

Senate Business & Commerce Committee
October 15, 2013 Interim Hearing

Brandy D. Marty, Commissioner
Brian H. Lloyd, Executive Director
Public Utility Commission of Texas

Agency Update

Legislative Mandated Rulemakings

- **Project No.: 38533, HB 1600 (Cook, Sp: Nichols) “ERCOT Budget Process”**

House Bill 1600 (PUC Sunset) affirms the Public Utility Commission’s (PUC, the commission) authority to review and approve the budget, performance measures, and proposals for obtaining and re-financing debt of the Electric Reliability Council of Texas (ERCOT). The commission is further required to set and review a fee range for the system administration fee to responsibly fund ERCOT's budget.

Status: Commission staff is currently in the process of reviewing the 2014 and 2015 ERCOT budget with a public workshop scheduled for October 30, 2013. Additionally, commission staff is working to conform agency rules to the provisions HB 1600.

- **Project No.: 39492, SB 1040 (Taylor) “ADAD Amendments”**

Senate Bill 1040 defines “telephone solicitation” to mean an unsolicited call and expanded the list of exemptions for approved Automatic Dialing Announcing Device (ADAD) use to include a municipality delivering public health, safety and welfare information to its citizens, and an organization communicating with its members. Additionally, all ADAD provisions now apply to devices that are used to make a telephone call that “originates or terminates in this state.”

Status: Rules were approved by the commission for publication in Texas Register in Sept. 2013. Final rule adoption is planned for Dec. 2013.

- **Project No.: 41659, HB 1600 (Cook, Sp: Nichols) “Cease and Desist Authority”**

House Bill 1600 (PUC Sunset) authorizes the commission to issue emergency cease-and-desist orders to electric market participants in situations where the commission determines there is conduct that poses a threat to continuous and adequate electric service, is hazardous, creates an immediate danger to the public safety or is causing or can cause an immediate injury to a customer. Strict notice and hearing requirements for such orders are also provided.

Status: Rules were approved by the commission for publication in the Texas Register in Oct. 2013. Final rule adoption is planned for spring 2014.

- **Project No.: 41608, SB 583 (Carona) “USF Needs Test”**

Senate Bill 583 continues the phase down of support and rate-rebalancing for some telecommunication companies participating in the Texas High Cost Universal Service Plan (THCUSP) and Small and Rural ILEC Universal Service Plan (SRILEC USP).

Texas High Cost Universal Service Fund (Large Company Fund)

Companies receiving funds from the THCUSP are in the process of implementing USF support reductions as a result of the commission’s decision in Docket No. 40521. Senate Bill 583 requires a further reduction of support by 25% per year beginning September 1, 2017 unless a company can demonstrate financial need for higher support amounts. However, the amount of support cannot exceed what the companies receive as of December 31, 2016. The commission is currently developing the criteria for a showing of financial need in Project No. 41608.

Senate Bill 583 does not affect the total elimination of TUSF support elected by AT&T and Verizon in Project No. 39937.

Small and Rural ILEC Universal Service Fund (Small Company Fund)

Some companies receiving funds from the SRILEC USP are in the process of implementing USF support reductions as a result of the commission’s decision in Docket No. 41097.¹ Companies currently receiving support from the SRILEC USP will be subject to a similar reduction plan and corresponding financial needs test, but the reductions for this plan will begin on September 1, 2018. Senate Bill 583 similarly caps the amount of support that SRILEC USP companies may receive upon a showing of financial need at a level no greater than their support levels as of December 31, 2017.

For companies smaller than 31,000 access lines, SB 583 continues the methodology outlined in HB 2603 (82nd Legislature) that provides for an annual increase in support at the Consumer Price Index until September 1, 2017.

Status: Commission staff is currently meeting with stakeholders and drafting proposed rules to specify the standard for showing financial need. Rule adoption is planned for April 2014.

- **Project No.: 41609, SB 259 (Williams) & SB 583 (Carona) “Telecom Language Conforming Rule”**

Senate Bill 259 clarifies the scope of the commission’s authority with respect to nondominant carriers, deregulated companies and transitioning companies. The legislation reduces the Commission’s authority over such carriers and provides them additional flexibility with respect to pricing residential services.

Project No. 41609 will conform commission rules to recently passed legislation.

Status: Proposed rules are expected to be submitted for commission approval for publication in the Texas Register at a Nov. 2013 open meeting. Rule adoption is planned for March 2014.

¹ CenturyLink has raised an issue as to the applicability of the rate-rebalancing provisions adopted by the Commission to its companies because of their status as companies electing incentive rate regulation under Chapter 59 of the Public Utility Regulatory Act.

- **Project No.: 41612, SB 1600 (Cook, Sp: Nichols) “SPCOA Registration”**

House Bill 1600 (PUC Sunset) requires the commission to adopt rules providing for the renewal of registrations or certificates for holders of a Certificate of Operating Authority and holders of a Service Provider Certificate of Operating Authority. The bill repeals Section 64.003 of the Utilities Code, which contains requirements for the commission to promote customer awareness of changes in the telecommunications market.

Status: Rules were approved by the commission for publication in the Texas Register in Oct. 2013. Final rule adoption is planned for April 2014.

- **Project No.: 41613, SB 981 (Van de Putte) “Bill Payment Assistance for Burned Veterans”**

Senate Bill 981 allows an electric utility, retail electric provider, electric co-op or municipally owned electric utility to establish a Burned Veterans Assistance Program and provides specific cost recovery where applicable.

Status: Rules were approved by the commission for publication in the Texas Register in Sept. 2013. Final rule adoption is planned for Dec. 2013.

- **Project No.: 41614, HB 1772 (Chris Turner, Sp: Wendy Davis) “Notices of Disconnection for Non-Submetered Master-Metered Properties”**

House Bill 1772 requires a notice of disconnection to be sent to customers and tenants of a non-submetered master metered property prior to any disconnection of electric service. The commission is required by rule to develop a mechanism by which a municipality may designate its representative to receive from a REP or utility notice of disconnection of electric service to non-submetered master-meter multifamily properties.

Status: Rules were approved by the commission for publication in the Texas Register in Aug. 2013. Final rule adoption is planned for Nov. 2013.

- **Project No.: 41747, HB 994 (Bonnen, Sp: Hegar) “Decommissioning Rule”**

House Bill 994 changes and expands the time period that allows new nuclear plants to utilize the decommissioning funding mechanisms set forth in PURA 39.206.

Status: Rules were approved by the commission for publication in the Texas Register for Sept. 2013. Final rule adoption is planned for early 2014.

Other Notable Legislation

- **HB 7 (Darby, Sp. Williams) “System Benefit Fund”**

House Bill 7 amends the Utilities Code to eliminate the nonbypassable fee that finances the System Benefit Fund (SBF). The bill directs that the balance of the SBF be spent to provide reductions in electricity rates for low-income customers. For FY 2014, eligible customers will receive a reduction not to exceed 82% and reductions not to exceed 15% in FY 2015 and 2016.

Statutes governing the SBF expire September 1, 2016.

Update: The commission eliminated the SBF fee effective Sept. 1, 2013 and set the low-income discount at 82% for Sept. 2013 (the first month of FY2014).

- **HB 1600 (Cook, Sp. Nichols)/SB 567 (Watson) “Water Transfer”**

House Bill 1600 (PUC Sunset) and SB 567 transfer responsibility for the economic regulation of water and wastewater rates, services, and certificates of convenience and necessity from the Texas Commission on Environmental Quality (TCEQ) to the commission, effective September 1, 2014. The bill requires the commission and TCEQ to enter into a memorandum of understanding (MOU) by August 1, 2014, to identify in detail the applicable powers and duties that are transferred and establish a plan for the execution of the transfer.

The bills further create three classes of water utilities based on the number of taps or connections and establish a different rate review procedure for each class. The commission will adopt rules, policies, and procedures to implement the modified ratemaking process no later than September 1, 2015.

Update: Commission Staff continues to meet with TCEQ and both agencies have begun the process of drafting the MOU.

- **SB 512 (Carona) “STAP Transfer”**

Senate Bill 512 transferred the Specialized Telecommunications Assistance Program (STAP) from the commission to the Department of Assistive and Rehabilitative Services (DARS).

Update: The STAP program was transferred to DARS on September 1, 2013.

- **SB 662 (Carona) “Drought Preparedness Council”**

Senate Bill 662 added the commission and ERCOT to the drought preparedness council. This bill will improve coordination and communication on drought-related issues between the relevant state agencies.

Update: The commission and ERCOT have designated appointees to the council.

- **SB 809 (Carona) “911 Fee Review”**

Senate Bill 809 removed commission involvement in the monitoring of the emergency service fees and equalization surcharges (both related to 911 services).