

BILL ANALYSIS

Senate Research Center

S.B. 1094
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Non-ERCOT utilities serve their customers using an economic combination of owned generation and electric energy purchased from third-party generators through purchased power agreements (PPAs).

PPAs guarantee utility payments to the third-party provider, but utilities are not guaranteed to collect funds to support those payments. The third parties are able to use the utility guarantee with their financial backers to get low-cost financing for their competitive projects. This essentially transfers all risk to the utility's balance sheet, negatively impacts the utility's credit rating, and grants an inadvertent advantage to the use of PPAs. While utilities are not guaranteed cost recovery, they are also prohibited from earning a return on PPAs. This process results in utilities subsidizing competitive projects.

While current law grants the Public Utility Commission of Texas (PUC) the option to include a "mark-up" on PPAs, it may only do so when the utility's financial integrity is threatened. S.B. 1094 requires the PUC to include a mark-up on PPA's sufficient to ensure the utility has no economic disincentive to relying on purchased power.

(Original Author's/Sponsor's Statement of Intent)

S.B. 1094 amends current law relating to purchased power costs incurred by electric utilities.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 1 (Section 36.205, Utilities Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 36.205, Utilities Code, by adding Subsection (e), as follows:

(e) Authorizes an electric utility, notwithstanding Subsection (a) (relating to providing that Section 36.205 (Purchased Power Cost Recovery) applies only to certain increases or decreases in the cost of purchased electricity) to apply to the Public Utility Commission of Texas (PUC) for review and approval of an agreement between the electric utility and another person for the purchase of power by the electric utility if approval by the PUC is a pre-condition to the effectiveness of the electric utility's right or obligation to purchase power under the agreement. Provides that this subsection applies only to an agreement with a term of three years or more. Requires the PUC by rule to implement this subsection consistent with the standards and procedures in the PUC's rules governing contested cases on certificates of convenience and necessity for generating facilities adopted under Sections 37.056 (Grant or Denial of Certificate) and 37.058 (Certificate and Determination Issued to Certain Non-ERCOT Utilities for Generating Facility). Provides that this subsection expires September 1, 2033.

SECTION 2. Effective date: September 1, 2023.