SUBJECT: Requiring electric utilities to create hurricane damage mitigation plans

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 14 ayes — Solomons, Menendez, Cook, Farabee, Gallego, Geren, Harless, Hilderbran, Jones, Lucio, Maldonado, Oliveira, Swinford, S. Turner

0 nays

1 absent — Craddick

WITNESSES: For — Carol Biedrzycki, Texas Ratepayers Organization to Save Energy; (*Registered, but did not testify*: Jim Boyle, Texas Coast Utilities Coalition; Randall Chapman; Kristen Doyle, Cities Aggregation Power Project, South Texas Aggregation Project, Steering Committee of Cities Served by Oncor; Rick Levy, Texas State Association of Electrical Workers (IBEW))

Against — None

On — Bill Peacock, Texas Public Policy Foundation; Tom Standish, CenterPoint Energy Houston Electric; (*Registered, but did not testify*: Don Ballard, Public Utility Counsel; Barry Smitherman, Public Utility Commission)

BACKGROUND: In 1999, the 76th Legislature enacted SB 7 by Sibley, which mandated restructuring of investor-owned utilities within the Electric Reliability Council of Texas (ERCOT) service area to provide retail competition where electric rates are set by the market rather than by regulation. Within the ERCOT area, the transmission and distribution utilities — the so-called “wires” portion — remain regulated by the Public Utility Commission (PUC) and must file rate requests for PUC approval.

On March 4, 2009, Quanta Technology, an engineering consultant, issued its *Cost-Benefit Analysis of the Deployment of Utility Infrastructure Upgrades and Storm Hardening Programs* report to the PUC. The report was commissioned to make recommendations on how to mitigate damage to the electricity transmission grid and the telecommunications network from hurricanes and other major storms along the Texas Gulf Coast.

DIGEST:

HB 1695 would amend Utility Code, ch. 38 to require all electric utilities to file a plan with the PUC no later than January 1, 2010, for infrastructure improvement and maintenance to minimize the risk of extended power outages during severe weather. Utilities would be required to update the plan every six years and to provide semiannual progress reports. The PUC would evaluate a utility's plan after a severe weather event.

Elements of mitigation plans. The PUC would have to require that each utility's plan include the following:

- a vegetation management cycle for utility line easement and structures;
- a customer outreach program on vegetation management near electric utility structures;
- inspection of transmission structures;
- identification of susceptible areas and modification of transmission structures in those areas;
- designation of high-load transmission and distribution areas and identifying potential improvements;
- determination of the cost-effectiveness of placing future electricity lines underground;
- expansion or installation of underground utility infrastructure, to be coordinated with other owners of underground facilities, including municipalities, gas utilities, and pipeline companies;
- distributed generation technologies and advanced meter technologies that prevent, detect, and report the failure of grid facilities and assist in the repair of those facilities;
- restoration of critical facilities in areas particularly prone to severe weather, including emergency response providers, hospitals, water and wastewater treatment facilities, and municipal service facilities; and
- a plan to inform state and local officials of an extended power outage, the utility's restoration efforts, and the expected duration and severity of the outage.

PUC review. The PUC would have to evaluate the utility's plan on basis of:

- the utility's susceptibility to severe weather;
- the age of utility's infrastructure;

- the utility's history of extended power outages caused by severe weather; and
- the potential improvements in preparation and response available to the utility.

The utilities would be required to include sufficient detail so the PUC could accept, reject, or make modifications based on anticipated cost or benefit.

Hearing requirements. Once a plan was filed, HB 1695 would require the PUC to provide notice to interested parties and an opportunity for a hearing. The PUC would have to review and approve a new plan or an updated plan no later than 30 days after notice was given unless there was a request for a hearing. The PUC would be required to adopt rules for implementation of HB 1695 by October 1, 2009, and the first reports would be required from the utilities no later than January 1, 2010.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

SUPPORTERS SAY:

HB 1695 would encourage electric transmission and distribution companies to take preventive measures such as "hardening the grid" rather than wait to make repairs in the aftermath of hurricanes and other major storms. Most of the damage from Hurricane Ike that resulted in long-term power outages was caused by distribution lines downed by falling trees and other debris. Most of CenterPoint Energy's 2.2 million customers in the Houston and Galveston area lost power after Ike, and Entergy reported that 1.7 million were without electricity following the storm. CenterPoint Energy estimated that its restoration costs ranged from $650 million to $750 million, and Entergy had between $525 million to $625 million in Ike-related damage.

The Quanta Technology report, which was commissioned by PUC to make recommendations on hardening the grid, concludes that certain targeted vegetation and hardening approaches could be cost-effective, especially if they were based on detailed post-storm data collection and analyses. While the report concluded that applying the hardening processes over broad areas of the state would not be cost-effective, it also found that more prescriptive standards for areas most susceptible to hurricane damages would be justified.

HB 1695 would put in place a flexible process to identify the most cost-effective measures for hardening the grid. This process would supplement, not duplicate, the existing reviews required by the North American Electric Reliability Corporation (NERC) and ERCOT. HB 1695 would not require utilities to complete any new studies, and existing information could be incorporated into the report to the PUC.

Transmission and distribution utilities remain regulated by the PUC even in areas with retail competition. Costs associated with mitigation or hardening of the grid would have to be justified in a contested rate-making process before the PUC. Any expense associated with mitigation or grid hardening would be weighed against potential future rate increases to cover the costs of hurricane damage to the electric grid. These decisions should be made before the storms rather than in their aftermath because coastal residents face other financial hardships and should not be subject to utility rate increases at that time.

HB 1695 would encourage transmission and distribution utilities to take prudent preventative steps such as replacing wooden poles with those made of more durable materials and to identify the location of critical facilities such as emergency response providers, hospitals, water and wastewater treatment facilities, and municipal service facilities.

OPPONENTS SAY:

The Quanta Technology report commissioned by the PUC concluded that broad prescriptive approaches to hardening the electric in anticipation of hurricanes generally would not be cost-effective since too many structures would be involved. For example, routine trimming of vegetation in the utility right of ways may ensure ongoing reliability of transmission and distribution, but damage to the grid during hurricanes comes from trees toppled and hurled long distances. There is no cost-effective way to prevent this kind of damage. HB 1695 could lead to investments that would not be needed or justified or would raise consumers' electric rates.

HB 1695 would duplicate reporting already required by PUC. The benefits of the new review processes would be unclear because NERC and the National Electric Safety Code currently provide guidance for vegetation management, assessment of the susceptibility of utility infrastructure, and infrastructure improvement processes.