

BILL ANALYSIS

Senate Research Center
88R20559 ANG-F

C.S.S.B. 2011
By: Schwertner; King
Business & Commerce
3/30/2023
Committee Report (Substituted)

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 balanced approach for the companies that enter into a VMP.

(Original Author's/Sponsor's Statement of Intent)

C.S.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-1) and (f), Utilities Code, as follows:

(b-1) Prohibits the penalty for a violation of a voluntary mitigation plan entered into under Subsection (f) or of a provision of certain sections, notwithstanding Subsection (b) (relating to authorizing a penalty for a violation to be in an amount not to exceed \$25,000), from being in an amount exceeding \$1,000,000 for a violation.

(f) Authorizes the Public Utility Commission of Texas (PUC) to approve the voluntary mitigation plan (plan) only if the PUC determines that the plan is in the public interest. Requires that the plan be reviewed at least once every two years and not later than the 90th day after the implementation date of a wholesale market design change. Requires the PUC, as part of the review, to determine whether the plan remains in the public interest. Requires the PUC and the person with whom the plan has been developed, if the PUC determines that the plan is no longer in the public interest, to agree to a modification of the plan or the PUC is required to terminate the plan. 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. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2023.