after consideration of the uniform system of accounts prescribed by the Federal Energy Regulatory Commission. A periodic rate adjustment must:

(1) be approved or denied in accordance with an expedited procedure that:

(A) provides for appropriate updates of information;

(B) allows for participation by the office and affected parties; and

(C) extends for not less than 60 days;

(2) take into account changes in the number of an

1 electric utility's customers and the effects, on a
2 weather-normalized basis, that energy consumption and energy
3 demand have on the amount of revenue recovered through the electric
4 utility's base rates;

5 (3) be consistent with the manner in which costs for
6 invested capital described by this subsection were allocated to
7 each rate class, as approved by the commission, in an electric
8 utility's most recent base rate statement of intent proceeding with
9 changes to residential and commercial class rates reflected in
10 volumetric charges to the extent that residential and commercial
11 class rates are collected in that manner based on the electric
12 utility's most recent base rate statement of intent proceeding;

13 (4) not diminish the ability of the commission or a
14 regulatory authority, on its own motion or on complaint by an
15 affected person as provided by Subchapter D, after reasonable
16 notice and hearing, to change the existing rates of an electric
17 utility for a service after finding that the rates are unreasonable
18 or in violation of law;

19 (5) be applied by an electric utility on a system-wide
20 basis; and

21 (6) be supported by the sworn statement of an
22 appropriate employee of the electric utility that affirms that:

23 (A) the filing is in compliance with the
24 provisions of the tariff or rate schedule; and

25 (B) the filing is true and correct to the best of
26 the employee's knowledge, information, and belief.

27 (b) An electric utility in the ERCOT power region, or an

1 unbundled electric utility outside the ERCOT power region in whose
2 service area retail competition is available, that requests a
3 periodic rate adjustment under this section shall:

4 (1) except as provided by Subsection (f)(3) and to the
5 extent possible, implement simultaneously all nonfuel rates to be
6 adjusted in a 12-month period that are charged by the utility to
7 retail electric providers; and

8 (2) provide notice to retail electric providers of the
9 approved rates not later than the 45th day before the date the rates
10 take effect.

11 (c) A periodic rate adjustment approved under this section
12 may not be used to adjust the portion of a nonfuel rate relating to
13 the generation of electricity.

14 (d) An electric utility may adjust the utility's rates under
15 this section not more than once per year and not more than four
16 times between comprehensive base rate proceedings.

17 (e) A periodic rate adjustment approved under this section
18 may not include indirect corporate costs or capitalized operations
19 and maintenance expenses.

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

21 (1) conflict with a provision contained in a financing
22 order issued under Subchapter I of this chapter or Subchapter G or
23 J, Chapter 39;

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

26 (3) include in a periodic rate adjustment authorized
27 by this section costs adjusted under a transmission cost-of-service

adjustment approved under Section 35.004(d);

(4) limit the jurisdiction of a municipality over the rates, operations, and services of an electric utility as provided by Section 33.001;

(5) limit the ability of a municipality to obtain a reimbursement under Section 33.023 for the reasonable cost of services of a person engaged in an activity described by that section; or

(6) prevent the commission from:

(A) reviewing the investment costs included in a periodic rate adjustment or in the following comprehensive base rate proceeding to determine whether the costs were prudent, reasonable, and necessary; or

(B) refunding to customers any amount improperly recovered through the periodic rate adjustments, with appropriate carrying costs.

(g) The commission shall adopt rules necessary to implement this section. The rules must provide for:

(1) a procedure by which a tariff or rate schedule is to be reviewed and approved;

(2) filing requirements and discovery consistent with the expedited procedure described by Subsection (a)(1);

(3) an earnings monitoring report that allows the commission or regulatory authority to reasonably determine whether a utility is earning in excess of the utility's allowed return on investment as normalized for weather;

(4) denial of the electric utility's filing if the

1 electric utility is earning more than the utility's authorized rate
2 of return on investment, on a weather-normalized basis, at the time
3 the periodic rate adjustment request is filed; and

4 (5) a mechanism by which the commission may refund
5 customers any amounts determined to be improperly recovered through
6 a periodic rate adjustment, including any interest on the amounts.

7 (h) The commission shall undertake a study and conduct a
8 report analyzing any periodic rate adjustment established under
9 this section. The study shall be available for the legislature's
10 review by January 31, 2017, so that the legislature may properly be
11 informed as to the need to continue the commission's authority to
12 allow periodic rate adjustments. The report shall contain but
13 shall not be limited to:

14 (1) an analysis of all periodic rate adjustments
15 approved by the commission;

16 (2) an analysis of the amounts in real dollars and
17 percentages of the approved amounts by the commission and the
18 effects on all classes of ratepayers;

19 (3) the costs savings, if any, realized by all parties
20 by utilizing periodic rate adjustment as opposed to ratemaking
21 proceedings;

22 (4) an analysis on distribution costs included in
23 periodic rate adjustments, and their appropriateness for inclusion
24 in periodic rate adjustments; and

25 (5) an analysis submitted by the office on the effects
26 of periodic rate adjustments.

27 (i) This section expires January 1, 2017.

1 SECTION 2. The Public Utility Commission of Texas shall
2 adopt rules as necessary to implement Section 36.210, Utilities
3 Code, as added by this Act, not later than the 120th day after the
4 effective date of this Act.

5 SECTION 3. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1693 passed the Senate on April 26, 2011, by the following vote: Yeas 30, Nays 1; and that the Senate concurred in House amendments on May 17, 2011, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

I hereby certify that S.B. No. 1693 passed the House, with amendments, on May 10, 2011, by the following vote: Yeas 140, Nays 3, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor