

## **BILL ANALYSIS**

Senate Research Center

S.B. 1772

By: Fraser

Business & Commerce

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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Under current statute, the Public Utility Commission of Texas (PUC) is required to monitor market power associated with the generation, transmission, distribution, and sale of electricity in this state. Market power abuses are practices by persons possessing market power that are unreasonably discriminatory or tend to unreasonably restrict, impair, or reduce the level of competition. Upon discovery that a case of market power abuse has occurred, PUC must require mitigation of the market power. There are a number of actions PUC is authorized to take to achieve this.

As proposed, S.B. 1772 amends Section 39.003 (Contest Cases), Utilities Code, to allow any affected party to file a case for restitution under Section 39.157(a), and also grants any affected party the right to intervene in proceedings involving market power abuse. In addition to mitigating cases of market power abuse presently occurring, S.B. 1772 also requires PUC to mitigate market power abuses that have occurred in the past. PUC must require reasonable mitigation of the market power via any combination of a number of actions. S.B. 1772 adds ordering restitution to those parties affected by the market power abuse to possible actions PUC is authorized to take in response to a case of market power abuse.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 39.003, Utilities Code, as follows:

Sec. 39.003. CONTESTED CASES. Requires each Public Utility Commission of Texas (PUC) proceeding under this chapter, other than a rulemaking proceeding, report, notification, or registration, unless specifically provided otherwise, to be conducted as a contested case and the burden of proof is on the incumbent electric utility. Authorizes any affected party to file a case for restitution under Section 39.157(a). Requires any affected party, in any proceeding involving market power abuse, to be granted the right to intervene.

SECTION 2. Amends Section 39.157(a), Utilities Code, to require PUC to monitor market power associated with the generation, transmission, distribution, and sale of electricity in this state. Requires PUC to require, on a finding that market power abuses or other violations of this section have occurred or are occurring, reasonable mitigation of the market power by any combination of the following actions: ordering the construction of additional transmission or distribution facilities; seeking, rather than by seeking, an injunction or civil penalties as necessary to eliminate or to remedy the market power abuse or violation as authorized by Chapter 15 (Judicial Review, Enforcement, and Penalties); imposing, rather than by imposing, an administrative penalty as authorized by Chapter 15; ordering restitution to those parties affected by the market power abuse; or suspending, rather than by suspending, revoking, or amending a certificate or registration as authorized by Section 39.356 (Revocation of Certification).

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: upon passage or September 1, 2009.