

SUBJECT: Deregulation of electric cooperatives rate increases

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 12 ayes — Seidlits, Alvarado, Black, Bosse, Carter, Craddick, Hilbert, Hochberg, B. Hunter, McCall, Ramsay, Wolens

0 nays

1 present, not voting — S. Turner

2 absent — Danburg, D. Jones

SENATE VOTE: On final passage, April 4 — 30-0

WITNESSES: (*On House companion, HB 1820 by Duncan*):

For — Jim Morris, Texas Electric Cooperatives, Inc.

Against — None

BACKGROUND: Electric cooperatives (co-ops) are nonprofit companies owned by their customers. Co-ops are considered utilities by the Public Utility Commission (PUC) and must still submit any plans for a rate increase to the PUC for approval. The PUC determines if the rate increase is needed by conducting a hearing where anyone who wishes to participate may do so.

DIGEST: SB 1227 would establish a procedure to allow an electric cooperative to be exempted from rate regulation if the members of the co-op approve the measure. A ballot would be sent to every member of the co-op and could be included in the monthly billing statement. If a majority of the members of the co-op voted to approve the deregulation of the co-op, the ballots would be sent to the PUC, which would administratively certify the deregulation of the co-op. If the measure was defeated, the co-op could not make another proposal for one year. If the measure was approved, co-ops would only be required to follow the procedures in this bill in order to raise

their rates. Approval of deregulation would not remove the co-op from the authority of the PUC for anything except rate-setting procedures.

In order for an electric co-op to raise its rates for any class of customers, the co-op would be required to adopt a resolution to change its rates, mail notice of that change to the PUC, each affected municipality and utility within or adjacent to the co-op's service area, and each affected customer. The notice given to the customers would be required to include:

- a statement of the increase or decrease in the total operating revenues;
- the classes of customers affected;
- the increases or decreases in rates for each class of customers;
- a statement that the PUC may review the rate change if it receives a petition within 60 days and the address and telephone number of the PUC;
- a statement that a customer opposed to the rate should notify the co-op in writing; and
- notice that customers may review a copy of any written opposition the co-op receives.

The co-op would be required to keep available for public review a cost-of-service study less than five years old certified by a professional engineer or CPA that shows the need for the rate increase. The co-op would also be required to make available to the public responses in opposition to the proposed rate increase.

Unless a review was initiated under the provisions of the bill, a rate change proposed by the co-op would become effective 70 days after notice was provided as required by this bill.

If during the 60-day review period for proposed rate increase the PUC received a petition opposing the increase from at least 10 percent of the members of the co-op or members of the co-op who purchased more than 50 percent of the co-op's energy sales to a customer class, the PUC would

be required to conduct a review as it would for any other rate increase application.

If during the 60-day review period a petition was filed with the PUC by an executive officer of an affected electric utility, the PUC would be required to review the cost-of-service study prepared by the co-op. If the commission found that the revenues for any class of customers were *less* than the cost of providing service, it would be required to disapprove the rate.

The PUC could, at any time, on its own motion, review the rates of a co-op if it found there was good cause to believe the co-op was earning more than a reasonable rate of return on overall revenues or revenues of a particular class.

SB 1227 also provides that a single customer could at any time seek a review of the co-ops rates, but only if that customer consumed more than 250,000,000 kilowatt hours of electricity or paid more than 7.5 percent of the total revenues of the co-op over a 12-month period. Such a review would be in addition to the rights already granted customers to petition the PUC to review rate increases.

The bill would take immediate effect if approved by two-thirds of the membership of each house.

**SUPPORTERS
SAY:**

Electric cooperatives are actually owned by the customers that they serve. The point of a co-op is to cut down on the profit margin of having a private company and reduce costs to the customers. The problem is that because of the expensive procedures for rate increases required by the Public Utility Regulatory Act (PURA), customers have to pay extra just for a procedure to keep the co-op's revenues above its costs. As a practical matter, almost none of the rate increases proposed by co-ops are contested by members of the co-op, but the co-op must still go through the expense — anywhere from \$200,000 to \$1 million — of presenting its side before the PUC at a rate hearing. If these costs could be saved, co-op customers would benefit.

The procedures for the deregulation of a co-op are the same as for other major changes in the co-op's operations. Additionally, the election for deregulation alone would not be enough to allow the co-op to raise its rates; it would only establish a procedure to allow the co-op to raise rates without the intervention of the PUC.

The rate procedure established in the bill for raising rates would provide every customer of the co-op with adequate notice of the rate change and a substantial opportunity to respond. Because every negative response to the rate change would have to be made available to the public, a customer who wished to submit a petition to the PUC would be able to find people who are opposed to the rate change without having to contact every customer of the co-op. Once such a petition was filed, the co-op would be treated exactly as it is under current procedures, but such a procedure would not be commenced unless there is some significant opposition to the rate increase, helping to keep the co-op's costs down.

This legislation would also retain the PUC's right to initiate proceedings on its own motion. This would maintain the regulatory authority of the PUC, especially if other legislation is passed this session that further deregulates the electric utility industry.

**OPPONENTS
SAY:**

Electric cooperatives are owned by the customers only in theory. In reality an individual residential customer has almost no input into the decision making process of the co-op. This legislation allows the co-op to gain an even greater control over its small customers.

The ballot given to customers to vote for deregulation of the co-op should have to include information drafted by the PUC or perhaps the Office of the Public Utility Counsel explaining to customers what the potential consequences of deregulation may be.

NOTES:

HB 1820 by Duncan, the House companion, was left pending in the House State Affairs Committee.

SB 373 by Armbrister. proposes a total restructuring of electric utilities regulation. SB 1227 is incorporated into the Senate engrossed version of SB 373, currently pending in the House State Affairs Committee.