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Texas Legislature Passes Several Energy Bills

While the Texas 85th legislative session began with the filing of several bills on a diverse range of energy issues, few had made it into law when the session ended on May 29, 2017. The House and Senate passed legislation that impacts wind generation facilities, electric utility rate-setting and the General Land Office's retail electricity program. Bills that failed to gain traction concerned grid security, energy efficiency programs, and research and development.

Siting of Wind Farms – SB 277

The primary energy legislation emerging from this session was SB 277 on the siting of wind generation facilities, which the Legislature passed despite wind industry opposition. The new law essentially places financial constraints on wind farms in Texas by disqualifying wind farm owners from tax incentives if a "wind-powered energy device" is placed within 25 nautical miles of a military aviation facility in Texas. The owner may not receive property tax incentives under a tax abatement agreement or limitation on appraised value agreement (LAVA) entered into on or after September 1, 2017. Military aviation facilities are defined as bases, stations, forts or camps at which fixed-wing aviation operations or training is conducted by the Air Force, Army, Navy, Marine Corps, Coast Guard or Texas National Guard (including Reserves). The law does not apply to tax abatement agreements or applications for LAVAs that are awaiting approval as of September 1, 2017.

Governor Abbott can sign SB 277, veto it or allow it to become law without a signature. If he has not signed or vetoed it by June 18, 2017, the bill becomes law without his signature.

The Legislature also passed several other bills affecting the Texas electric industry:

Rate Cases for ERCOT Electric Utilities – SB 735

Requires the Public Utility Commission to establish a schedule for periodic review of base rates, including transmission rates, for electric utilities operating solely within the Electric Reliability Council of Texas (ERCOT).

Allows the Commission to extend the time for a base rate review so long as the electric utility's most recent earnings monitoring report demonstrates the electric utility is not earning amounts in excess of the parameters set by the bill.

Signed by the governor and effective immediately.

Advanced Metering in Non-ERCOT areas – SB 1145

Allows an electric utility to recover reasonable and necessary costs incurred in deploying advanced meters.

Requires electric utilities electing to deploy advanced meters to do so as quickly as possible.

Signed by the governor and effective immediately.

Energy Efficiency for State Agencies – SB 59

Removes the requirement for a state agency or institution of higher education to create a long-range plan for reliable, cost-effective utility services.

Maintains the requirement for institutions of higher education to include a comprehensive energy plan in their five-year construction and major repair plans.

Signed by the governor and effective September 1, 2017.

Benefit Programs for Low-Income Customers – SB 1976

Requires the Health and Human Services Commission to assist the Public Utility Commission in developing an automatic process for identifying low-income customers.

Prohibits the Public Utility Commission from requiring retail electric providers to offer customer service, discounts, bill payment assistance or other benefits to low-income customers without reimbursement.

Signed by the governor and effective September 1, 2017.

General Land Office's Electricity Sales Program – SB 736

By September 1, 2018, the General Land Office must provide the Legislature with a report on its retail electric power program, including information on the number of participants, the rates charged, contract terms and administrative costs.

Sent to the governor for signature; most changes would not apply until September 1, 2017.

Many of the energy related bills filed this session did not reach Governor Abbott's desk. Although military concerns prevailed in SB 277, other wind generation siting bills allowing landowners to create qualified subdivisions for energy development for electricity generation (HB 1168) and financial assurances and standards for wind turbine decommissioning (HB 1717) did not make it out of the House of Representatives.

Efforts to require the Public Utility Commission to adopt rules encouraging the development of switchable electric generating facilities that can be dispatched into both ERCOT and the Mexican power grid also did not make it out of the House. HB 1665 would have allowed a unit of a switchable generating facility not committed to ERCOT during a load shedding event to still be dispatched to the Mexican power grid.

All of the bills relating to research and development of renewable energy and energy efficiency failed to pass. Efforts to create an organization to research grid security in HB 787, HB 788 and SB 83 failed as well.

Contact Us

For more information on Texas energy legislation or the Texas legislative session in general, please contact Chris Reeder, J. Christopher Hughes, Lacey W. Breeden, Maria C. Faconti or Jessica L. Morgan of Husch Blackwell's Energy & Natural Resources team.