

AN ACT

relating to the governance of the Public Utility Commission of Texas, the Office of Public Utility Counsel, and an independent organization certified to manage a power region.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 12, Utilities Code, is amended by adding Section 12.0521 to read as follows:

Sec. 12.0521. PRESIDING OFFICER QUALIFICATIONS. The commissioner designated as the presiding officer must be a resident of this state.

SECTION 2. Section 13.022(a), Utilities Code, is amended to read as follows:

(a) The counsellor must:

(1) be licensed to practice law in this state and a resident of this state;

(2) have demonstrated a strong commitment to and involvement in efforts to safeguard the rights of the public; and

(3) possess the knowledge and experience necessary to practice effectively in utility proceedings.

SECTION 3. Section 39.151, Utilities Code, is amended by amending Subsections (d), (g), and (g-1) and adding Subsections (g-2), (g-3), (g-4), (g-5), and (g-6) to read as follows:

(d) The commission shall adopt and enforce rules relating to the reliability of the regional electrical network and accounting

1 for the production and delivery of electricity among generators and
2 all other market participants, or may delegate to an independent
3 organization responsibilities for adopting [~~establishing~~] or
4 enforcing such rules. Rules [~~Any such rules~~] adopted by an
5 independent organization and [~~any~~] enforcement actions taken by the
6 organization under delegated authority from the commission are
7 subject to commission oversight and review and may not take effect
8 before receiving commission approval. An independent organization
9 certified by the commission is directly responsible and accountable
10 to the commission. The commission has complete authority to
11 oversee and investigate the organization's finances, budget, and
12 operations as necessary to ensure the organization's
13 accountability and to ensure that the organization adequately
14 performs the organization's functions and duties. The organization
15 shall fully cooperate with the commission in the commission's
16 oversight and investigatory functions. The commission may take
17 appropriate action against an organization that does not adequately
18 perform the organization's functions or duties or does not comply
19 with this section, including decertifying the organization or
20 assessing an administrative penalty against the organization. The
21 commission by rule shall adopt procedures governing
22 decertification of an independent organization, selecting and
23 certifying a successor organization, and transferring assets to the
24 successor organization to ensure continuity of operations in the
25 region. The commission may not implement, by order or by rule, a
26 requirement that is contrary to an applicable federal law or rule.

27 (g) To maintain certification as an independent

1 organization for the ERCOT power region under this section, an
2 organization's governing body must be composed of persons selected
3 by the ERCOT board selection committee [~~specified by this section~~
4 ~~and selected in accordance with formal bylaws or protocols of the~~
5 ~~organization~~].

6 (g-1) The independent organization's bylaws or protocols
7 must be approved by the commission and must reflect the input of the
8 commission. [~~The bylaws must specify the process by which~~
9 ~~appropriate stakeholders elect members and, for unaffiliated~~
10 ~~members, prescribe professional qualifications for selection as a~~
11 ~~member.~~] The bylaws must require that every member of the governing
12 body be a resident of this state and must prohibit a legislator from
13 serving as a member [~~the use of a professional search firm to~~
14 ~~identify candidates for membership of unaffiliated members. The~~
15 ~~process must allow for commission input in identifying candidates~~].

16 The governing body must be composed of:

17 (1) the chairman of the commission as an ex officio
18 nonvoting member;

19 (2) the counsellor as an ex officio voting member
20 representing residential and small commercial consumer interests;

21 (3) the chief executive officer of the independent
22 organization as an ex officio nonvoting [~~voting~~] member; and

23 (4) eight members selected by the selection committee
24 under Section 39.1513 with executive-level experience in any of the
25 following professions:

26 (A) finance;

27 (B) business;

1 (C) engineering, including electrical
2 engineering;
3 (D) trading;
4 (E) risk management;
5 (F) law; or
6 (G) electric market design [~~six—market~~
7 ~~participants elected by their respective market segments to serve~~
8 ~~one-year terms, with:~~
9 [~~(A) one representing independent generators;~~
10 [~~(B) one representing investor-owned utilities;~~
11 [~~(C) one representing power marketers;~~
12 [~~(D) one representing retail electric providers;~~
13 [~~(E) one representing municipally owned~~
14 ~~utilities; and~~
15 [~~(F) one representing electric cooperatives;~~
16 [~~(5) one member representing industrial consumer~~
17 ~~interests and elected by the industrial consumer market segment to~~
18 ~~serve a one-year term;~~
19 [~~(6) one member representing large commercial~~
20 ~~consumer interests selected in accordance with the bylaws to serve~~
21 ~~a one-year term; and~~
22 [~~(7) five members unaffiliated with any market segment~~
23 ~~and selected by the other members of the governing body to serve~~
24 ~~three-year terms]~~.
25 (g-2) Members [~~(g-1) The presiding officer]~~ of the
26 governing body are entitled to receive a salary for their service
27 [~~must be one of the members described by Subsection (g)(7)]~~.

1 (g-3) A person does not qualify for selection as a member of
2 the governing body of an independent organization for the ERCOT
3 power region if the person has a fiduciary duty or assets in the
4 electricity market for that region.

5 (g-4) To maintain certification as an independent
6 organization under this section, the organization's governing body
7 may not include more than two members who are employed by an
8 institution of higher education, as defined by Section 61.003,
9 Education Code, in a professorial role.

10 (g-5) A former member of the governing body of an
11 independent organization certified under this section may not,
12 before the second anniversary of the date the member ceases to be a
13 member of the governing body, engage in an activity that requires
14 registration under Chapter 305, Government Code.

15 (g-6) To maintain certification as an independent
16 organization under this section, the organization's governing body
17 must establish and implement a formal process for adopting new
18 protocols or revisions to existing protocols. The process must
19 require that new or revised protocols may not take effect until the
20 commission approves a market impact statement describing the new or
21 revised protocols.

22 SECTION 4. Subchapter D, Chapter 39, Utilities Code, is
23 amended by adding Section 39.1513 to read as follows:

24 Sec. 39.1513. ERCOT BOARD SELECTION COMMITTEE. (a) The
25 ERCOT board selection committee is composed of:

26 (1) one member appointed by the governor;

27 (2) one member appointed by the lieutenant governor;

1 and

2 (3) one member appointed by the speaker of the house of
3 representatives.

4 (b) A person may not be appointed as a member of the
5 committee unless the person is a resident of this state.

6 (c) A member of the committee is not entitled to
7 compensation for serving as a member but is entitled to
8 reimbursement for actual and necessary expenses incurred in
9 performing the official duties of office.

10 (d) The committee shall select members eligible under
11 Section 39.151 to serve on the governing body of an independent
12 organization certified under that section for the ERCOT power
13 region and shall designate the chair and vice chair of the governing
14 body from those members.

15 (e) The ERCOT board selection committee shall retain an
16 outside consulting firm to help select members of the governing
17 body under Subsection (d).

18 SECTION 5. An independent organization certified under
19 Section 39.151, Utilities Code, by the Public Utility Commission of
20 Texas before September 1, 2021, shall modify the organization to
21 comply with Section 39.151, Utilities Code, as amended by this Act.
22 After September 1, 2021, the Public Utility Commission of Texas may
23 decertify an independent organization that does not comply with
24 Section 39.151, Utilities Code, as amended by this Act.

25 SECTION 6. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

S.B. No. 2

1 Act does not receive the vote necessary for immediate effect, this
2 Act takes effect September 1, 2021.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 2 passed the Senate on April 14, 2021, by the following vote: Yeas 30, Nays 1; May 27, 2021, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 28, 2021, House granted request of the Senate; May 30, 2021, Senate adopted Conference Committee Report by the following vote: Yeas 27, Nays 4.

Secretary of the Senate

I hereby certify that S.B. No. 2 passed the House, with amendments, on May 24, 2021, by the following vote: Yeas 142, Nays 1, one present not voting; May 28, 2021, House granted request of the Senate for appointment of Conference Committee; May 30, 2021, House adopted Conference Committee Report by the following vote: Yeas 132, Nays 5, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor