

SB 841 by Creighton/HB 1535 by Frullo: Modernized Ratemaking for Non-ERCOT Utilities Detailed Explanation of Proposed Legislative Changes

Allow more flexible post-test year adjustments

Under current law, a utility is allowed to recover its authorized rate of return through rates charged to customers, with rates determined by the PUC. Rates are based on a utility's revenues, expenses and net plant investment, which comprise the "rate base." The PUC uses a "historic test year," a twelve month historic period ending on a calendar quarter, to determine a utility's rate base. Except in very limited circumstances, rate base only includes plant investment that is completed and operating prior to the end of the test year. Under the current regulatory structure, this results in a minimum one-year lag between the completion of new plant investment and its inclusion in rates. Further compounding the problem is investment placed into service after the end of the historic test year. The result is regulatory lag lasting much longer.

To reduce regulatory lag and encourage infrastructure investment, the Public Utility Regulatory Act (PURA) should be amended to allow an affected utility to update the test year to reflect in-service investment up to seven months after the end of the test year, or 35 days after filing a rate case, whichever comes first. PURA should also be amended to preserve existing adjustments authorized by PUC rule and update the "known and measurable" standard.

Allow temporary rates

To reduce regulatory lag during the pendency of a rate case, PURA should also be amended to allow an affected utility to either: (1) declare the current rates to be "temporary rates" on the 35th day after filing, which are then trued up at the conclusion of the rate case; or (2) establish interim rates at 70 percent of the requested increase on the 35th day after the request is filed. In either case, the rate is "trued up" at the conclusion of the rate case through a refund or surcharge.

Allow transmission rider filings twice per year

The Legislature created the Transmission Cost Recover Factor (TCRF), which allows both ERCOT and non-ERCOT utilities to recover its transmission costs since the utility's last base rate case through a "rider." Under current rule, ERCOT utilities are allowed to file a transmission rider twice per year and implement the new rate 60 days after filing, while non-ERCOT utilities are only allowed to file a TCRF once per year and implement the new rates after 180 days.

PURA should therefore also be amended to allow the non-ERCOT utilities to file for a TCRF twice per year, rather than just once. This matches ERCOT utilities' ability to file twice per year.

Provide a generation rider

To reduce regulatory lag for investments in generation, PURA should also be amended to allow an affected utility to file an application to recover certain generation investments, as approved by the PUC, through a generation rider. As noted above, transmission and distribution investments riders are already allowed.

Provide an expedited CCN process for generation

When a non-ERCOT utility plans to build a new plant or transmission line, the utility must first file a Certificate of Convenience and Necessity (CCN) with the PUC. Utilities also must file a CCN to buy a plant. Current law provides no required deadline for approval of the CCN. Long CCN timelines contribute to costly regulatory lag and can cause non-ERCOT utilities to miss advantageous capital market opportunities beneficial to customers.

To encourage utilities to invest in needed generation, PURA should also be amended to require a CCN for a purchased asset to be administratively approved within six months and to require a CCN for a newly constructed generation unit to be granted in one year.

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