

BILL ANALYSIS

C.S.H.B. 1777
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Regulated Industries
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The 64th Legislature enacted the Public Utility Regulatory Act (PURA) and created the Public Utility Commission (PUC) of Texas to, among other things, regulate the rates and services of electric utilities. In 1999, the 76th Legislature passed a landmark electric utility deregulation statute that has spurred growth in the electric industry in Texas, which is still in transition and evolving under that framework. As the electric industry has evolved it has become evident that certain changes are necessary to keep the deregulation on track and to improve the efficiency, oversight and management of a reliable and vibrant electric market in Texas. This bill encompasses those proposed changes as recommended by numerous consumer advocates, market participants, and executive branch agencies.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking is expressly granted to the Public Utility Commission of Texas in SECTIONS 7, 9, 10, and 13 of this bill.

ANALYSIS

The bill would amend numerous sections of the Utilities Code with regard to the electric power market, as well as certain administrative provisions.

Section 15.024(c), Utilities Code is reenacted to preclude the assessment of a penalty by the PUC if a violation of the Utilities Code is corrected before the 31st day after receiving notice of the violation, except for a violation of customer protection provisions listed in of Chapters 42, 55, or 64.

The bill would transfer Chapter 17 to Subtitle B, Title 2 of the Utilities Code (consumer protection provisions), and redesignated it as Chapter 42. All references to telecommunications are deleted throughout the chapter, which establishes retail customer protection standards covering the sale of electric services. Additionally, a provision regarding complaints about recreational vehicle park owners has been added to the consumer protections of Chapter 42.

Costs incurred by a municipality during a ratemaking proceeding must be "necessary" in addition to reasonable, in order for the municipality to recover the costs from the utility under a new provision added by this bill. Additionally, a new provision is added to the Utilities Code that will permit utilities that are outside of the Electric Reliability Council of Texas (ERCOT) region, except those in the Southeastern Electric Reliability Council, to periodically recover transmission infrastructure improvement costs under a mechanism established by the PUC.

The bill would require the PUC, as necessary and appropriate, to adopt and enforce rules, rather than implement standards. It would also require the PUC to ensure service quality and reliability relating to electric delivery to all customers, rather than only retail customers.

Accountability of an independent organization to the PUC is clarified under this bill. Specifically, certified independent organizations would be required to cooperate fully with the PUC in their oversight and investigatory functions and the independent organizations' procedures would be subject to commission approval. The PUC would have the authority to decertify an independent organization if it does not adequately perform its functions or duties or does not otherwise comply with the governing statutes.

With regard to the ERCOT board, the bill adds two members, increasing the size to sixteen members, five of which would be independent members. The five independent members would be selected by the board and serve three-year terms; the six market participants would be elected by their respective market segments to serve one-year terms; one member representing industrial consumer interests would be elected by the respective market segment to serve a one-year term; and one member representing large commercial consumer interests would be selected by the respective outgoing member to serve a one-year term. Additionally, ERCOT will be required to have rules and bylaws which ensure open public meetings and seven days advanced notice of meetings.

ERCOT will be required to contract with an independent market monitor (IMM), selected by the PUC, to monitor the state's wholesale electric market and to detect and prevent market manipulation activities. The guidelines for interaction between the IMM and the PUC and ERCOT are also outlined in the bill.

The bill adds a new Subchapter K to the Utilities Code to address the transition to competition for certain areas outside of ERCOT. The new subchapter applies to any multistate electric utility operating solely outside of ERCOT and serving customers in the Western Electric Coordinating Council. The subchapter specifically outlines cost-of-service regulation and the transition to competition for the utilities that are affected.

The bill allows the commission to use the system benefits fund for its intended purposes and for the education of residential and small business customers of the available benefits from the fund. A goal of 95% enrollment of eligible customers under the system benefits fund is established along with guidelines on what the commission must do if the goal is not met. Furthermore, system benefit funds would now be available to those receiving federal housing assistance or have children enrolled in the national school lunch program of free or reduced-price lunches.

Finally, the bill would include the gasification of municipal solid waste as part of the definition of renewable energy technology. A definition of municipal solid waste is also added.

EFFECTIVE DATE

This Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The original version of H.B. 1777 included a provision that allowed the PUC to suspend competition due a catastrophic event. That provision has been removed. The substitute also removes a provision that was included in the original bill that addressed the make up of the ERCOT board structure and included a specific voting strength assignment for various members of the board.

The new Subchapter K for a transition to competition for areas outside ERCOT and the language regarding recovery of transmission infrastructure costs for areas outside ERCOT were not in the original H.B. 1777.

Rulemaking authority for the PUC governing the activities of the independent market monitor was enhanced in the substitute to broaden that authority.