

UTILITIES CODE

TITLE 2. PUBLIC UTILITY REGULATORY ACT

SUBTITLE A. PROVISIONS APPLICABLE TO ALL UTILITIES

CHAPTER 11. GENERAL PROVISIONS

Sec. 11.001. SHORT TITLE. This title may be cited as the Public Utility Regulatory Act.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 11.002. PURPOSE AND FINDINGS. (a) This title is enacted to protect the public interest inherent in the rates and services of public utilities. The purpose of this title is to establish a comprehensive and adequate regulatory system for public utilities to assure rates, operations, and services that are just and reasonable to the consumers and to the utilities.

(b) Public utilities traditionally are by definition monopolies in the areas they serve. As a result, the normal forces of competition that regulate prices in a free enterprise society do not operate. Public agencies regulate utility rates, operations, and services as a substitute for competition.

(c) Significant changes have occurred in the telecommunications and electric power industries since the Public Utility Regulatory Act was originally adopted. Changes in technology and market structure have increased the need for minimum standards of service quality, customer service, and fair business practices to ensure high-quality service to customers and a healthy marketplace where competition is permitted by law. It is the purpose of this title to grant the Public Utility Commission of Texas authority to make and enforce rules necessary to protect customers of telecommunications and electric services consistent with the public interest.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1579, Sec. 1, eff. Aug. 30, 1999.

Sec. 11.003. DEFINITIONS. In this title:

(1) "Affected person" means:

(A) a public utility or electric cooperative

affected by an action of a regulatory authority;

(B) a person whose utility service or rates are affected by a proceeding before a regulatory authority; or

(C) a person who:

(i) is a competitor of a public utility with respect to a service performed by the utility; or

(ii) wants to enter into competition with a public utility.

(2) "Affiliate" means:

(A) a person who directly or indirectly owns or holds at least five percent of the voting securities of a public utility;

(B) a person in a chain of successive ownership of at least five percent of the voting securities of a public utility;

(C) a corporation that has at least five percent of its voting securities owned or controlled, directly or indirectly, by a public utility;

(D) a corporation that has at least five percent of its voting securities owned or controlled, directly or indirectly, by:

(i) a person who directly or indirectly owns or controls at least five percent of the voting securities of a public utility; or

(ii) a person in a chain of successive ownership of at least five percent of the voting securities of a public utility;

(E) a person who is an officer or director of a public utility or of a corporation in a chain of successive ownership of at least five percent of the voting securities of a public utility; or

(F) a person determined to be an affiliate under Section [11.006](#).

(3) "Allocation" means the division among municipalities or among municipalities and unincorporated areas of the plant, revenues, expenses, taxes, and reserves of a utility used to provide public utility service in a municipality or for a

municipality and unincorporated areas.

(3-a) "Chilled water program" means:

(A) a program to produce chilled water at a central plant and pipe that water to buildings for air conditioning, including a district cooling system or chilled water service; or

(B) any other program designed to used chilled water to provide air conditioning, reduce peak electric demand, or shift electric load.

(4) "Commission" means the Public Utility Commission of Texas.

(5) "Commissioner" means a member of the Public Utility Commission of Texas.

(6) "Cooperative corporation" means:

(A) an electric cooperative; or

(B) a telephone cooperative corporation organized under Chapter 162 or a predecessor statute to Chapter 162 and operating under that chapter.

(7) "Corporation" means a domestic or foreign corporation, joint-stock company, or association, and each lessee, assignee, trustee, receiver, or other successor in interest of the corporation, company, or association, that has any of the powers or privileges of a corporation not possessed by an individual or partnership. The term does not include a municipal corporation or electric cooperative, except as expressly provided by this title.

(8) "Counsellor" means the public utility counsel.

(9) "Electric cooperative" means:

(A) a corporation organized under Chapter 161 or a predecessor statute to Chapter 161 and operating under that chapter; or

(B) a corporation organized as an electric cooperative in a state other than Texas that has obtained a certificate of authority to conduct affairs in the State of Texas.

(C) Deleted by Acts 2003, 78th Leg., ch. 1327, Sec. 1.

(10) "Facilities" means all of the plant and equipment of a public utility, and includes the tangible and intangible

property, without limitation, owned, operated, leased, licensed, used, controlled, or supplied for, by, or in connection with the business of the public utility.

(11) "Municipally owned utility" means a utility owned, operated, and controlled by a municipality or by a nonprofit corporation the directors of which are appointed by one or more municipalities and includes any chilled water program operated by the utility.

(12) "Office" means the Office of Public Utility Counsel.

(13) "Order" means all or a part of a final disposition by a regulatory authority in a matter other than rulemaking, without regard to whether the disposition is affirmative or negative or injunctive or declaratory. The term includes:

(A) the issuance of a certificate of convenience and necessity; and

(B) the setting of a rate.

(14) "Person" includes an individual, a partnership of two or more persons having a joint or common interest, a mutual or cooperative association, and a corporation, but does not include an electric cooperative.

(15) "Proceeding" means a hearing, investigation, inquiry, or other procedure for finding facts or making a decision under this title. The term includes a denial of relief or dismissal of a complaint.

(16) "Rate" includes:

(A) any compensation, tariff, charge, fare, toll, rental, or classification that is directly or indirectly demanded, observed, charged, or collected by a public utility for a service, product, or commodity described in the definition of utility in Section [31.002](#) or [51.002](#); and

(B) a rule, practice, or contract affecting the compensation, tariff, charge, fare, toll, rental, or classification.

(17) "Ratemaking proceeding" means a proceeding in which a rate is changed.

(18) "Regulatory authority" means either the

commission or the governing body of a municipality, in accordance with the context.

(19) "Service" has its broadest and most inclusive meaning. The term includes any act performed, anything supplied, and any facilities used or supplied by a public utility in the performance of the utility's duties under this title to its patrons, employees, other public utilities, an electric cooperative, and the public. The term also includes the interchange of facilities between two or more public utilities. The term does not include the printing, distribution, or sale of advertising in a telephone directory.

(20) "Test year" means the most recent 12 months, beginning on the first day of a calendar or fiscal year quarter, for which operating data for a public utility are available.

(21) "Trade association" means a nonprofit, cooperative, and voluntarily joined association of business or professional persons who are employed by public utilities or utility competitors to assist the public utility industry, a utility competitor, or the industry's or competitor's employees in dealing with mutual business or professional problems and in promoting their common interest.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 405, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1327, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 277 (H.B. [3615](#)), Sec. 2, eff. September 1, 2021.

Sec. 11.004. DEFINITION OF UTILITY. In Subtitle A, "public utility" or "utility" means:

(1) an electric utility, as that term is defined by Section [31.002](#); or

(2) a public utility or utility, as those terms are defined by Section [51.002](#).

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 11.0042. DEFINITION OF AFFILIATE. (a) The term

"person" or "corporation" as used in the definition of "affiliate" provided by Section 11.003(2) does not include:

(1) a broker or dealer registered under the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.), as amended;

(2) a bank or insurance company as defined under the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.), as amended;

(3) an investment adviser registered under state law or the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.); or

(4) an investment company registered under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.); or

(5) an employee benefit plan, pension fund, endowment fund, or other similar entity that may, directly or indirectly, own, hold, or control five percent or more of the voting securities of a public utility or the parent corporation of a public utility if the entity did not acquire the voting securities:

(A) for the purpose of or with the effect of changing or influencing the control of the issuer of the securities; or

(B) in connection with or as a participant in any transaction that changes or influences the control of the issuer of the securities.

(b) For the purpose of determining whether a person is an affiliate under Section 11.006(a)(3), the term "person" does not include an entity that may, directly or indirectly, own, hold, or control the voting securities of a public utility or the parent corporation of a public utility if the entity did not acquire the voting securities:

(1) for the purpose of or with the effect of changing or influencing the control of the issuer of the securities; or

(2) in connection with or as a participant in any transaction that changes or influences the control of the issuer of the securities.

(c) A report filed by an entity described by Subsection (a)(5) or (b) with the Securities and Exchange Commission is conclusive evidence of the entity's intent if the report confirms

that the voting securities were not acquired:

(1) for the purpose of or with the effect of changing or influencing the control of the issuer of the securities; or

(2) in connection with or as a participant in any transaction that changes or influences the control of the issuer of the securities.

Added by Acts 2005, 79th Leg., Ch. 413 (S.B. 1668), Sec. 2, eff. June 17, 2005.

Sec. 11.005. ENTITY, COMPETITOR, OR SUPPLIER AFFECTED IN MANNER OTHER THAN BY SETTING OF RATES. In this title, an entity, including a utility competitor or utility supplier, is considered to be affected in a manner other than by the setting of rates for that class of customer if during a relevant calendar year the entity provides fuel, utility-related goods, utility-related products, or utility-related services to a regulated or unregulated provider of telecommunications or electric services or to an affiliate in an amount equal to the greater of \$10,000 or 10 percent of the person's business.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 11.006. PERSON DETERMINED TO BE AFFILIATE. (a) The commission may determine that a person is an affiliate for purposes of this title if the commission after notice and hearing finds that the person:

(1) actually exercises substantial influence or control over the policies and actions of a public utility;

(2) is a person over which a public utility exercises the control described by Subdivision (1);

(3) is under common control with a public utility; or

(4) together with one or more persons with whom the person is related by ownership or blood relationship, or by action in concert, actually exercises substantial influence over the policies and actions of a public utility even though neither person may qualify as an affiliate individually.

(b) For purposes of Subsection (a)(3), "common control with a public utility" means the direct or indirect possession of the

power to direct or cause the direction of the management and policies of another, without regard to whether that power is established through ownership or voting of securities or by any other direct or indirect means.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 11.007. ADMINISTRATIVE PROCEDURE. (a) Chapter 2001, Government Code, applies to a proceeding under this title except to the extent inconsistent with this title.

(b) A communication of a member or employee of the commission with any person, including a party or a party's representative, is governed by Section 2001.061, Government Code.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 11.008. LIBERAL CONSTRUCTION. This title shall be construed liberally to promote the effectiveness and efficiency of regulation of public utilities to the extent that this construction preserves the validity of this title and its provisions.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 11.009. CONSTRUCTION WITH FEDERAL AUTHORITY. This title shall be construed to apply so as not to conflict with any authority of the United States.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.