

## **BILL ANALYSIS**

Senate Research Center  
85R5603 GRM-F

S.B. 735  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Under current law, the Public Utility Commission of Texas (PUC) has broad authority to regulate electric utilities through the practice of setting transmission and distribution rates in order to ensure fair and timely recovery for costs a utility may experience in providing service to the public. As such, the PUC monitors utility earnings, and has the authority to initiate a comprehensive rate proceeding at any time it believes that a utility is earning more than a reasonable rate of return.

As part of the 2016 annual Earnings Monitoring Report (EMR), however, PUC staff noted that within a certain class of utilities, a large percentage had not been subject to a comprehensive or even cursory review by the commission for many years. Specifically, of the 38 utilities considered in this class, 19 had not had a comprehensive rate proceeding in over ten years, and of these, eight had not been reviewed in over two decades. In this report, the PUC also identified some structure deficiencies with the current cost recovery system.

The report highlights the possibility that utilities operating a significant portion of the state's transmission system are recovering costs within rates for transmission projects that have already been paid off, in some cases for more than a decade. Both PUC staff and commission itself, through the EMR and Alternative Ratemaking Report, have each noted deficiencies in how the current system holds electric utilities accountable throughout all utility classes. They have recommended changes in policy that S.B. 735 seeks to implement.

S.B. 735 would address the commission's recommendations by establishing a requirement for the PUC to periodically and efficiently review all electric utility rates, including a periodic adjustment of transmission rates to reduce rates as certain costs go down. It further clarifies how taxes should be treated within utility rates, and that consumers should share in the benefits that utilities gain through innovative corporate structures. The bill would allow the commission additional time to consider important utility mergers and different ownership and governance proposals. And finally, the bill would allow the current periodic rate adjustment for distribution costs to become a permanent expedited recovery mechanism to reduce regulatory lag in the build out of distribution infrastructure.

As proposed, S.B. 735 amends current law relating to periodic rate adjustment by electric utilities.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 1 (Section 35.004, Utilities Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 35.004, Utilities Code, by amending Subsection (d) and adding Subsection (d-1), as follows:

(d) Authorizes the Public Utility Commission of Texas (PUC), notwithstanding Section 36.201 (Automatic Adjustment for Changes in Costs), to approve wholesale rates that may be periodically adjusted and requires PUC to establish a schedule that requires an

electric utility to make periodic filings with PUC to modify or review a rate charge by the electric utility. Authorizes the schedule to be established on the basis of the period since the electric commission last reviewed the electric utility's rate, whether the electric utility has earned materially more than the utility's authorized rate of return as demonstrated by earnings monitoring reports, or other criteria that PUC determines is in the public interest.

(d-1) Requires PUC to adopt rules establishing rate adjustments, on a periodic basis determined by PUC, to reflect changed transmission cost for depreciation, plant retirement, and other factors that reduce rates.

SECTION 2. Amends the heading to Section 36.060, Utilities Code, to read as follows:

Sec. 36.060. UTILITY INCOME TAX EXPENSES.

SECTION 3. Amends Section 36.060, Utilities Code, by adding Subsection (d), to prohibit PUC, notwithstanding any other provision of this chapter and if the income of an electric utility is not subject to corporate federal income tax because of the corporate organization of the utility and the utility's upstream owners, from including federal tax on the income as an expense in setting the utility's rates.

SECTION 4. Amends Subchapter D, Chapter 36, Utilities Code, by adding Section 36.157, as follows:

Sec. 36.157. RATE REVIEW SCHEDULE. Requires PUC, notwithstanding any other provision of this title, to establish a schedule that requires an electric utility to make periodic filings with PUC to modify or review a rate charged by the electric utility. Authorizes the schedule to be established on the basis of certain criteria.

SECTION 5. Amends Section 39.262(m), Utilities Code, as follows:

(m) Authorizes PUC to extend the deadline provided by this subsection for not more than 60 days if PUC determines the extension is needed to evaluate additional information, to consider actions taken by other jurisdictions concerning the transaction, to provide for administrative efficiency, or for other good cause. Provides that if PUC has not made a determination before the expiration of the deadline provided by or extended under this subsection, rather than before the 181st day after that date, the transaction is considered approved.

SECTION 6. Amends Section 39.915(b), Utilities Code, as follows:

(b) Authorizes PUC to extend the deadline provided by this subsection for not more than 60 days if PUC determines the extension is needed to evaluate additional information, to consider actions taken by other jurisdictions concerning the transaction, to provide for administrative efficiency, or for other good cause. Provides that if PUC has not made a determination before the expiration of the deadline provided by or extended under this subsection, rather than before the 181st day after that date, the transaction is considered approved.

SECTION 7. Repealers: Sections 36.210(h) (requiring PUC to undertake a study and conduct a report analyzing certain periodic rate adjustments), (h-1) (requiring PUC to conduct a study and make a report relating to alternative ratemaking processes in other states), and (i) (providing that this section expires September 1, 2019), Utilities Code.

SECTION 8. Effective date: upon passage or September 1, 2017.