

By: Hancock

S.B. No. 1358

A BILL TO BE ENTITLED

AN ACT

relating to procedures for imposing certain administrative penalties or disgorgement orders by the Public Utility Commission of Texas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 15.024, Utilities Code, is amended by amending Subsections (b), (e), and (f) and adding Subsection (b-1) to read as follows:

(b) Not later than the 14th day after the date the report is issued, the executive director shall give written notice of the report to the person against whom the penalty may be assessed. The notice may be given by regular or certified mail. The notice must:

- (1) include a brief summary of the alleged violation;
- (2) state the amount of the recommended penalty; and
- (3) inform the person that the person has a right to a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(b-1) If the commission sends written notice to a person by mail addressed to the person's mailing address as maintained in the commission's records, the person is deemed to have received notice:

- (1) on the fifth day after the date that the commission sent the written notice, for notice sent by regular mail; or
- (2) on the date the written notice is received or

1 delivery is refused, for notice sent by certified mail.

2 (e) If the person accepts the executive director's
3 determination and recommended penalty or fails to timely respond to
4 the notice, the commission by order shall approve the determination
5 and impose the recommended penalty or order a hearing on the
6 determination and the recommended penalty.

7 (f) If the person requests a hearing or the commission
8 orders a hearing under Subsection (e) [~~fails to timely respond to~~
9 ~~the notice~~], the commission [~~executive director~~] shall refer the
10 matter to the State Office of Administrative Hearings for [~~set~~] a
11 hearing and give notice of the referral [~~hearing~~] to the person.
12 The parties to a proceeding under this subchapter shall be limited
13 to the person and the commission, including the independent market
14 monitor. The hearing shall be held by an administrative law judge
15 of the State Office of Administrative Hearings and notice of the
16 hearing must be provided in accordance with Chapter 2001,
17 Government Code. The administrative law judge shall make findings
18 of fact and conclusions of law and promptly issue to the commission
19 a proposal for a decision about the occurrence of the violation and
20 the amount of a proposed penalty. Based on the findings of fact,
21 conclusions of law, and proposal for a decision, the commission by
22 order may find that a violation has occurred and impose a penalty or
23 disgorgement order or may find that no violation occurred.

24 SECTION 2. The changes in law made by this Act apply only to
25 the procedures for an administrative penalty or disgorgement order
26 for which a written notice is given under Section 15.024(b),
27 Utilities Code, on or after the effective date of this Act. Those

1 procedures for a penalty or order for which a written notice is
2 given before the effective date of this Act are governed by the law
3 in effect on the date the notice is given, and the former law is
4 continued in effect for that purpose.

5 SECTION 3. This Act takes effect September 1, 2019.