

BILL ANALYSIS

Senate Research Center
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S.B. 1358
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under Section 15.024(d) of the Texas Utilities Code, if a person that the Public Utility Commission of Texas (PUC) issues a Notice of Violation against does not respond to the Notice of Violation within twenty days, then PUC considers the person to be in default of the Notice of Violation.

Section 15.024(f) requires the executive director of PUC to set a hearing at the State Office of Administrative Hearings (SOAH) even though the person has been non-responsive to the Notice of Violation. After the SOAH hearing, the violation then returns and is decided by PUC.

S.B. 1358 would amend Section 15.024(f) to remove the requirement for an administrative hearing before proceeding to PUC in situations where a person has failed to respond to the Notice of Violation. This change would allow default violations to move more quickly through the process, providing a faster resolution and saving resources for both PUC and SOAH.

The proposed change is also consistent with the Texas Water Code, and the change would align telecommunications and electric proceedings with PUC's process in water utility proceedings.

Section 15.024 of the Utilities Code sets forth the administrative penalty authority of PUC for violations of Public Utility Regulatory Act.

S.B. 1358 would allow the executive director of PUC to send a notice of violation by regular mail. Current law already allows notice by certified mail.

The bill would set forth the conditions under which notice is deemed to have been received. The person is deemed to have received notice five days after PUC mails the notice by regular mail or on the date the person receives notice by certified mail or refuses delivery.

If a person failed to respond to the notice, the bill would require the executive director to approve the determination of violation and impose the recommended penalty or order a hearing on the determination and the recommended penalty.

The bill would amend current law to strike the requirement that the executive director set a hearing when a person has failed to timely respond to a notice of violation. If the PUC commissioners choose to set a hearing, PUC may refer the case to SOAH.

The bill would specify that a hearing at SOAH on a violation of the Public Utility Regulatory Act would be conducted in accordance with the Administrative Procedures Act.

As proposed, S.B. 1358 amends current law relating to procedures for imposing certain administrative penalties or disgorgement orders by the Public Utility Commission of Texas.

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 Section 15.024, Utilities Code, by amending Subsections (b), (e), and (f) and adding Subsection (b-1), as follows:

(b) Authorizes the notice given by the executive director of the Public Utility Commission of Texas (executive director; PUC) to a person being assessed a penalty to be given by regular or certified mail, rather than given by certified mail.

(b-1) Provides that if PUC sends written notice to a person by mail addressed to the person's mailing address as maintained in PUC's records, the person is deemed to have received notice on the fifth day after the date that PUC sent the written notice, for notice sent by regular mail, or on the date the written notice is received or delivery is refused, for notice sent by certified mail.

(e) Requires PUC by order, if the person accepts the executive director's determination and recommended penalty or fails to timely respond to the notice, to approve the determination and impose the recommended penalty or order a hearing on the determination and the recommended penalty.

(f) Requires PUC, if the person requires a hearing or PUC orders a hearing under Subsection (e), to refer the matter to the State Office of Administrative Hearings (SOAH) for a hearing and give notice of the referral to the person. Deletes existing text relating to hearings set by the executive commissioner. Requires the hearing to be held by an administrative law judge of SOAH and requires notice of the hearing to be provided in accordance with Chapter 2001 (Administrative Procedure), Government Code.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2019.