

SUBJECT: Revising requirements for PUC voluntary mitigation plans

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 12 ayes — Hunter, Dean, Geren, Guillen, Metcalf, Slawson, Smithee, Spiller, S. Thompson, Turner

0 nays

3 absent — Hernandez, Anchía, Raymond

SENATE VOTE: On final passage (April 4) — 31 - 0

WITNESSES: None (*considered in a formal meeting May 19*)

BACKGROUND: Utilities Code sec. 15.023(f) authorizes the Public Utility Commission and a person to enter into a voluntary mitigation plan relating to a violation of statute providing for the PUC’s authority to address abuses of market power in the state’s electric market.

Some have suggested that, in light of recent changes in the ERCOT market, the statute governing voluntary mitigation plans to address potential electric market power abuses should be updated.

DIGEST: SB 2011 would establish that the Public Utility Commission (PUC) could approve a voluntary mitigation plan under Utilities Code sec. 15.023(f) only if PUC determined that the plan was in the public interest. The bill would require that the plan be reviewed every two years and no later than 90 days after the implementation of a wholesale market design change.

As part of the review, PUC would have to determine whether the plan remained in the public interest. If PUC determined that the plan was no longer in the public interest, PUC and the person would have to agree to a modification of the plan or PUC would have to terminate the plan.

Adherence to the plan could be considered in determining whether a

violation occurred, and if so, the penalty to be assessed. The bill would eliminate statutory language establishing that entering into and adhering to a voluntary mitigation plan constituted an absolute defense against an alleged violation with respect to activities covered by the plan.

The bill would establish that the penalty for a violation of a voluntary mitigation plan could be up to \$1 million, and that each day a violation continued or occurred was a separate violation for purposes of a penalty.

The bill would take effect September 1, 2023, and would apply only to a violation committed on or after that date.