

1-1 By: Frullo, et al. (Senate Sponsor - Fraser) H.B. No. 1535
 1-2 (In the Senate - Received from the House May 5, 2015;
 1-3 May 5, 2015, read first time and referred to Committee on Natural
 1-4 Resources and Economic Development; May 15, 2015, reported
 1-5 favorably by the following vote: Yeas 10, Nays 0; May 15, 2015,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14			X	
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19	X			

1-20 A BILL TO BE ENTITLED
 1-21 AN ACT

1-22 relating to rates of and certificates of convenience and necessity
 1-23 for certain non-ERCOT electric utilities; authorizing a surcharge.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Subchapter C, Chapter 36, Utilities Code, is
 1-26 amended by adding Section 36.112 to read as follows:

1-27 Sec. 36.112. COST RECOVERY AND RATE ADJUSTMENT STANDARDS
 1-28 AND PROCEDURES FOR CERTAIN NON-ERCOT UTILITIES. (a) This section
 1-29 applies only to an electric utility that operates solely outside of
 1-30 ERCOT.

1-31 (b) In establishing the base rates of the electric utility
 1-32 under this subchapter or Subchapter D, the regulatory authority
 1-33 shall determine the utility's revenue requirement based on, at the
 1-34 election of the utility:

1-35 (1) information submitted for a test year; or
 1-36 (2) information submitted for a test year, updated to
 1-37 include information that reflects the most current actual or
 1-38 estimated information regarding increases and decreases in the
 1-39 utility's cost of service, including expenses, capital investment,
 1-40 cost of capital, and sales.

1-41 (c) An electric utility that elects to provide updated
 1-42 information under Subsection (b)(2) must provide the information
 1-43 for a period ending not later than the 30th day before the date the
 1-44 applicable rate proceeding is filed.

1-45 (d) An electric utility that includes estimated information
 1-46 in the initial filing of a proceeding shall supplement the filing
 1-47 with actual information not later than the 45th day after the date
 1-48 the initial filing was made. The regulatory authority shall extend
 1-49 the deadline for concluding the rate proceeding for a period of time
 1-50 equal to the period between the date the initial filing of the
 1-51 proceeding was made and the date of the supplemental filing, except
 1-52 that the extension period may not exceed 45 days.

1-53 (e) An electric utility that makes an election under
 1-54 Subsection (b) is not precluded from proposing known and measurable
 1-55 adjustments to the utility's historical rate information as
 1-56 permitted by this title and regulatory authority rules.

1-57 (f) Without limiting the availability of known and
 1-58 measurable adjustments described by Subsection (e), the regulatory
 1-59 authority shall allow an affected electric utility to make a known
 1-60 and measurable adjustment to include in the utility's rates the
 1-61 prudent capital investment, a reasonable return on such capital

2-1 investment, depreciation expense, reasonable and necessary
 2-2 operating expenses, and all attendant impacts, including any
 2-3 offsetting revenue, as determined by the regulatory authority,
 2-4 associated with a newly constructed or acquired natural gas-fired
 2-5 generation facility. The regulatory authority is required to allow
 2-6 the adjustment only if the facility is in service before the
 2-7 effective date of new rates. The adjustment may be made regardless
 2-8 of whether the investment is less than 10 percent of the utility's
 2-9 rate base before the date of the adjustment.

2-10 (g) This section expires September 1, 2023.

2-11 SECTION 2. Subchapter E, Chapter 36, Utilities Code, is
 2-12 amended by adding Section 36.211 to read as follows:

2-13 Sec. 36.211. RELATION BACK OF RATES FOR CERTAIN NON-ERCOT
 2-14 UTILITIES. (a) This section applies only to an electric utility
 2-15 that operates solely outside of ERCOT.

2-16 (b) In a rate proceeding under Subchapter D, or if requested
 2-17 by an electric utility in the utility's statement of intent
 2-18 initiating a rate proceeding under Subchapter C, notwithstanding
 2-19 Section 36.109(a), the final rate set in the proceeding, whether a
 2-20 rate increase or rate decrease, shall be made effective for
 2-21 consumption on and after the 155th day after the date the
 2-22 rate-filing package is filed.

2-23 (c) The regulatory authority shall:

2-24 (1) require the electric utility to refund to
 2-25 customers money collected in excess of the rate finally ordered on
 2-26 or after the 155th day after the date the rate-filing package is
 2-27 filed; or

2-28 (2) authorize the electric utility to surcharge bills
 2-29 to recover the amount by which the money collected on or after the
 2-30 155th day after the date the rate-filing package is filed is less
 2-31 than the money that would have been collected under the rate finally
 2-32 ordered.

2-33 (d) The regulatory authority may require refunds or
 2-34 surcharges of amounts determined under Subsection (c) over a period
 2-35 not to exceed 18 months, along with appropriate carrying costs. The
 2-36 regulatory authority shall make any adjustments necessary to
 2-37 prevent over-recovery of amounts reflected in riders in effect for
 2-38 the electric utility during the pendency of the rate proceeding.

2-39 (e) A utility may not assess more than one surcharge
 2-40 authorized by Subsection (c)(2) at the same time.

2-41 (f) This section expires September 1, 2023.

2-42 SECTION 3. Subchapter E, Chapter 36, Utilities Code, is
 2-43 amended by adding Section 36.212 to read as follows:

2-44 Sec. 36.212. RATE CASE REQUIREMENT FOR CERTAIN NON-ERCOT
 2-45 UTILITIES. (a) This section applies only to an electric utility
 2-46 that operates solely outside of ERCOT.

2-47 (b) The commission shall require an electric utility to make
 2-48 the filings with regulatory authorities required by Subchapter B,
 2-49 Chapter 33, and to file a rate-filing package under Subchapter D
 2-50 with the commission to initiate a comprehensive base rate
 2-51 proceeding before all of the utility's regulatory authorities:

2-52 (1) on or before the fourth anniversary of the date of
 2-53 the final order in the electric utility's most recent comprehensive
 2-54 base rate proceeding; or

2-55 (2) if, before the anniversary described by
 2-56 Subdivision (1), the electric utility earns materially more than
 2-57 the utility's authorized rate of return on investment, on a
 2-58 weather-normalized basis, in the utility's two most recent
 2-59 consecutive commission earnings monitoring reports.

2-60 (c) The electric utility must make the filings described by
 2-61 Subsection (b) not later than the 120th day after the date the
 2-62 commission notifies the utility of the requirement described by
 2-63 Subsection (b). The 120-day period may be extended in the manner
 2-64 provided by Section 36.153(b).

2-65 (d) The commission may extend the time period described by
 2-66 Subsection (b)(1) and set a new deadline if the commission
 2-67 determines that a comprehensive base rate case would not result in
 2-68 materially different rates. The commission shall give interested
 2-69 parties a reasonable opportunity to present materials and argument

3-1 before making a determination under this subsection.

3-2 (e) The commission shall adopt rules implementing this
3-3 section, including appropriate notice and scheduling requirements.

3-4 (f) This section does not limit the authority of a
3-5 regulatory authority under Subchapter D.

3-6 (g) This section expires September 1, 2023.

3-7 SECTION 4. Subchapter B, Chapter 37, Utilities Code, is
3-8 amended by adding Section 37.058 to read as follows:

3-9 Sec. 37.058. CERTIFICATE AND DETERMINATION ISSUED TO
3-10 CERTAIN NON-ERCOT UTILITIES FOR GENERATING FACILITY. (a) This
3-11 section applies only to an electric utility that operates solely
3-12 outside of ERCOT.

3-13 (b) An electric utility may file with the commission a
3-14 request that the commission:

3-15 (1) grant a certificate for an electric generating
3-16 facility;

3-17 (2) make a public interest determination for the
3-18 purchase of an existing electric generating facility under Section
3-19 14.101; or

3-20 (3) both grant a certificate and make a determination.

3-21 (c) Notwithstanding any other law, in a proceeding
3-22 involving the purchase of an existing electric generating facility,
3-23 the commission shall issue a final order on a certificate for the
3-24 facility or making a determination on the facility required by
3-25 Section 14.101, as applicable, not later than the 181st day after
3-26 the date a request for the certificate or determination is filed
3-27 with the commission under Subsection (b). For generating facilities
3-28 granted a certificate under this subsection, notwithstanding
3-29 Section 36.053, the utility's recoverable invested capital
3-30 included in rates shall be determined by the commission.

3-31 (d) Notwithstanding any other law, in a proceeding
3-32 involving a newly constructed generating facility, the commission
3-33 shall issue a final order on a certificate for the facility not
3-34 later than the 366th day after the date a request for the
3-35 certificate is filed with the commission under Subsection (b).

3-36 SECTION 5. The changes in law made by this Act are not
3-37 intended to affect the exercise of municipal jurisdiction under
3-38 Chapter 33, Utilities Code.

3-39 SECTION 6. The changes in law made by this Act apply only to
3-40 a proceeding before the Public Utility Commission of Texas or other
3-41 regulatory authority described by Section 11.003, Utilities Code,
3-42 that commences on or after the effective date of this Act. A
3-43 proceeding before the Public Utility Commission of Texas or other
3-44 regulatory authority described by Section 11.003, Utilities Code,
3-45 that commenced before the effective date of this Act is governed by
3-46 the law in effect on the date the proceeding commenced, and that law
3-47 is continued in effect for that purpose.

3-48 SECTION 7. This Act takes effect immediately if it receives
3-49 a vote of two-thirds of all the members elected to each house, as
3-50 provided by Section 39, Article III, Texas Constitution. If this
3-51 Act does not receive the vote necessary for immediate effect, this
3-52 Act takes effect September 1, 2015.

3-53 * * * * *