



PRESENTATION TO THE BUDGET AND FISCAL AFFAIRS COMMITTEE

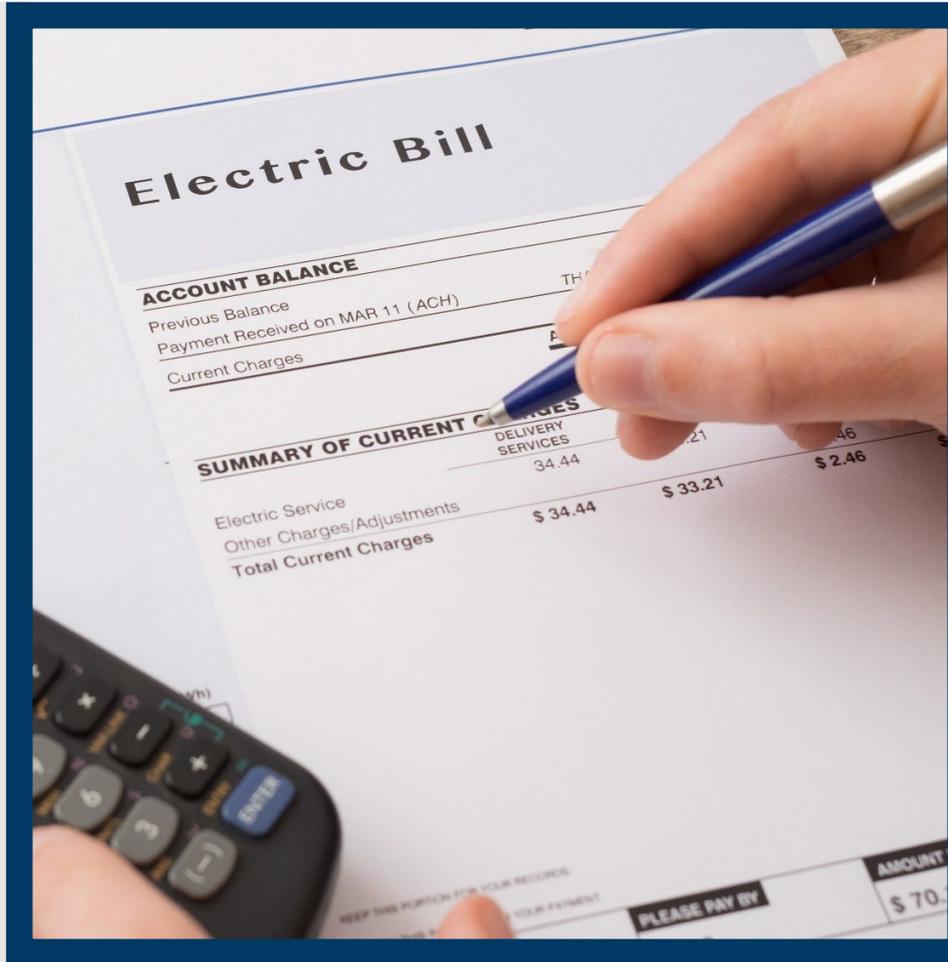
UTILITY REGULATION BILL SUMMARY
88TH TEXAS LEGISLATURE

Presented By:
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Utility-Related Bills Opposed by the City of Houston

- **SB 1015/HB 3043**
- **SB1016/HB 2713**
- **SB 1212/HB 2793**
- **SB 1291**
- SB 1889/HB 3042
- SB 330/HB1412
- SB 1075/HB 2973
- HB 2286



- SB 857
- HB 4834
- SB 1287
- HB 2263
- SB 6
- HB 2288
- HB 4955
- HB 4669

Senate Bill 1015 / HB 3043

Senate Bill 1015 (King) proposes changes to the utility Periodic Rate Adjustment (PRA) mechanism, commonly referred to as the DCRF. The DCRF is an expedited rate mechanism that allows utilities to recover their capital investment costs + a rate of return (**from ratepayers**) within ~ 4 months of filing for recovery.

Why COH opposes the bill:

- Municipal preemption.
- Allows for two filings per year instead of one (could be twice as expensive for customers).
- Requires nothing more than a utility employee to sign the filing attesting to its veracity.
- Does NOT **require** the PUCT to review the filing for prudence but requires them to issue an order on it within 60 days.

Why is municipal preemption a big deal?

- There have been 5 DCRFs for the Houston area filed since 2018. They would have cost ratepayers \$238.2M in cost recovery from customers. Thanks in large part to municipal intervention, approximately \$80M of that amount was disallowed at the Commission. If SB 1015 passes as filed, there will be no prudence review and no scrutiny of costs – no opposition to 100% of the cost being recovered at the Commission.

What is the City of Houston doing about it and what is the current status?

- Oral testimony presented at Senate Business & Commerce Committee on 3/14/23.
- Written testimony submitted to Senate Business & Commerce Committee on 3/14/23.
- Supplemental testimony (FAQs) submitted 3/20/23.
- Calendared for a vote in the Senate.
- HB 3043 (companion bill) referred to House State Affairs Committee but not yet scheduled for hearing.
- Proposed Senate Floor Amendment to allow “participation” by municipalities but original jurisdiction (OJ) still preempted.
- Will discuss amendments with the House bill sponsor and the utilities to restore OJ in the House companion bill.



Senate Bill 1016 / HB 2713

Senate Bill 1016 (King) would not only allow electric utilities to **increase customer rates** to pay for **utility employee financial incentives in compensation and benefits**, but also creates the **legal presumption** that these incentives are **reasonable and necessary**.

Why COH opposes the bill:

- Municipal preemption – technically preemptive for all regulatory authorities in the sense that costs are **presumed** to be reasonable and necessary.
- Electric utility rates are universally determined based on “cost-causation” or cost/benefit analysis. Allowing incentive compensation based on a utility’s financial performance is counter to that rationale.
- The Public Utility Commission of Texas and its counterparts in almost every other state have explicit protocols excluding financially-based incentive compensation.
- The bill wrongfully assumes that employee compensation and benefits expenses are “reasonable and necessary” based on a market compensation study that reflects compensation for non-regulated Fortune 500 companies. That’s like basing publicly-funded City employee compensation on the compensation paid by Fortune 500 companies.

What is the City of Houston doing about it and what is the current status?

- Oral testimony presented at House State Affairs Committee on 3/22/23.
- Written testimony submitted to House State Affairs Committee on 3/22/23.
- SB 1016 and HB 2713 substitutes were voted out of committee and reported favorably.

Senate Bill 1212 / HB 2793

Senate Bill 1212 (Johnson, Nathan) authorizes an electric utility to recover expenses and earn a rate of return on the installation, modification, upgrade, or maintenance of its facilities required to interconnect distributed energy resources (DER).

Why COH opposes the bill:

- From a policy perspective, COH supports regulations that facilitate the use of energy storage facilities and the aggregation of small DERs – but not without guardrails to balance the costs against the benefits. This bill is problematic because it allows the utility to recover the interconnection costs from electric customers without first reviewing the prudence of those expenses.
- Municipal (and regulatory authority) preemption (sort of) – the bill creates the **legal presumption** that any expenses the utility incurs in interconnecting DERs are **prudent and reasonable**; therefore, they can be passed on to ratepayers.

What is the City of Houston doing about it and what is the current status?

- Oral testimony presented at Senate Business & Commerce Committee on 3/28/23.
- Written testimony submitted to Senate Business & Commerce Committee on 3/28/23.
- Bill pending in committee.



Senate Bill 1291

Senate Bill 1291 (King) would repeal provisions that require gas and electric utilities to reimburse cities for the reasonable cost of services to engage experts (rate consultants, accountants, auditors, attorneys, and engineers) to assist in the review and litigation in utility rate-making proceedings.

Why COH opposes the bill:

- Municipal preemption – although the bill does not technically preempt cities from continuing to regulate utilities and exercise jurisdiction over rates, by ending the practice of utility reimbursement for municipal rate case expenses, the bill **effectively discourages municipal intervention and participation**.
- The bill purports to eliminate rate case reimbursement for the good of ratepayers but only eliminates reimbursement for municipalities – **utilities** are still allowed to fully recover their litigation expenses **from customers**.

What is the City of Houston doing about it and what is the current status?

- SB 1291 does not currently have a companion in the House and has not been set for hearing.
- COH prepared talking points to begin discussions with legislators.

Other Bills

- **Senate Bill 1075/HB 2973 (King/Guillen):** proposes to allow utility providers to recover, through customer rates, costs for leasing or owning **mobile generation facilities**. COH is opposed because there are no standards for deployment and the local jurisdiction has no say. There is potential for leaving electric customers on the hook for hundreds of millions of dollars with no real oversight. The bill has not been set for hearing.
- **Senate Bill 1889/HB 3042 (Springer/Spiller):** relates to the consideration of the proportion of long-term debt and equity capitalization in establishing the rates of electric utilities. COH opposes because it preempts the City (and any regulatory authority) from setting capital structure based on industry norms and requires it to be set using the utility's **actual** debt/equity ratio, potentially allowing utilities to substantially over-recover. For example, in a recent Oncor utility case in Dallas, the PUCT changed the utility's capital structure, for the purpose of setting rates, to industry norms – saving ratepayers \$26M. The bill has not been set for hearing.
- **Senate Bill 6 (Schwertner):** proposes to create the Texas Energy Insurance Program, which assesses **new charges** on electric ratepayers across all rate classes to **fund fossil fuel-based generation**. The COH opposes it because it would discourage the growth of renewable energy while requiring **ratepayers** to subsidize the cost of legacy power generation sources. The COH submitted written testimony on this bill at the hearing on 3/23/23.
- **H.B. 2286, S.B. 857, H.B. 4834 :** these bills are not the same but all would create special funds in the state treasury called the “electric generating facility fund” or the “energy reliability fund”. The purpose of the funds is to provide loans to finance the construction of electric generating facilities, such as thermal generation plants, in the ERCOT power region. COH opposes because the bills discourage the growth of renewable energy by subsidizing new facilities that generate power using legacy sources. H.B. 4834 was heard in Committee on 3/29. The other bills have not been set for hearing.



Other Bills (cont'd)

- **House Bill 2263 (Darby)** proposes the creation of a new gas utility energy efficiency program, but preempts municipal participation in the regulatory review process. COH opposes because of municipal preemption, and because energy efficiency savings will not be passed on to customers. **The COH offered amendments to improve the bill** at the 3/27/23 hearing, and the bill is pending in Committee.
- **Senate Bill 330/HB 1412 (Hall/Schaefer):** establishes the Texas Grid Security Commission and requires the Commission to develop and adopt resilience standards for municipalities and critical components of the grid. Allows utilities to recover all costs related to installing, replacing, or upgrading facilities to meet “resilience standards,” creating a **new charge** on electric customers’ bills. The COH opposed the bill through oral and written testimony at the hearing on 3/28/23, and we have offered amendments that would allow municipalities to scrutinize the expenses before they are put into customer rates. The bill is pending in Committee.
- **House Bill 2288 (Patterson):** The COH opposes this bill because it would prohibit the sale of “non-dispatchable energy” on the wholesale market after 2030. Non-dispatchable generation includes wind and solar resources that provide Texas with abundant, cheap, and clean electricity. The bill would eliminate ERCOT renewable energy credits and the requirements for utilities to build transmission facilities necessary to connect renewable generators. If passed, this bill could dramatically increase electricity rates by prohibiting low-cost renewable energy from sale on the wholesale energy market. The bill has not been set for hearing.
- **House Bill 4955 (Leo-Wilson):** This bill proposes to impose a tax on each electric generator in Texas that generates electricity using an energy source other than natural gas or coal. The COH opposes because this is an unnecessary tax on renewable energy. The bill has not been set for hearing.





QUESTIONS?

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