

BILL ANALYSIS

Senate Research Center
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S.B. 1095
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas' vertically-integrated utilities own and operate generation fleets needed to serve their customers and are obligated to purchase the fuel needed to operate these generation units. The fuel costs are intended to be passed straight through to customers in a timely manner.

Currently, the process for the utilities to recover these fuel costs is lengthy and complex, consisting of a package of contested case proceedings, which review the reasonableness of the utility's decisions in acquiring the fuel. The current process has resulted in Texas' vertically integrated utilities carrying hundreds of millions of dollars in uncollected fuel expenses and customers experiencing fuel costs that are, at times, years beyond the timeframe the expenses were actually incurred.

S.B. 1095 establishes a more sensible and efficient process that updates fuel charges more accurately and on a more frequent basis so that changes to customer bills are much less drastic than they are today. The goal is to better synchronize the timing of the fuel expense with recovery from customers, requiring smaller incremental changes on bills to reflect changing fuel prices.

The bill also increases the frequency of formal prudence reviews from three years to two years. This "fuel reconciliation" review will remain a fully contested case process to determine if the utility managed its fuel costs prudently over the last two years, with refunds ordered to customers if there are findings of imprudent management.

As proposed, S.B. 1095 amends current law relating to the recovery of fuel and purchased power costs by electric utilities.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to Public Utility Commission of Texas in SECTION 1 (Section 36.203, Utilities Code) of this bill.

Rulemaking authority previously granted to the Public Utility Commission of Texas is modified in SECTION 1 (Section 36.203, Utilities Code) of this bill.

Rulemaking authority previously granted to the Public Utility Commission of Texas is rescinded in SECTION 1 (Section 36.203, Utilities Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 36.203, Utilities Code, as follows:

Sec. 36.203. New heading: FUEL AND PURCHASED POWER COST RECOVERY; ADJUSTMENT OF FUEL FACTOR. (a) Provides that Section 36.201 (Automatic Adjustment for Changes in Costs) does not prohibit the Public Utility Commission of Texas (PUC) from reviewing and providing for adjustments of an electric utility's fuel factor. Makes a nonsubstantive change.

(b) Requires the PUC by rule to implement procedures that provide for the timely adjustment of an electric utility's fuel factor. Requires that the rules ensure that:

(1) the utility collects as contemporaneously as reasonably possible the electric fuel and purchased power costs that the utility incurs; and

(2) the utility's under-collected or over-collected balance of electric fuel and purchased power costs is collected from or refunded to customers through adjustment of the utility's fuel factor not later than the 90th day after the date the balance is accrued.

(c) Authorizes the PUC by order, notwithstanding Subsection (b), on a finding that an electric utility has an under-collected balance that is the result of extraordinary electric fuel and purchased power costs that are unlikely to continue, to direct the utility to adjust the utility's fuel factor to defer recovery to take place over a period not to exceed two years, with the utility receiving on the balance during the recovery period a return set at the utility's most recently established weighted average cost of capital set in a base rate case.

(d) Provides that the PUC is not required to hold a hearing on the adjustment of an electric utility's fuel factor under this section. Authorizes the PUC, if the PUC holds a hearing, to consider at the hearing any evidence that is appropriate and in the public interest.

(e) Authorizes a customer of the electric utility, a municipality with original jurisdiction over the utility, or the Office of Public Utility Counsel to protest a fuel factor established under this section. Provides that the sole issue that is authorized to be considered on a protest is whether the factor reasonably reflects costs the electric utility has incurred or will incur so that the utility is not substantially over-collecting or under-collecting the utility's reasonably stated fuel and purchased power costs on an ongoing basis, including the true-up of any over- or under-collected balance. Provides that the prudence of the costs are authorized to be considered only in a fuel reconciliation proceeding under Subsection (f). Requires the PUC, if the PUC finds that the electric utility is substantially over-collecting or under-collecting the utility's reasonably stated fuel and purchased power costs on an ongoing basis, to order the utility to modify the utility's fuel factor to more accurately reflect the utility's costs and attempt to remedy any over-collected or under-collected position before the 90th day after the date the PUC issues the order.

(f) Requires an electric utility to apply to reconcile the utility's electric fuel and purchased power costs at least once every two years. Requires that the application be made not later than the 180th day after the last day of the period to be reconciled. Authorizes the PUC by rule to establish the calendar year timing of the reconciliation period for each electric utility subject to this section to facilitate efficient work by the PUC. Provides that, to the extent a reconciliation results in a change to the electric utility's under-collected or over-collected fuel balance, that change is required to be incorporated into the utility's fuel factor to eliminate any resulting under-collected or over-collected balance in commensurate increments over a three-month period. Authorizes the PUC to extend the three-month period for a reasonable time if the electric utility demonstrates that the change in the fuel balance will impact the financial integrity of the utility.

(g) Requires that the rules adopted under this section, rather than procedures, require that the findings required by Section 36.058 (Consideration of Payment to Affiliate) regarding fuel transactions with affiliated interests be made in a fuel reconciliation proceeding or in a rate case filed under Subchapter C (General Procedures for Rate Changes Proposed by Utility) or D (Rate Changes Proposed by Regulatory Authority).

Deletes existing text relating to the requirements of certain procedures.

(h) Creates this subsection from existing text.

SECTION 2. Requires an electric utility, the first time the utility applies to reconcile the utility's fuel costs and purchased power costs under Section 36.203(f), Utilities Code, as added by this Act, after the PUC adopts the rules required to implement that subsection, to include in the application any previous periods that have not been addressed in a prior reconciliation proceeding.

SECTION 3. Effective date: September 1, 2023.