

BILL ANALYSIS

S.B. 932
By: Fraser
State Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, Section 39.4525 of the Public Utility Regulatory Act (PURA) authorizes the Public Utility Commission of Texas (PUC) to use outside consultants, auditors, engineers, or attorneys to represent PUC in a “a proceeding before the Federal Energy Regulatory Commission” (FERC) for matters relating to Energy Texas. This authorization was specifically designed to address the “Entergy ITC” case that has been adjudicated before FERC starting in 2012. In this case PUC, representing rate payers in the non-ERCOT (Electric Reliability Council of Texas) areas of Texas and the public interest, petitioned FERC as an affected party in that case.

The authorizing provision, which includes a \$1.5 million expenditure limit, is set to expire in 2017. Currently, PUC is a party to 21 separate FERC proceedings related to Energy Texas, and anticipates that these proceedings and subsequent appellate actions will continue well beyond its current expiration date.

S.B. 932 extends and enhances PUC's ability to retain counsel at FERC.

As proposed, S.B. 932 amends current law relating to the authority of the Public Utility Commission of Texas to retain assistance for federal proceedings affecting certain electric utilities and consumers.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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

SECTION 1. Amends Subchapter I, Chapter 39, Utilities Code, by adding Section 39.408, as follows:

Sec. 39.408. HIRING ASSISTANCE FOR FEDERAL PROCEEDINGS. (a) Authorizes the Public Utility Commission of Texas (PUC) to retain any consultant, accountant, auditor, engineer, or attorney PUC considers necessary to represent PUC in a proceeding before the Federal Energy Regulatory Commission, or before a court reviewing proceedings of that federal commission, related to:

(1) the relationship of an electric utility subject to this subchapter to a power region, regional transmission organization, or independent system operator;

(2) 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; or

(3) other matters related to the electric utility subject to this subchapter that may affect the ultimate rates paid by retail customers in this state.

(b) Provides that assistance for which a consultant, accountant, auditor, engineer, or attorney may be retained under Subsection (a) may include conducting a study, conducting an investigation, presenting evidence, advising PUC, or representing PUC.

(c) Requires the electric utility to pay timely the reasonable costs of the services of a person retained under Subsection (a), as determined by PUC. Prohibits the total costs an electric utility is required to pay under this subsection from exceeding \$1.5 million in a 12-month period.

(d) Requires PUC to allow the electric utility to recover both the total costs the electric utility paid under Subsection (c) 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. Prohibits the rider from being implemented before the rider is reviewed and approved by PUC.

(e) Requires PUC to consult the attorney general of the State of Texas (attorney general) before PUC retains a consultant, accountant, auditor, or engineer under Subsection (a). Provides that the retention of an attorney under Subsection (a) is subject to the approval of the attorney general under Section 402.0212 (Provision of Legal Services--Outside Counsel), Government Code.

(f) Requires PUC to be precluded from engaging any individual who is required to register under Section 305.003 (Persons Required to Register), Government Code.

(g) Provides that this section expires September 1, 2023.

SECTION 2. Amends Section 39.4525, Utilities Code, by amending Subsections (a) and (g), as follows:

(a) Authorizes PUC to retain any consultant, accountant, auditor, engineer, or attorney PUC considers necessary to represent PUC in a proceeding before the Federal Energy Regulatory Commission, or before a court reviewing proceedings of that federal commission, related to:

(1) and (2) Makes nonsubstantive changes;

(3) other matters related to the electric utility subject to this subchapter that may affect the ultimate rates paid by retail customers in this state.

(g) Provides that this section expires September 1, 2023, rather than December 31, 2017.

SECTION 3. Amends Subchapter K, Chapter 39, Utilities Code, by adding Section 39.504, as follows:

Sec. 39.504. **HIRING ASSISTANCE FOR FEDERAL PROCEEDINGS** (a) Authorizes PUC to retain any consultant, accountant, auditor, engineer, or attorney PUC considers necessary to represent PUC in a proceeding before the Federal Energy Regulatory Commission, or before a court reviewing proceedings of that federal commission, related to:

(1) the relationship of an electric utility subject to this subchapter to a power region, regional transmission organization, or independent system operator;

(2) 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; or

(3) other matters related to the electric utility subject to this subchapter that may affect the ultimate rates paid by retail customers in this state.

(b) Provides that assistance for which a consultant, accountant, auditor, engineer, or attorney may be retained under Subsection (a) may include conducting a study, conducting an investigation, presenting evidence, advising PUC, or representing PUC.

(c) Requires the electric utility to pay timely the reasonable costs of the services of a person retained under Subsection (a), as determined by PUC. Prohibits the total costs an electric utility is required to pay under this subsection from exceeding \$1.5 million in a 12-month period.

(d) Requires PUC to allow the electric utility to recover both the total costs the electric utility paid under Subsection (c) 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. Prohibits the rider from being implemented before the rider is reviewed and approved by PUC.

(f) Requires PUC to be precluded from engaging any individual who is required to register under Section 305.003, Government Code.

(e) Requires PUC to consult the attorney general before PUC retains a consultant, accountant, auditor, or engineer under Subsection (a). Provides that the retention of an attorney under Subsection (a) is subject to the approval of the attorney general under Section 402.0212, Government Code.

(g) Provides that this section expires September 1, 2023.

EFFECTIVE DATE

September 1, 2015.