

Public Utility Agencies

Public Utility Commission of Texas Electric Reliability Council of Texas Office of Public Utility Counsel

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S.B. 661 Nichols (Solomons)

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Summary

The Public Utility Commission (PUC) oversees electric and telecommunications companies in Texas, including aspects of restructuring and deregulating major portions of electric and telecommunications markets. The Electric Reliability Council of Texas (ERCOT) manages the electric grid for most of Texas. ERCOT is primarily regulated by PUC and is governed by a 16-member Board of Directors as a nonprofit corporation. In 2009, the Legislature placed ERCOT under a one-time, special purpose Sunset review. The Office of Public Utility Counsel (OPUC), created by the Legislature in 1983, is an independent agency established to represent the interests of residential and small commercial customers in state electric and telecommunication utility matters.

The Sunset Commission recommended giving the agency better tools for oversight of the electric market, including increased penalties for violations that threaten the reliability of the electric grid and authority to require alleged violators to halt dangerous or damaging practices immediately. The Sunset Commission recommended strengthening PUC's oversight of ERCOT's budget and debt and providing greater independence on the ERCOT Board of Directors. The Sunset Commission also recommended that regulation of water and wastewater rates and services be transferred from the Texas Commission on Environmental Quality to PUC, and that the Office of Public Utility Counsel represent residential and small commercial interests in this regulatory area. These recommendations and others were incorporated into Senate Bill 661.

The bill passed by the Senate included all Sunset recommendations except provisions to streamline outdated telecommunication regulations, which were covered in similar provisions in Senate Bill 980. The Senate also added a provision ensuring that an electric market participant fined for a reliability-related violation by the federal government would not be fined for the same violation by PUC.

The House State Affairs Committee reported S.B. 661, keeping Senate language but making modifications related to the ERCOT Board and adding several new provisions. These provisions included giving PUC the authority to order disgorgement of all excess revenue resulting from violations related to the wholesale electric market; making it easier for persons to engage in "distributed renewable generation"; and creating an additional means for certain landowners not receiving water or sewer service to petition for expedited release from a certificate of convenience and necessity. However, S.B. 661 did not pass the House.

Although S.B. 661 failed passage, the Legislature adopted several Sunset Commission recommendations in other legislation, as described below.

Sunset Provisions Adopted in Other Legislation ---

Public Utility Commission

1. Continue the Public Utility Commission until 2013, and place the agency under a limited scope Sunset review in the 2012-13 biennium.

Senate Bill 652 continues PUC until 2013 and directs the Sunset Commission to assess the appropriateness of its recommendations to the 82nd Legislature and make any recommendations it considers appropriate to the 83rd Legislature in 2013. The Sunset Commission had recommended continuing PUC for 12 years.

2. Eliminate outdated and rarely used regulatory provisions related to the telecommunications industry.

Senate Bill 980 eliminates the requirement for PUC to approve customer-specific contracts, the requirement for telecommunications providers to file contracts for private networks with PUC, and the process for establishing new extended area service. These provisions essentially accomplish the same purpose as the Sunset Commission recommendations.

Electric Reliability Council of Texas

1. Require the Electric Reliability Council of Texas to be reviewed periodically under Sunset, concurrent with reviews of the Public Utility Commission.

Senate Bill 652 subjects ERCOT to periodic Sunset review, concurrent with reviews of PUC, as recommended by the Sunset Commission. The bill also contains a caveat that ERCOT will not be reviewed in the 2012-13 biennium when the Sunset Commission re-examines PUC.

Office of Public Utility Counsel

1. Continue the Office of Public Utility Council for 12 years.

Senate Bill 652 continues OPUC for the standard 12-year period, as recommended by the Sunset Commission.

Fiscal Implication Summary ---

None of these provisions will have a significant fiscal impact to the State.