

SUBJECT: Recovery of transmission costs for certain non-ERCOT electric utilities

COMMITTEE: Regulated Industries — committee substitute recommended

VOTE: 5 ayes — P. King, Hunter, Baxter, R. Cook, Turner
0 nays
2 absent — Crabb, Hartnett

WITNESSES: For — Gary Gibson, Southwestern Public Service Co.

Against — Jim Boyle, City of Amarillo (*Registered, but did not testify*:
Monte Akers, The Texas Coalition of Cities for Utility Issues)

On — Julie Parsley, Public Utility Commission of Texas

BACKGROUND: The U.S. electric network is divided into three grids: the western and eastern interconnections and the Electric Reliability Council of Texas (ERCOT). While most of Texas is in the ERCOT region, portions of the Panhandle, far West Texas, Northeast Texas, and Southeast Texas are in the other adjacent power regions.

The 76th Legislature in 1999 enacted SB 7 by Sibley, restructuring electric utilities and allowing customers of Texas' investor-owned utilities to choose their electricity providers as of January 1, 2002. In non-ERCOT regions, implementation of customer choice has been delayed because of concerns about the scarcity of competitors entering the market to provide retail service and the shortage of available transmission capacity, among other factors. HB 1692 by Chisum, enacted in 2001 by the 77th Legislature, delayed implementation of retail competition in the Panhandle until 2007 or until the Public Utility Commission (PUC) authorizes customer choice in the area, whichever is later.

DIGEST: CSHB 989 would apply to an electric utility operating outside of ERCOT in areas of the state not included in the Southeastern Electric Reliability Council on January 1, 2005, that owned or operated transmission facilities. This would exclude the service area of Entergy Corp. in Southeast Texas.

Under the bill, the PUC could allow affected utilities to recover transmission infrastructure costs and changes in wholesale transmission charges under a tariff approved by a federal regulatory authority. A utility could recover only the costs that were allocable to retail customers in the state. A utility could not over-recover costs.

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, 2005.

**SUPPORTERS
SAY:**

By allowing non-ERCOT utilities to more easily recover costs associated with construction of transmission infrastructure, CSHB 989 would encourage investment in transmission lines and expand the capacity for bringing wind-generated electricity in West Texas to market. Currently, a rate-regulated utility outside of ERCOT must participate in a base rate hearing before the PUC before it can recover transmission infrastructure investments. These hearings are costly and time consuming, a fact that discourages investment in the new infrastructure required to transmit electricity from the wind energy fields in West Texas. This bill would allow non-ERCOT utilities to adjust costs through a tariff, facilitating the growth of renewable wind energy in many parts of the state.

Most wind turbines are in rural parts of the state, far from the market for the electricity they produce. New transmission lines are needed to bring this electricity to market. However, if the costs for building new transmission capacity are not included in the rates that utilities are able to charge, those companies will be discouraged from making new investments. Allowing more efficient cost recovery would provide economic certainty for utilities, leading to new infrastructure investments that would relieve congestion on the electric grid and accommodate new electricity generated from these renewable sources.

Companies in ERCOT already have the ability to recover transmission costs through a semiannual filing process with the PUC, a successful policy that has enabled build-out of infrastructure in many areas of the state. It would only be fair to allow non-ERCOT utilities to recover their costs through a similar mechanism. The bill specifically would allow companies only to recover costs up to those resulting from transmission line investments.

OPPONENTS

A non-ERCOT utility can recover its transmission costs through a rate

SAY: hearing, and this is the proper forum for a regulated utility to seek those adjustments. A rate hearing allows for adequate review of costs claimed by a utility, and can allow for adjustments if the PUC determines that a request is inaccurate. CSHB 989 would allow for a more automatic certification of costs claimed by a utility, weakening PUC oversight of utilities and leading to higher costs for ratepayers.

Non-ERCOT utilities should not be treated the same as ERCOT utilities in terms of transmission cost recovery. When the ERCOT region was transitioning to retail competition, there was a need to relieve transmission congestion in the Dallas-Fort Worth area. This led lawmakers to approve the expedited transmission cost recovery mechanism for companies in ERCOT. Those needs do not exist in the areas of the state outside ERCOT, and those non-ERCOT utilities should not be treated the same.

CSHB 989 would deny municipalities' original jurisdiction in the rate hearing process, with adjustments taking place directly at the PUC. Currently, ratepayers may start out at the local level in a rate case, and this is the appropriate level for them to make their case.

NOTES: As filed, HB 989 would have applied to any utility operating solely outside of ERCOT that owned or operated transmission facilities. The committee substitute would exclude utilities included in the Southeastern Electric Reliability Council. The committee substitute would authorize the PUC to establish a mechanism to allow a utility to recover its costs.

As filed, the bill would have required the PUC to ensure that a utility could recover its costs. The bill as filed did not include a provision allowing a utility to recover changes in wholesale transmission charges. As filed, a utility could have recovered its costs through a rate rider, rather than a tariff. The committee substitute also specified that a utility could not over-recover its costs.