

BILL ANALYSIS

C.S.H.B. 2264
By: Ritter
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, several operating companies coordinate with each other with regard to certain proceedings before the Federal Energy Regulatory Commission (FERC). There is concern that the coordination agreement among the operating companies is likely to break down in the near future. In the absence of such an agreement, it has been suggested that the Public Utility Commission of Texas (PUC) should represent Texas electric utility interests in such proceedings. C.S.H.B. 2264 seeks to address these issues by establishing the authority of the PUC regarding an electric utility's membership in or control by a regional transmission organization or independent system operator and to participate in certain proceedings before FERC.

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. 2264 amends the Utilities Code to add a temporary provision, set to expire December 31, 2017, authorizing the Public Utility Commission of Texas (PUC) to retain any consultant, accountant, auditor, engineer, or attorney that the PUC considers necessary to represent the PUC in a proceeding before the Federal Energy Regulatory Commission, or before a court reviewing proceedings of that federal commission, related to the relationship of an investor-owned electric utility operating solely outside of the Electric Reliability Council of Texas in areas of Texas that were included in the Southeastern Electric Reliability Council on January 1, 2005, to a power region, regional transmission organization, or independent system operator or related to the approval of an agreement among the electric utility and the electric utility's affiliates concerning the coordination of the operations of the electric utility and the electric utility's affiliates. The bill authorizes the assistance for which a consultant, accountant, auditor, engineer, or attorney may be retained in such a proceeding to include conducting a study, conducting an investigation, presenting evidence, advising the PUC, or representing the PUC.

C.S.H.B. 2264 requires the electric utility to pay timely the reasonable costs of the services of a person who provides such assistance, as determined by the PUC, and prohibits the total costs an electric utility is required to pay from exceeding \$1.5 million in a 12-month period. The bill requires the PUC to allow the electric utility to recover both the total costs the electric utility paid for such services and the carrying charges for those costs through a rider established annually to recover the costs paid and carrying charges incurred during the preceding calendar year. The bill prohibits the rider from being implemented before the rider is reviewed and approved by the PUC.

C.S.H.B. 2264 requires the PUC to consult the attorney general before the PUC retains a consultant, accountant, auditor, or engineer to provide the assistance. The bill makes the retention of an attorney under the bill's provisions subject to the approval of the attorney general

as required by provisions of law relating to the provision of legal services by outside counsel.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2264 omits a temporary provision included in the original authorizing the Public Utility Commission of Texas (PUC) to order an applicable investor-owned electric utility to interact with, join, or submit to the operational control of a regional transmission organization or independent system operator.

C.S.H.B. 2264 differs from the original by requiring the electric utility involved in certain proceedings to pay timely the reasonable costs of services provided by a consultant, accountant, auditor, engineer, or attorney as determined by the PUC, whereas the original requires the electric utility to reimburse the PUC for the reasonable costs of those services.

C.S.H.B. 2264 differs from the original by prohibiting the required rider through which the electric utility recovers certain costs and charges from being implemented before the rider is reviewed and approved by the PUC, whereas the original contains no such prohibition. The substitute differs from the original in nonsubstantive ways.