

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 21, 2009

TO: Honorable Burt R. Solomons, Chair, House Committee on State Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: SB1772 by Fraser (Relating to the authority of the Public Utility Commission of Texas to address market power abuse, including the right to order restitution for violations.),
Committee Report 2nd House, Substituted

Estimated Two-year Net Impact to General Revenue Related Funds for SB1772, Committee Report 2nd House, Substituted: a negative impact of (\$4,000,000) through the biennium ending August 31, 2011.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	(\$2,000,000)
2011	(\$2,000,000)
2012	(\$2,000,000)
2013	(\$2,000,000)
2014	(\$2,000,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1
2010	(\$2,000,000)
2011	(\$2,000,000)
2012	(\$2,000,000)
2013	(\$2,000,000)
2014	(\$2,000,000)

Fiscal Analysis

The bill would amend the options the Public Utility Commission (PUC) has to address violations and market power abuses that have occurred or are occurring, including ordering the construction of additional transmission or distribution facilities, seeking an injunction or civil penalties, imposing an administrative penalty, ordering refunds to affected parties, or suspending, revoking, or amending a certificate or registration. The bill would also require the PUC to permit the Office of Public Utility Counsel to participate in enforcement proceedings regarding alleged market power abuses or manipulation.

The bill would require the PUC to contract with an entity selected by the Commission to act as a retail electric market monitor to detect and prevent market power abuse or manipulation strategies, unfair, misleading, or deceptive practices, and to recommend measures to enhance the efficiency of the retail market. The bill would require the PUC to ensure the retail market monitor has the resource, expertise, and authority necessary to monitor the retail electric market effectively. The bill would require the PUC to perform oversight of the retail market monitor. The PUC would be required to adopt rules regarding to define the monitoring responsibilities, standards of funding, personnel qualifications, and ethical standards of the retail market monitor. The bill would direct the PUC to consult with a subcommittee of the governing body of the Electric Reliability Council of Texas (ERCOT) regarding how money should be spent for market monitoring. The bill would require the retail market monitor to submit annually to the commission a report that identifies market design flaws and recommends methods to correct the flaws. The bill would require the PUC to evaluate whether rule changes should be made and to investigate whether a retail electric provider is abusing market power upon a report from the retail market monitor of any potential market manipulations or discovered or potential violations of rules. The bill would authorize the PUC to assess administrative penalties for any retail electric market violations.

The PUC would be required to adopt rules to implement the provisions of the bill as quickly as practicable.

The bill would take effect immediately if it receives a vote of two-thirds of all the members elected to each house. If not, the bill would take effect September 1, 2009.

Methodology

The PUC anticipates conducting a medium rulemaking proceeding to adopt new rules to implement the provisions of the bill. The PUC would utilize existing staff and resources to conduct the rulemaking.

Based on the analysis of the PUC, the estimated cost of contracting out for a retail market monitor would be \$2 million each fiscal year. This cost estimate is based on the current costs of the wholesale market monitoring performed by ERCOT, which is currently \$2.5 million each fiscal year and funded through a fee rate authorized by Section 39.151(e), Utilities Code. Based on the analysis of the PUC, it is assumed the retail market monitoring costs would be less than the wholesale market monitoring costs. In the absence of funding mechanism specifications in the bill, it is assumed the costs of the PUC contracting for a retail market monitor would be funded by General Revenue.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 473 Public Utility Commission of Texas

LBB Staff: JOB, KJG, MW, ES, JRO