

SUBJECT: Changes to composition of ERCOT board

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 13 ayes — Solomons, Menendez, Craddick, Farabee, Gallego, Geren, Harless, Hilderbran, Jones, Maldonado, Oliveira, Swinford, S. Turner

0 nays

2 absent — Cook, Lucio

WITNESSES: For — Jim Boyle, Denton Municipal Electric, Greenville Electric Utility Service (GEUS); Jo Campbell, South Texas Electric Cooperative (STEC); Kristen Doyle, Cities Aggregation Power Project (CAPP), South Texas Aggregation Project (STAP), Texas Coalition of Cities for Utility Issues (TCCFUI), Steering Committee of Cities Served by Oncor; John W Fainter Jr., Association of Electric Companies of Texas, Inc; (*Registered, but did not testify*: Carol Biedrzycki, Texas ROSE (Ratepayers Organization to Save Energy); Karen Hadden, Sustainable Energy and Economic Development (SEED) Coalition; Tom “Smitty” Smith, Public Citizen)

Against — Marianne Carroll, Texas Competitive Power Advocates; Stephen Davis, Alliance for Retail Markets; Robert Webb; Catherine Webking, Texas Energy Association for Marketers (TEAM); (*Registered, but did not testify*: Brad Jones, Luminant)

On — Luke Bellsnyder, Texas Association of Manufacturers; Mark Zion, Texas Public Power Association (TPPA)

BACKGROUND: The Electric Reliability Council of Texas (ERCOT) is an independent non-profit organization serving as system operator to ensure nondiscriminatory access to transmission and distribution facilities for all buyers and sellers of electricity. ERCOT manages the flow of electric power to 21 million Texas customers, ensuring that electricity is transmitted reliably, adequately, and safely. ERCOT also schedules power on an electric grid that connects 38,000 miles of transmission lines and more than 550 generation units. ERCOT is responsible for administering changes of providers or service plans for 6 million Texans in competitive

choice areas of the state and for overseeing the accurate accounting of wholesale market transactions.

ERCOT is subject to oversight by the Public Utility Commission (PUC) and the Texas Legislature and is governed by a board of directors who represent sectors of the electric industry, including power generation, transmission, and distribution, retail and wholesale marketing, and retail customers.

The current composition of the ERCOT board includes the following:

- the chairman of the PUC as an ex officio nonvoting member;
- the public utility counsellor as an ex officio voting member representing residential and small commercial consumer interests;
- the chief executive officer of ERCOT as an ex officio voting member;
- six electric industry market participants;
- one industrial consumer member;
- one large commercial consumer member; and
- five unaffiliated/independent members.

DIGEST:

CSHB 2421 would amend the Utilities Code by making the following changes to the composition of the ERCOT board:

- removing the six electric industry market participants;
- adding all three PUC commissioners rather than only the chairman; and
- increasing the unaffiliated/independent members from five to nine.

CSHB 2421 would require ERCOT to make the changes to the board by September 1, 2010, and would allow decertification by the PUC for noncompliance.

The bill would take effect September 1, 2009.

**SUPPORTERS
SAY:**

The ERCOT board currently is stacked with members that have a direct interest in the market price of electricity and can overwhelm the consumer's voice. An independent board, rather than one dominated by the industry, is needed to review and manage the state's electricity grid.

CSHB 2421 would eliminate the six electric industry representatives and replace them with four independent members who are unaffiliated with electric companies, plus the two PUC commissioners. This change would help ensure a truly independent board and would lend it more credibility.

Concerns that removing the electric industry market participants from the board would remove the benefit of technical and market knowledge are unfounded. Any technical expertise that may be lacking could be attained with staff and the use of advisory committees.

**OPPONENTS
SAY:**

The current composition of the ERCOT board should be retained. The board is not stacked in favor of the industry — in fact, as the board currently is structured, the consumer representatives and independent board members hold a majority of the voting members. The board's current structure has worked very well for ERCOT and has helped create one of the nation's best markets for competition.

CSHB 2421 would remove from the ERCOT board electric industry experts who are active participants in the ERCOT market. These expert members help the grid work more efficiently, help build consensus, and help ensure the reliable delivery of electricity to Texas residents.

Removing the electric industry experts from ERCOT would be the equivalent of taking doctors off the Board of Medical Examiners — removing experts who know the issues and are significantly impacted by board decisions. Without the benefit of the technical and market knowledge of the excluded electric industry market participants, ERCOT would have to increase its staff to acquire and access this knowledge internally.

NOTES:

The committee substitute is a legislative council draft and made nonsubstantive language and technical renumbering changes.

A similar bill, SB 1700 by Fraser, has been referred to the Senate Business and Commerce Committee.

In 2004, the Sunset Advisory Commission recommended to the 79th Legislature that the ERCOT board be changed to a nine-member

independent board. SB 408 by Nelson, enacted by the 79th Legislature, modified the board and established its current composition.