

ATTORNEYS AT LAW

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State Utility Issues Update


Presented by:

Georgia N. Crump
gcrump@lglawfirm.com

and

Thomas L. Brocato
tbrocato@lglawfirm.com

Lloyd Gosselink & Co., P.C.
310 Congress Avenue, Suite 1900 Austin, Texas 78701. www.lglawfirm.com




The 84th Legislative Session

120 gas and electric utility related bills filed.

Highlights:


- Gas
- Railroad Commission Rule Repeal
- HB 2988 (Keffer) / SB 1905 (Perry)
- Railroad Commission System Wide
- HB 3749 (Keffer)
- SB 20 Amendment (Keffer)
- HB 3123 / HR 3425 (RRC Sunset)



The 84th Legislative Session

Highlights – Electric:

- System Benefit Fund
- HB 1101 (S. Turner)
- Non-ERCOT Utilities
- HB 1535 (Frullo) / SB 841 (Creighton)
- Hike & Bike Trials
- HB 2184 (R. Miller) / SB 1444 (Taylor)
- PUC System Wide
- HB 3084 (Capriglione) / SB 1271 (West)




Undergrounding Electric Lines

Electric Undergrounding

- Distribution lines
- Tomball, Pearland

Transmission lines

- Corpus Christi, Frisco




Undergrounding Electric Lines

- Appeal of CenterPoint Energy Houston Electric, LLC from an Ordinance of the City of Tomball, Docket No. 42281
- Application of Oncor Electric Delivery Company, LLC for Authority to Change Rates, Docket No. 35717
- Application of Electric Transmission Texas, LLC to Amend its Certificates of Convenience and Necessity for the Proposed Barney Davis to Naval Base 138-KV Single-Circuit Transmission Line in Nueces County, Docket No. 42467
- Application of Brazos Electric Power Cooperative, Inc. to Amend a Certificate of Convenience and Necessity for a 138-KV Transmission Line in Denton County, Docket No. 44060
- Appeal of CenterPoint Energy Houston Electric, LLC from an Ordinance of the City of Pearland, Docket No. 44435
- City of University Park vs. Public Utility Commission of Texas, Cause No. 03-08-00692-CV (Appeal of Appeal of TXU Delivery Company from an Ordinance 09/25 of the City of University Park and Request for Interim Relief, Docket No. 33742)
- City of Allen and Coalition of Cities vs. Public Utility Commission of Texas; Oncor Electric Delivery Company, LLC; and CenterPoint Energy, Inc., Cause No. 03-04-00262-CV (Appeal of Appeal of Oncor from an Ordinance of the City of Allen and Request for Interim Relief, Docket No. 25429)



Franchise Issues


- Original Jurisdiction
- Relocations
- Franchise Fees
- Right of Way Management
- Permits



Rate Case Expenses

Recent Happenings at PUC
Project No. 41622 (rulemaking)


- Proposed rules published Feb. 2014
- Final rules adopted July 2014
- Establish criteria for review of utilities' and municipalities' requests for reimbursement / recovery of RCE.



Rate Case Expenses

Recent Happenings at PUC
Project No. 41622


- Reasonableness standard – discretion of PUC to determine.
- Disallowance for litigating well-settled issues?
- Disallowance for taking frivolous positions?
- Disallowance for flawed analyses?
- Disallowance for over-lawyering?
- Other policy considerations.



Rate Case Expenses

Not broke – don't fix it?


PUC – rule maintains discretion while adding criteria for determining disallowances.



Project No. 41622

Processes and Procedures

- If evidence insufficient to justify level, formulaic disallowances if RCE with specific issues aren't identified or identifiable.
- If expenses as a whole were excessive – Results Oriented Method applied.




Project No. 41622

Question posed:

- Should RCE be allocated other than system-wide? (i.e., city expenses recovered only from ratepayers residing in participating cities?).

Answer:


- No. Assess on case-by-case basis.
- No mandate for specific treatment for revenue requirement- or allocation-related expenses.



RCE – Docket No. 42370

SWEPCO RCE docket

- Covered expenses from several prior rate cases.
- PUC Staff position:
 - With few exceptions, no municipal RCE were unreasonable – all should be reimbursed by utility.
 - BUT – expense should be recovered only from ratepayers within participating cities.




Docket No. 42370

No prior notice to cities of Staff's position until testimony filed in December 2014 (underlying rate cases were tried in 2010-2012).


Rationale [sic]:

- Consistent with cost-causation;
- More equitable than system-wide;
- Promotes efficiency.




Docket No. 42370

- Cities had support of OPUC
- Proposal for Decision (May 8, 2015):
 - Direct allocation not warranted in this case.
 - PUC rejected Staff position in rulemaking.
 - Cost causation: SWEPCO caused RCE, not cities.
 - Equity: Costs should follow benefits.
 - Efficiency: Cities efficient; ex post facto.



PUC – Transmission Routing Criteria

- PUC Subst. R. 25.101(b)(3)(B)(ii) – used to identify natural gas or other pipelines as compatible with transmission lines.
- April 10, 2015 – rule revised to remove mention of pipelines.
- Preference removed.



PUC – Transmission Routing Criteria

Issue:


- On approved routes, what is the extent of allowed deviations to accommodate engineering constraints?

CCN orders

- Allowed minor deviations with consent of landowner.

Project No. 42740


- Attempted definition of “engineering constraint” – any physical condition related to construction of a transmission facility that, consistent with good utility practice, would be impossible, unsafe, or cost-prohibitive to overcome.”



PUC – Transmission Routing Criteria

Draft amendment to 25.101:


- Utility must take reasonable efforts to contact landowner, negotiate agreed route for deviation.
- If no consent, deviation still allowed but only to minimum extent necessary to avoid constraint.
- If new land affected, utility must obtain landowner permission.
- Amendment not adopted.



Water/Wastewater at PUC

PUC Rules

- Procedural and Substantive Rules now adopted.
- Minor changes, except for IOUs.
- Large IOUs now regulated similar to electric utilities in terms of filing requirements for rates and reports.




Water/Wastewater at PUC

Decertification – expedited and otherwise

Crystal Clear WSC v. TxGLO

- GLO's 25+ acres – decertified under §13.254(a-5).
- Issue: "provision of service."
- TCEQ – no service, therefore decertified.
- Dist. Ct. – service being provided.
- Ct. App. – no service: no lines or facilities committed to providing water to the particular tract; nothing supplied to the particular tract.
- SCT. - ??



Water/Wastewater at PUC

Tyler Blue Ridge (Docket No. 44507)

- Application for decertification under §13.254(a-5) for less than 25 acres.
- TBR owned 143 acres; only 23 acres in Tall Timbers' CCN.
- Meets criteria?
- May 28 PUC order: Yes – is part of tract of at least 25 acres, not receiving service. No matter that acreage being removed is less than 25.

Please contact us for more information.

Georgia N. Crump
gcrump@lglawfirm.com

Thomas L. Brocato
tbrocato@lglawfirm.com



lglawfirm.com
