

AN ACT

relating to periodic rate adjustment by and to certain transactions involving electric utilities.

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

SECTION 1. Subchapter D, Chapter 36, Utilities Code, is amended by adding Section 36.157 to read as follows:

Sec. 36.157. RATE REVIEW SCHEDULE. (a) This section applies only to an electric utility, other than a river authority, that operates solely inside ERCOT.

(b) Notwithstanding any other provision of this title, not later than June 1, 2018, the commission by rule shall establish a schedule that requires an electric utility to make periodic filings with the commission to modify or review base rates charged by the electric utility. The schedule may be established on the basis of:

(1) the period since the commission entered the commission's final order in the electric utility's most recent base rate proceeding;

(2) whether the electric utility has earned materially more than the utility's authorized rate of return on equity as demonstrated by earnings monitoring reports; or

(3) other criteria that the commission determines is in the public interest.

(c) The commission shall extend the date for the proceeding required by Subsection (b) by one year on a year-to-year basis if,

1 180 days before the date the proceeding is required, the electric  
2 utility's most recent earnings monitoring report shows the electric  
3 utility is earning, on a weather-normalized basis, less than 50  
4 basis points above:

5 (1) for a transmission and distribution utility, the  
6 average of the most recent commission-approved rate of return on  
7 equity for each transmission and distribution utility with 175,000  
8 or more metered customers; and

9 (2) for a transmission-only utility, the average of  
10 the most recent commission-approved rate of return on equity for  
11 each transmission-only utility.

12 (d) The commission may extend the date for the proceeding  
13 required by Subsection (b) for good cause shown or because of  
14 resource constraints of the commission.

15 (e) This section does not limit the ability of a regulatory  
16 authority to initiate a base rate proceeding at any time under this  
17 title.

18 SECTION 2. Section 36.210, Utilities Code, is amended by  
19 amending Subsection (d) and adding Subsection (d-1) to read as  
20 follows:

21 (d) Except as provided by Subsection (d-1), an [An] electric  
22 utility may adjust the utility's rates under this section not more  
23 than once per year and not more than four times between  
24 comprehensive base rate proceedings.

25 (d-1) For an electric utility subject to Section 36.157,  
26 beginning on the effective date of the schedule adopted by the  
27 commission under Section 36.157(b), the electric utility may adjust

1 the utility's rates under this section more than four times between  
2 base rate proceedings.

3 SECTION 3. Section 39.262(m), Utilities Code, is amended to  
4 read as follows:

5 (m) The commission shall approve a transaction under  
6 Subsection (l) if the commission finds that the transaction is in  
7 the public interest. In making its determination, the commission  
8 shall consider whether the transaction will adversely affect the  
9 reliability of service, availability of service, or cost of service  
10 of the electric utility or transmission and distribution utility.  
11 The commission shall make the determination concerning a  
12 transaction under this subsection not later than the 180th day  
13 after the date the commission receives the relevant report. The  
14 commission may extend the deadline provided by this subsection for  
15 not more than 60 days if the commission determines the extension is  
16 needed to evaluate additional information, to consider actions  
17 taken by other jurisdictions concerning the transaction, to provide  
18 for administrative efficiency, or for other good cause. If the  
19 commission has not made a determination before the expiration of  
20 the deadline provided by or extended under this subsection [~~181st~~  
21 ~~day after that date~~], the transaction is considered approved.

22 SECTION 4. Section 39.915(b), Utilities Code, is amended to  
23 read as follows:

24 (b) The commission shall approve a transaction under  
25 Subsection (a) if the commission finds that the transaction is in  
26 the public interest. In making its determination, the commission  
27 shall consider whether the transaction will adversely affect the

1 reliability of service, availability of service, or cost of service  
2 of the electric utility or transmission and distribution utility.  
3 The commission shall make the determination concerning a  
4 transaction under this subsection not later than the 180th day  
5 after the date the commission receives the relevant report. The  
6 commission may extend the deadline provided by this subsection for  
7 not more than 60 days if the commission determines the extension is  
8 needed to evaluate additional information, to consider actions  
9 taken by other jurisdictions concerning the transaction, to provide  
10 for administrative efficiency, or for other good cause. If the  
11 commission has not made a determination before the expiration of  
12 the deadline provided by or extended under this subsection [~~181st~~  
13 ~~day after that date~~], the transaction is considered approved.

14 SECTION 5. Sections 36.210(h), (h-1), and (i), Utilities  
15 Code, are repealed.

16 SECTION 6. This Act takes effect immediately if it receives  
17 a vote of two-thirds of all the members elected to each house, as  
18 provided by Section 39, Article III, Texas Constitution. If this  
19 Act does not receive the vote necessary for immediate effect, this  
20 Act takes effect September 1, 2017.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 735 passed the Senate on April 19, 2017, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 735 passed the House on May 17, 2017, by the following vote: Yeas 142, Nays 1, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor