

BILL ANALYSIS

Senate Research Center
82R17441 JJT-F

C.S.S.B. 1153
By: Williams
Business & Commerce
3/30/2011
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, Entergy Texas, Inc. (ETI) is one of six operating companies within the Entergy system. These operating companies include Entergy Arkansas, Inc. (EAI), Entergy Louisiana LLC, Entergy Gulf States Louisiana LLC, Entergy Mississippi, Inc. (EMI), and Entergy New Orleans, Inc. Texas, Louisiana, Arkansas, and Mississippi, and the city of New Orleans all set standards of service and retail rates, while the Federal Energy Regulatory Commission (FERC) regulates Entergy's wholesale power agreements and access to Entergy's transmission system.

The Entergy Regional State Committee was formed in 2009, and is comprised of the Arkansas Public Service Commission, the Louisiana Public Service Commission, the Mississippi Public Services Commission, the Public Utility Commission of Texas (PUC), and the New Orleans City Council. All of the operating companies operate under the Entergy System Agreement (ESA). EAI and EMI have each given the required 96-month notice of their respective intent to withdraw from the ESA. EAI will exit in December 2013, and EMI will exit in November 2015.

Since it is likely that a system agreement may not be met, it is necessary that PUC have proper representation in any proceedings related to this issue at FERC. This bill is consistent with the practice of other states, notably Arkansas and Louisiana. It would provide PUC with the ability to hire outside counsel, consultants, and experts with FERC expertise to represent PUC in FERC proceedings and to require ETI to reimburse PUC for its costs of participating, including any related court litigation. It will also provide PUC with the authority to order ETI into either a regional transmission operator or independent system operator. The bill has a cap on expenses of \$1.5 million per year for the expense of outside experts. A recovery rider process is provided to recoup the expense.

The hiring of these experts is subject to proper oversight from the Office of the Attorney General. These provisions will expire December 31, 2017.

C.S.S.B. 1153 amends current law relating to the authority of PUC to participate in certain proceedings before the Federal Energy Regulatory Commission.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter J, Chapter 39, Utilities Code, by adding Section 39.4525, as follows:

Sec. 39.4525. **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; or

(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.

(b) Authorizes assistance for which a consultant, accountant, auditor, engineer, or attorney may be retained under Subsection (a) to include:

(1) conducting a study;

(2) conducting an investigation;

(3) presenting evidence;

(4) advising PUC; or

(5) 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 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) Provides that this section expires December 31, 2017.

SECTION 2. Effective date: upon passage or September 1, 2011.