

BILL ANALYSIS

Senate Research Center
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S.B. 41
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Hurricane Rita struck the service territory of Entergy Gulf States, Inc. (Entergy) in southeast Texas in September 2005. The storm caused extensive damage to the electric utility system and left hundreds of thousands of Texans without electric service. Providing for timely recovery of these costs will support continued reliable utility service in southeast Texas. This objective should be accomplished, however, in a manner that reduces costs to ratepayers to the extent possible.

As proposed, S.B. 41 provides for recovery of Hurricane Rita costs through a special financing mechanism known as "securitization." Securitization allows the costs to be recovered through the sale of bonds with high credit quality and favorable interest rates. These bonds impose no financial obligation on the State of Texas. Securitization should result in significant savings to customers.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 39.452(b) and (d), Utilities Codes, to make conforming changes.

SECTION 2. Amends Subchapter J, Chapter 39, Utilities Code, by adding Sections 39.458-39.463, as follows:

Sec. 39.458. RECOVERY AND SECURITIZATION OF HURRICANE RECONSTRUCTION COSTS; PURPOSE. (a) Sets forth the purposes of this subchapter relating to an electric utility recovering hurricane reconstruction costs and using securitization financing. Authorizes the proceeds of transition bonds to be used only for the purposes of reducing the amount of recoverable hurricane reconstruction costs, as determined by the Public Utility Commission (PUC) in accordance with this subchapter, through the refinancing or retirement of utility debt or equity.

(b) Sets forth the legislative intent in this subchapter.

Sec. 39.459. HURRICANE RECONSTRUCTION COSTS. (a) Defines "hurricane reconstruction costs" and "Hurricane Rita."

(b) Authorizes hurricane reconstruction costs to include carrying costs from the date on which the costs were incurred until the date that transition bonds are issued, if PUC determines it to be appropriate.

(c) Requires that to the extent a utility subject to this subchapter receives insurance proceeds, governmental grants, or any other source of hurricane reconstruction costs compensation, those amounts be used to reduce the utility's hurricane reconstruction costs recoverable from consumers. Requires PUC to take the aforementioned amounts into account in certain proceedings and considerations if the timing of a utility's receipt of these amounts prevents their inclusion as a reduction to the costs that are securitized.

Sec. 39.460. STANDARDS AND PROCEDURES GOVERNING SECURITIZATION OF HURRICANE RECONSTRUCTION COSTS. (a) Provides that the procedures and standards of this subchapter and Subchapter G govern the application for and PUC's issuance of a financing order to provide for the securitization of hurricane reconstruction costs by an electric utility subject to this subchapter.

(b) Requires PUC, subject to certain standards and procedures, to adopt a financing order on the application of the utility to recover its hurricane reconstruction costs. Provides that on PUC's issuance of a financing order allowing for recovery and securitization of such costs, the provisions of this subchapter and Subchapter G continue to govern the financing order, the rights and interests established in the order, and any transition bonds issued pursuant to the order.

(c) Defines "financing order."

(d) Defines "qualified costs."

(e) Defines "transition bonds." Authorizes transition bonds issued to securitize hurricane reconstruction costs to be called "hurricane reconstruction bonds" or another name acceptable to the issuer and the underwriters of the bonds.

(f) Defines "transition charges."

(g) Requires hurricane reconstruction costs, notwithstanding Section 39.303(c), to be functionalized and allocated to customers in the same manner as the corresponding facilities and related expenses are functionalized and allocated in the utility's current base rates.

(h) Prohibits the amount of any accumulated deferred federal income taxes offset, used to determine the securitization level, from being considered in future rate proceedings. Requires any tax obligation of the electric utility arising from certain proceeds and charges to be recovered by the electric utility through PUC's implementation of this section and Sections 39.458, 39.459, and 39.461-39.463.

(i) Sets forth the circumstances under which PUC is required to allow the electric utility to recover the entirety of the hurricane reconstruction costs through an appropriate customer surcharge mechanism. Prohibits a rate proceeding under Chapter 36 from being required to determine and implement this surcharge mechanism. Requires a rider adopted under this subsection to expire on the implementation of rates resulting from the filing of a Subchapter C, Chapter 36, rate proceeding.

Sec. 39.461. NONBYPASSABLE CHARGES. Authorizes PUC to include terms in the financing order to ensure that the imposition and collection of transition charges associated with the recovery of hurricane reconstruction costs are nonbypassable by imposing certain restrictions.

Sec. 39.462. DETERMINATION OF HURRICANE RECONSTRUCTION COSTS. (a) Entitles an electric utility subject to this subchapter to recover hurricane reconstruction costs consistent with the provisions of this subchapter and to seek recovery of amounts not covered under this subchapter in the utility's next base rate proceeding or any other proceeding authorized by Subchapter C, Chapter 36, including costs not yet incurred at the time of the application.

(b) Requires PUC to issue an order determining the amount of hurricane reconstruction costs eligible for recovery and securitization within 150 days after the utility files an application. Provides that the 150-day period begins on the date the utility files the application, even if that occurs prior to the effective date of this section.

(c) Authorizes an electric utility to file an application for a financing order on issuance by PUC of an order determining the amount of eligible costs. Requires the order to be governed by the procedures in Subchapter G.

(d) Authorizes a determination of the eligible costs of an electric utility, to the extent PUC makes said determination prior to the effective date of this section, to provide the basis for the utility's application for a financing order pursuant to this subchapter and Subchapter G. Provides that a previous PUC determination does not preclude the utility from requesting recovery of additional, previously unauthorized costs now eligible for recovery under this subchapter.

(e) Provides that a rate proceeding under Chapter 36 is not required to determine the amount of recoverable costs as provided by this section.

Sec. 39.463. SEVERABILITY. Provides for the severance of any provision in this title or portion of this title upon the invalidation or other such negating actions of said provision.

SECTION 3. Effective date: upon passage or the 91st day after adjournment.