SUBJECT: Authorizing transmission and distribution resiliency planning by utilities

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 8 ayes — Hunter, Hernandez, Anchía, Dean, Metcalf, Slawson, Smithee, Turner

0 nays

5 absent — Geren, Guillen, Raymond, Spiller, S. Thompson

WITNESSES: For —Jeff Stracencer, AEP Texas; Mark Bell, Association of Electric Companies of Texas; Joel Yu, Enchanted Rock, LLC; Sean Meredith, Entergy; John Gordon (*Registered, but did not testify*: Isaac Albarado, Oscar Garza, Kelly Sadler, AEP Texas; Jason Ryan, CenterPoint Energy; Tom Oney, Lower Colorado River Authority; Mindy Carr, Oncor; Michael Ruggieri, Southwestern Elec. Power Co.; Roy Jackson, TNMP; Damon Withrow, Xcel Energy)

Against — Katie Coleman, Texas Association of Manufacturers

On — Zachary Stephenson, Texas Electric Cooperatives (*Registered, but did not testify*: Thomas Gleeson, Public Utility Commission; Kenneth Flippin, US Green Building Council Texas Chapter)

BACKGROUND: Concerns have been raised that current regulatory processes do not adequately provide for utilities to financially plan measures to increase the resiliency of electric infrastructure against inclement weather.

DIGEST: CSHB 2555 would authorize an electric utility to file with the Public Utility Commission (PUC) a plan to enhance the resiliency of its transmission and distribution system through at least one of the following methods:

- hardening transmission and distribution facilities;
- modernizing such facilities;

- undergrounding certain electrical distribution lines;
- lightning mitigation;
- flood mitigation;
- information technology;
- cyber security;
- physical security;
- vegetation management; or
- wildfire mitigation and response.

The bill would require the plan to explain the systematic approach the utility would use to carry out the plan for at least three years.

In determining whether to approve a plan, the PUC would be required to consider the extent to which the plan was expected to enhance system resiliency and the estimated costs of implementation.

The PUC would be required to by order approve, approve with modification, or deny the plan within 180 days of filing. A plan could not be approved if the PUC determined that it was not in the public interest to approve the plan. If the PUC did not issue an order by the 180th day, the plan would be considered approved.

Approval of a plan would not require a utility to implement all measures or incur all costs in the plan if business needs, financial conditions, or supply chain or labor conditions dictated otherwise. Denial of a plan would not be considered a finding of the prudence or imprudence of a measure or cost for rate-making purposes.

A utility whose plan had been approved could request that the PUC review an updated plan, which would have to comply with any applicable PUC rules and take effect no earlier than three years after the most recent approval of the plan.

Implementation of an approved plan could not be considered imprudent for rate-making purposes. If the PUC determined that the implementation costs of the plan were prudently incurred, the costs could not be subject to disallowance for exceeding plan estimates.

A utility would be authorized to file with a plan an application for a rider to recover implementation costs. If a plan with a filed rider application was approved, the PUC would be required to determine the appropriate terms of the rider, and reconcile the approved rider with any update to a plan. The bill would provide for deferral and future recovery of implementation costs for a plan that did not include a rider application.

Plan costs considered to be reasonable and prudent could not include costs otherwise recovered through the utility's base rates, and would be required to be allocated to customer classes pursuant to the rate design most recently approved by PUC. The bill would provide for the recovery of reasonable and prudent costs associated with a capital investment that was recoverable as a plan cost.

For the period an approved plan was in effect, a utility would not be required to submit any annual report required by certain provisions of the Utilities Code or PUC rules, with the exception of an annual service quality report.

CSHB 2555 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, 2023.

NOTES: According to the Legislative Budget Board, CSHB 2555 would have an estimated negative impact to general revenue related funds of $1,048,274 through fiscal 2024-25.