

BILL ANALYSIS

C.S.H.B. 1463
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State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

During recent hurricanes, some areas of Texas far-removed from any storm damage still suffered prolonged periods without electrical power. In some of these areas, nearby electricity providers potentially could have provided temporary relief to those customers affected by power outages. However, regulatory issues precluded such assistance.

C.S.H.B. 1463 authorizes the Public Utility Commission of Texas to order an electric utility, municipally owned utility, electric cooperative, qualifying facility, power generation company, exempt wholesale generator, power marketer, or retail electric provider to provide interconnection service to another electric utility, municipally owned utility, electric cooperative, or retail electric provider to facilitate the sale of electricity to affected customers. The bill addresses the manner in which the provider of temporary relief to electrical customers of another entity during an emergency is authorized to recover associated costs.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1463 amends the Utilities Code to authorize the Public Utility Commission of Texas (PUC), on a declaration of a natural disaster or other emergency by the governor, to require an electric utility, municipally owned utility, electric cooperative, qualifying facility, power generation company, exempt wholesale generator, power marketer, or retail electric provider to sell electricity to an electric utility, municipally owned utility, electric cooperative, or retail electric provider that is unable to supply power to meet customer demand due to a natural disaster or other emergency. The bill specifies that any plant, property, equipment, or other items used to receive or deliver electricity under the bill's provisions are used and useful in delivering service to the public, and requires the PUC to allow timely recovery for the costs of those items. The bill authorizes the PUC to order an electric utility, municipally owned utility, or electric cooperative to provide interconnection service to another electric utility, municipally owned utility, or electric cooperative to facilitate a sale of electricity to address such a situation. The bill requires the PUC, if the PUC does not order the sale of electricity during a declared emergency as described by the bill's provisions, to promptly submit to the legislature a report describing the reasons why the PUC did not make that order. The bill requires an entity that receives the electricity to reimburse the supplying entity for the actual cost of providing the electricity. The bill makes the entity receiving the electricity responsible for any transmission and distribution service charges specifically incurred in relation to the provision of the electricity. The bill authorizes an entity that pays for the received electricity and is regulated by the PUC to fully recover the cost of the electricity in a timely manner by including the cost of the entity's fuel cost under provisions relating to fuel cost recovery and adjustment of the fuel factor, or, notwithstanding provisions prohibiting an automatic rate adjustment, by imposing a different surcharge.

C.S.H.B. 1463 requires the PUC, not later than November 1, 2009, to conduct and complete a study to evaluate the locations in Texas that are most likely to experience a natural disaster or other emergency, the ability of an applicable entity to comply with the bill's provisions in the event of a natural disaster or other emergency, and any steps such an entity should take to prepare to comply with the bill's provisions. The bill requires such an entity to comply with any order issued by the PUC under the bill's provisions while the study is conducted. The bill requires the PUC to prepare a report based on the study including any recommendations the PUC considers advisable in relation to the implementation of and compliance with the bill's provisions. The bill authorizes the PUC to include the report in its required report to the legislature on the scope of competition in electric markets.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1463 adds provisions not in the original to add a qualifying facility, power generation company, exempt wholesale generator, and power marketer to the entities PUC is authorized to require to sell electricity to another entity and to condition that requirement on the other entity's inability to supply power to meet customer demand and on a declaration by the governor of a natural disaster or other emergency. The substitute adds a provision not in the original specifying that any plant, property, equipment, or other items used to receive or deliver electricity are used and useful in delivering service to the public, and requiring the PUC to allow timely recovery for the costs of those items. The substitute adds a provision not in the original to require the PUC, if the PUC does not order the sale of electricity during a declared emergency, to promptly submit to the legislature a report describing the reasons why the PUC did not make that order. The substitute differs from the original by requiring an entity that receives electricity under the substitute's provisions to reimburse the supplying entity for the actual cost of providing the electricity, rather than according to the rates or prices charged by the supplying entity during the supplying entity's most recent full billing cycle as in the original. The substitute adds language not in the original to specify that the authorization to fully recover the cost of electricity applies to an entity that is regulated by the commission. The substitute differs from the original by authorizing an entity that reimburses a supplying entity to fully recover the cost of the electricity in a timely manner by including the cost of the entity's fuel cost under provisions relating to adjustment of the fuel factor, or by imposing a different surcharge, whereas the original authorizes an entity to fully recover from the entity's customers the cost of electricity and any associated transmission and distribution costs. The substitute adds provisions not in the original relating to a study and report the PUC is required to complete and submit to the legislature. The substitute differs from the original by making its effective date immediate on passage, or September 1, 2009, if it does not receive the necessary vote, whereas the original is effective September 1, 2009.