

SUBJECT: Raising the threshold for PUC review of power company mergers

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 9 ayes — Phelan, Guerra, Harless, Holland, Hunter, P. King, Raymond, Smithee, Springer

0 nays

4 absent — Hernandez, Deshotel, Parker, E. Rodriguez

SENATE VOTE: On final passage, April 11 — 31-0, on Local and Uncontested Calendar

WITNESSES: *On House companion bill, HB 2553:*

For — Stephanie Kroger, Generation Financing Coalition; Paul Tramonte, JPMorgan Chase and Co.; (*Registered, but did not testify:* Jeffrey Clark, Advanced Power Alliance; Mark Stover, Apex Clean Energy; Erika Akpan, Association of Electric Companies of TX; Lynnae Willette, Electricite de France RE; Jessica Oney, NRG; Katie Coleman, Texas Association of Manufacturers; Sam Gammage, Texas Chemical Council; Charlie Hemmeline, Texas Solar Power Association; Mance Zachary, Vistra Energy)

Against — None

On — (*Registered, but did not testify:* JP Urban, Public Utility Commission)

BACKGROUND: Utilities Code sec. 39.158 requires owners of electric generation facilities that propose to merge, consolidate, or become affiliated with another such owner to request approval from the Public Utility Commission if the electricity offered for sale by the combined entity would exceed 1 percent of the total electricity for sale in the Electric Reliability Council of Texas (ERCOT) power region.

Approval must be requested at least 120 days before the date of the

proposed consolidation. PUC must approve the transaction unless the commission finds that the combined entity would control more than 20 percent of the installed generation capacity located in, or capable of delivering power to, the power region.

DIGEST:

SB 1211 would change the conditions under which the Public Utility Commission (PUC) would have to review and approve consolidating transactions of power generation companies. Under the bill, PUC would have to review a transaction to combine power generation companies if the combined entity would own or control more than 10 percent of the total installed generation capacity located in, or capable of delivering electricity to, the power region. The bill would specify that the requirement would apply to a power generation company that offered electricity for sale in a power region open to consumer choice.

If PUC did not approve a transaction within 121 days of an approval request, the request would be considered approved.

This bill would take effect September 1, 2019.

**SUPPORTERS
SAY:**

SB 1211 would reduce the regulatory burden placed on the Public Utility Commission (PUC) by raising the threshold at which a merger would require approval. Ten percent is a reasonable threshold that allows PUC to exercise its responsibility to prevent the concentration of market power without requiring the commission to spend needless effort approving small transactions.

The bill also would eliminate confusion regarding what kinds of mergers required PUC approval. Recently, there have been many requests for approval for consolidations in part due to mergers between passive investors, such as banks, that are owners of power companies but are not themselves power companies. The bill would specify that PUC approval is required only when power generation companies consolidate.

**OPPONENTS
SAY:**

No concerns identified.

