

1-1 By: Geren (Senate Sponsor - Schwertner) H.B. No. 5247
 1-2 (In the Senate - Received from the House May 8, 2025;
 1-3 May 9, 2025, read first time and referred to Committee on Business
 1-4 & Commerce; May 22, 2025, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 11, Nays 0;
 1-6 May 22, 2025, 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 COMMITTEE SUBSTITUTE FOR H.B. No. 5247 By: Campbell

1-21 A BILL TO BE ENTITLED
 1-22 AN ACT

1-23 relating to an alternative capital recovery process for certain
 1-24 utilities.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Subchapter E, Chapter 36, Utilities Code, is
 1-27 amended by adding Section 36.216 to read as follows:

1-28 Sec. 36.216. SINGLE CAPITAL INVESTMENT PROCEDURE FOR
 1-29 CERTAIN UTILITIES. (a) This section applies only to an electric
 1-30 utility, other than a river authority, that:

1-31 (1) operates solely inside ERCOT; and

1-32 (2) was identified by the commission as responsible
 1-33 for constructing transmission as part of the reliability plan for
 1-34 the Permian Basin approved by the commission under Section 39.167,
 1-35 as added by Chapter 892 (H.B. 5066), Acts of the 88th Legislature,
 1-36 Regular Session, 2023.

1-37 (b) An electric utility that makes total capital
 1-38 expenditures that exceed 300 percent of annual depreciation in a
 1-39 calendar year may elect in the following calendar year to file a
 1-40 single annual proceeding to adjust nonfuel rates on a system-wide
 1-41 basis to reflect changes in transmission and distribution invested
 1-42 capital in lieu of adjustments to retail and wholesale transmission
 1-43 and distribution rates authorized under Section 36.210, Section
 1-44 38.078, as added by Chapter 836 (H.B. 2555), Acts of the 88th
 1-45 Legislature, Regular Session, 2023, and commission rules adopted
 1-46 under Section 35.004.

1-47 (c) An electric utility seeking to make an election under
 1-48 this section shall:

1-49 (1) except as provided by Subsection (d), use the
 1-50 filing requirements adopted by the commission for the adjustment
 1-51 proceedings described by Subsection (b);

1-52 (2) file a notice with the commission of the utility's
 1-53 intent to make the election and supporting documentation of the
 1-54 capital expenditures described by Subsection (b) at least 60 days
 1-55 before the date the utility makes a filing under Subsection (b);

1-56 (3) provide evidence of the utility's ongoing
 1-57 eligibility in the annual proceeding under Subsection (b); and

1-58 (4) notify the commission if the utility determines
 1-59 that the utility no longer qualifies for continued use of the
 1-60 adjustment under this section.

2-1 (d) An electric utility that makes an election under this
2-2 section:
2-3 (1) may defer all or a portion of the costs, including
2-4 depreciation expense and carrying costs, associated with the
2-5 transmission and distribution invested capital at the utility's
2-6 weighted average cost of capital established in the commission's
2-7 final order in the utility's most recent base rate proceeding for
2-8 invested capital, as described by Section 36.053, not currently
2-9 reflected in the utility's rates for recovery as a regulatory
2-10 asset; and
2-11 (2) shall:
2-12 (A) update the allocation of costs among customer
2-13 classes to reflect customer growth; and
2-14 (B) take into account changes in the number of
2-15 the utility's customers and the effects, on a weather-normalized
2-16 basis, that energy consumption and energy demand have on the amount
2-17 of revenue recovered through the utility's base rates.
2-18 (e) Unless otherwise agreed to by an electric utility that
2-19 makes an election under this section, the commission shall:
2-20 (1) include the regulatory asset in rates set under
2-21 this section; and
2-22 (2) authorize amortization of the regulatory asset
2-23 over:
2-24 (A) a period not to exceed 18 months; or
2-25 (B) if a recovery period described by Paragraph
2-26 (A) would cause the utility to earn more than the utility's allowed
2-27 return on investment as normalized for weather, a longer recovery
2-28 period.
2-29 (f) During a period when an electric utility that makes an
2-30 election under this section earns more than the utility's allowed
2-31 return on investment, on a weather-adjusted basis, the utility
2-32 shall apply the over-earnings to the balance of the regulatory
2-33 asset under Subsections (d) and (e).
2-34 (g) The commission shall approve an adjustment under this
2-35 section not later than the 120th day after the date an electric
2-36 utility files a request for the adjustment.
2-37 (h) The electric utility shall provide notice to retail
2-38 electric providers of rates approved under this section not later
2-39 than the 45th day before the date the rates take effect.
2-40 (i) If the commission does not issue a final order in the
2-41 period described by Subsection (g) and the electric utility
2-42 complies with Subsection (h), the utility may place the requested
2-43 rates into effect on a temporary basis not earlier than the 165th
2-44 day after filing the request. The utility shall refund or credit
2-45 against future bills any difference between the temporary rate and
2-46 the final rate along with interest at the current interest rate as
2-47 determined by the commission.
2-48 (j) An electric utility that makes an election under this
2-49 section may not petition for another adjustment under this section,
2-50 Section 36.210, Section 38.078, as added by Chapter 836 (H.B.
2-51 2555), Acts of the 88th Legislature, Regular Session, 2023, or
2-52 commission rules adopted under Section 35.004 before the first
2-53 anniversary of the date the utility files a request under
2-54 Subsection (b).
2-55 (k) Notwithstanding any other law, in setting the rate of
2-56 return in a comprehensive base rate proceeding for an electric
2-57 utility receiving a rate adjustment under this section, the
2-58 commission may expressly consider the effect of the adjustment on
2-59 the utility's financial risk and rate of return.
2-60 (l) An electric utility's use of this section terminates
2-61 when the utility no longer qualifies for an adjustment under this
2-62 section, except that the utility's rates in effect on the date the
2-63 utility no longer qualifies remain in effect until modified in a
2-64 future proceeding.
2-65 (m) Nothing in this section is intended to:
2-66 (1) conflict with a provision of a financing order
2-67 issued under Subchapter I;
2-68 (2) affect the limitation on the commission's
2-69 jurisdiction under Section 32.002;

3-1 (3) limit the jurisdiction of a municipality over the
3-2 rates, operations, and services of an electric utility under
3-3 Section 33.001 or limit the ability of a municipality to obtain a
3-4 reimbursement under Section 33.023;

3-5 (4) prevent an electric utility, including a river
3-6 authority, from requesting cost recovery or rate relief under a
3-7 mechanism authorized under Chapter 36 or other provisions of this
3-8 title if the utility or authority is ineligible or becomes
3-9 ineligible to make an election under this section; or

3-10 (5) prevent the commission from:

3-11 (A) reviewing the investment costs included in an
3-12 adjustment under this section in the electric utility's next
3-13 comprehensive base rate proceeding to determine whether the costs
3-14 were prudent, reasonable, and necessary;

3-15 (B) refunding to customers any amount improperly
3-16 recovered through an adjustment under this section, with
3-17 appropriate carrying costs; or

3-18 (C) if applicable, refunding to customers the
3-19 realized equity portion of carrying costs deferred under Subsection
3-20 (d)(1) on a transmission project associated with the reliability
3-21 plan described by Subsection (a) if the in-service date is
3-22 unreasonably delayed beyond December 31, 2030, due to the utility's
3-23 actions, unless the utility demonstrates through contemporaneous
3-24 documentation of the utility's analysis and decision-making that
3-25 the delay is necessary to maximize the load serving capability of
3-26 other transmission projects.

3-27 (n) This section expires December 31, 2035.

3-28 SECTION 2. As soon as practicable after the effective date
3-29 of this Act, the Public Utility Commission of Texas shall adopt
3-30 rules necessary to implement Section 36.216, Utilities Code, as
3-31 added by this Act.

3-32 SECTION 3. It is the intent of the 89th Legislature, Regular
3-33 Session, 2025, that the amendments made by this Act be harmonized
3-34 with another Act of the 89th Legislature, Regular Session, 2025,
3-35 relating to nonsubstantive additions to and corrections in enacted
3-36 codes.

3-37 SECTION 4. This Act takes effect immediately if it receives
3-38 a vote of two-thirds of all the members elected to each house, as
3-39 provided by Section 39, Article III, Texas Constitution. If this
3-40 Act does not receive the vote necessary for immediate effect, this
3-41 Act takes effect September 1, 2025.

3-42 * * * * *