

BILL ANALYSIS

Senate Research Center
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S.B. 566
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 566 would give ratepayers in the City of Austin, including the State of Texas, the ability to appeal the rates set by the Austin City Council to the Public Utility Commission of Texas (PUC).

Utilities should be used to provide reliable, cost-effective electricity and water to Texans. Under current law, retail electric utility ratepayers have the ability to safeguard against unfair rates by appealing to PUC. However, interested parties contend that municipally owned utilities such as Austin Energy have no such recourse.

When Texas deregulated its electric market in the late 1990s and early 2000s, the legislature allowed municipally owned utilities to retain a captive retail rate base. Municipal utilities and the rates they charge were supposed to be regulated by their governing bodies rather than by the state. The thought was that these entities had some local accountability in place through independent boards or the city council. However, as a consequence of this structure ratepayers have no right to appeal their rates to anyone but the same city council that sets those rates.

To address this issue, S.B. 566 would give Austin Energy ratepayers the ability to appeal the rates set by the city council to PUC similar to every other ratepayer in the competitive regions of our state.

As proposed, S.B. 566 amends current law relating to electricity service provided by certain municipally owned utilities.

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 Chapter 32, Utilities Code, by adding Subchapter D, as follows:

SUBCHAPTER D. REVIEW OF RATES OF CERTAIN MUNICIPAL UTILITIES

Sec. 32.151. APPLICABILITY. Provides that this subchapter applies only to a municipally owned utility that provides service in the Capitol complex, as defined by Section 443.0071 (Review of Construction in Capitol Complex), Government Code.

Sec. 32.152. REVIEW OF RATES; CUSTOMER CHOICE. (a) Authorizes a retail customer or group of customers, notwithstanding any other law, to file a petition for a Public Utility Commission of Texas (PUC) review of current or proposed rates of a municipally owned utility that apply to the petitioning customer or group if the customer or group has a non-demand metered total usage of more than 100,000 kilowatt hours per year, or is served through a demand meter at secondary or primary voltage.

(b) Requires the PUC to initiate a proceeding not later than the 90th day after the petition is submitted to determine whether the rates of the municipally owned utility are consistent with the rates available to similarly situated customers in

areas of Texas that have access to customer choice. Requires the PUC to deny the petition if it determines that the rates of the municipally owned utility are consistent with the rates available to similarly situated customers in areas of Texas that have access to customer choice.

(c) Requires the municipally owned utility, not later than the 90th day after the date of the determination described by Subsection (b), if the PUC does not deny the petition under Subsection (b), to file a rate application with the PUC that complies in all material respects with the rules and forms prescribed by the PUC. Authorizes the PUC to extend the deadline for filing the rate application for good cause.

(d) Requires the PUC to conduct a full review of the rates applicable to the petitioning customer or group to determine whether those rates are just and reasonable using the standards prescribed by Chapter 36 (Rates), notwithstanding the lack of consistency between those rates and rates available to similarly situated customers in areas of Texas that have access to customer choice. Requires the PUC to deny the petition if it determines that the rates are just and reasonable. Requires the PUC, if it determines that the rates are not just and reasonable, to set rates for the petitioning customer or group that are just, reasonable, and consistent with the rates available to similarly situated customers in areas of Texas that have access to customer choice.

SECTION 2. Amends Section 40.004, Utilities Code, to provide that the PUC, except as specifically otherwise provided in Chapter 40 (Competition for Municipally Owned Utilities and River Authorities), has jurisdiction over municipally owned utilities for certain purposes, including to regulate rates under Subchapter D, Chapter 32 (Jurisdiction and Powers of Commission and Other Regulatory Authorities), subject to Section 40.051(c). Makes nonsubstantive changes.

SECTION 3. Amends Section 40.051(c), Utilities Code, to include Subchapter D, Chapter 32, amongst certain subchapters that do not apply to any action taken under this chapter after a decision to offer customer choice has been made.

SECTION 4. Effective date: September 1, 2021.