

BILL ANALYSIS

Senate Research Center
88R10815 CXP-F

S.B. 2011
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

A voluntary mitigation plan (VMP) is an important tool to help prevent market power abuse in the ERCOT wholesale market. However, the VMP rules do not reflect the dynamic and evolving nature of the ERCOT market and do not require proactive updates to an existing VMP, which undermines the effectiveness of a VMP in combating potential market abuse.

S.B. 2011 updates VMP requirements to ensure that such plans provide meaningful protections against market power abuse while maintaining a fair and balance approach for the companies that enter into a VMP.

As proposed, S.B. 2011 amends current law relating to the authority of the Public Utility Commission of Texas to impose administrative penalties and enter into voluntary mitigation plans, and increases an administrative penalty.

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 Sections 15.023(b) and (f), Utilities Code, as follows:

(b) Authorizes the penalty for a violation to be in an amount not to exceed \$1,000,000, rather than not to exceed \$25,000.

(f) Requires that the voluntary mitigation plan be updated at least once every two years. Requires the Public Utility Commission of Texas (PUC), not later than the 90th day after the date of a substantial wholesale market design change, to review each existing voluntary mitigation plan to determine whether any changes to the plan are necessary. Entitles a party with a justiciable interest in the result of a proceeding to adopt or renew a voluntary mitigation plan to participate in the proceeding. Authorizes adherence to the plan to be considered in determining whether a violation occurred and, if so, the penalty to be assessed. Deletes existing text providing that adherence to the plan, if the PUC and a person enter into a voluntary mitigation plan, constitutes an absolute defense against an alleged violation with respect to activities covered by the plan.

SECTION 2. Repealer: Section 15.023(b-1) (relating to providing that the penalty for a violation of a provision of certain sections, notwithstanding a certain subsection, may be in an amount not to exceed \$1,000,000 for a violation), Utilities Code.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2023.