

UTILITIES CODE

TITLE 2. PUBLIC UTILITY REGULATORY ACT

SUBTITLE A. PROVISIONS APPLICABLE TO ALL UTILITIES

CHAPTER 14. JURISDICTION AND POWERS OF COMMISSION AND OTHER
REGULATORY AUTHORITIES

SUBCHAPTER A. GENERAL POWERS OF COMMISSION

Sec. 14.001. POWER TO REGULATE AND SUPERVISE. The commission has the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by this title that is necessary and convenient to the exercise of that power and jurisdiction.

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

Sec. 14.002. RULES. The commission shall adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction.

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

Sec. 14.0025. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter [2008](#), Government Code, for the adoption of commission rules; and

(2) appropriate alternative dispute resolution procedures under Chapter [2009](#), Government Code, to assist in the resolution of internal and external disputes under the commission's jurisdiction.

(b) The commission's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commission shall designate a trained person to:

(1) coordinate the implementation of the policy

adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the commission.

Added by Acts 2005, 79th Leg., Ch. 797 (S.B. 408), Sec. 5, eff. September 1, 2005.

Sec. 14.003. COMMISSION POWERS RELATING TO REPORTS. The commission may:

(1) require a public utility to report to the commission information relating to:

(A) the utility; and

(B) a transaction between the utility and an affiliate inside or outside this state, to the extent that the transaction is subject to the commission's jurisdiction;

(2) establish the form for a report;

(3) determine the time for a report and the frequency with which the report is to be made;

(4) require that a report be made under oath;

(5) require the filing with the commission of a copy of:

(A) a contract or arrangement between a public utility and an affiliate;

(B) a report filed with a federal agency or a governmental agency or body of another state; and

(C) an annual report that shows each payment of compensation, other than salary or wages subject to federal income tax withholding:

(i) to residents of this state;

(ii) with respect to legal, administrative, or legislative matters in this state; or

(iii) for representation before the legislature of this state or any governmental agency or body; and

(6) require that a contract or arrangement described by Subdivision (5)(A) that is not in writing be reduced to writing

and filed with the commission.

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

Sec. 14.004. REPORT OF SUBSTANTIAL INTEREST. The commission may require disclosure of the identity and respective interests of each owner of at least one percent of the voting securities of a public utility or its affiliate.

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

Sec. 14.005. CRITERIA AND GUIDELINES GOVERNING TERMINATION OF SERVICES TO ELDERLY AND DISABLED. The commission may establish criteria and guidelines with the utility industry relating to industry procedures used in terminating services to the elderly and disabled.

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

Sec. 14.006. INTERFERENCE WITH TERMS OR CONDITIONS OF EMPLOYMENT; PRESUMPTION OF REASONABLENESS. The commission may not interfere with employee wages and benefits, working conditions, or other terms or conditions of employment that are the product of a collective bargaining agreement recognized under federal law. An employee wage rate or benefit that is the product of the collective bargaining is presumed to be reasonable.

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

Sec. 14.007. ASSISTANCE TO MUNICIPALITY. On request by the governing body of a municipality, the commission may provide commission employees as necessary to advise and consult with the municipality on a pending matter.

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

Sec. 14.008. MUNICIPAL FRANCHISES. (a) This title does not restrict the rights and powers of a municipality to grant or refuse a franchise to use the streets and alleys in the municipality or to make a statutory charge for that use.

(b) A franchise agreement may not limit or interfere with a power conferred on the commission by this title.

SUBCHAPTER B. PRACTICE AND PROCEDURE

Sec. 14.051. PROCEDURAL POWERS. The commission may:

- (1) call and hold a hearing;
- (2) administer an oath;
- (3) receive evidence at a hearing;
- (4) issue a subpoena to compel the attendance of a witness or the production of a document; and
- (5) make findings of fact and decisions to administer this title or a rule, order, or other action of the commission.

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

Sec. 14.052. RULES. (a) The commission shall adopt and enforce rules governing practice and procedure before the commission and, as applicable, practice and procedure before the State Office of Administrative Hearings.

(b) The commission shall adopt rules that authorize an administrative law judge to:

- (1) limit the amount of time that a party may have to present its case;
- (2) limit the number of requests for information that a party may make in a contested case;
- (3) require a party to a contested case to identify contested issues and facts before the hearing begins;
- (4) limit cross-examination to only those issues and facts identified before the hearing and to any new issues that may arise as a result of the discovery process; and
- (5) group parties, other than the office, that have the same position on an issue to facilitate cross-examination on that issue.

(c) A rule adopted under Subsection (b)(5) must permit each party in a group to present that party's witnesses for cross-examination during the hearing.

(d) A rule adopted under this section must ensure that each party receives due process.

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. [2154](#)), Sec. 23, eff. September 1, 2015.

Sec. 14.053. POWERS AND DUTIES OF STATE OFFICE OF ADMINISTRATIVE HEARINGS. (a) The State Office of Administrative Hearings shall conduct each hearing in a contested case that is not conducted by one or more commissioners.

(b) The commission may delegate to the State Office of Administrative Hearings the authority to make a final decision and to issue findings of fact, conclusions of law, and other necessary orders in a proceeding in which there is not a contested issue of fact or law.

(c) The commission by rule shall define the procedures by which it delegates final decision-making authority under Subsection (b).

(d) For review purposes an administrative law judge's final decision under Subsection (b) has the same effect as a final decision of the commission unless a commissioner requests formal review of the decision.

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. [2154](#)), Sec. 24, eff. September 1, 2015.

Sec. 14.054. SETTLEMENTS. (a) The commission by rule shall adopt procedures governing the use of settlements to resolve contested cases.

(b) Rules adopted under this section must ensure that:

(1) each party retains the right to:

(A) a full hearing before the commission on issues that remain in dispute; and

(B) judicial review of issues that remain in dispute;

(2) an issue of fact raised by a nonsettling party may not be waived by a settlement or stipulation of the other parties;

and

(3) a nonsettling party may use an issue of fact raised by that party as the basis for judicial review.

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

Sec. 14.055. RECORD OF PROCEEDINGS. The regulatory authority shall keep a record of each proceeding before the authority.

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

Sec. 14.056. RIGHT TO BE HEARD. Each party to a proceeding before a regulatory authority is entitled to be heard by attorney or in person.

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

Sec. 14.057. ORDERS OF COMMISSION; TRANSCRIPTS AND EXHIBITS; PUBLIC RECORDS. (a) A commission order must be in writing and contain detailed findings of the facts on which it is passed.

(b) The commission shall retain a copy of the transcript and the exhibits in any matter in which the commission issues an order.

(c) Subject to Chapter 552, Government Code, each file pertaining to a matter that was at any time pending before the commission or to a record, report, or inspection required by Section 14.003, 14.151, 14.152, 14.153, 14.201, or 14.203-14.207 or by Subtitle B or C is public information.

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

Sec. 14.058. FEES FOR ELECTRONIC ACCESS TO INFORMATION. The fees charged by the commission for electronic access to information that is stored in the system established by the commission using funds from the Texas Public Finance Authority and approved by the Department of Information Resources shall be established:

(1) by the commission in consultation with the comptroller; and

(2) in an amount reasonable and necessary to retire the debt to the Texas Public Finance Authority associated with

establishing the electronic access system.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 18.01(a), eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.115, eff. September 1, 2007.

Sec. 14.059. TECHNOLOGY POLICY. The commission shall implement a policy requiring the commission to use appropriate technological solutions to improve the commission's ability to perform its functions. The policy must ensure that the public is able to interact with the commission on the Internet.

Added by Acts 2005, 79th Leg., Ch. 797 (S.B. 408), Sec. 6, eff. September 1, 2005.

SUBCHAPTER C. RESTRICTIONS ON CERTAIN TRANSACTIONS

Sec. 14.101. REPORT OF CERTAIN TRANSACTIONS; COMMISSION CONSIDERATION. (a) Unless a public utility reports the transaction to the commission within a reasonable time, the public utility may not:

(1) sell, acquire, or lease a plant as an operating unit or system in this state for a total consideration of more than \$10 million; or

(2) merge or consolidate with another public utility operating in this state.

(b) A public utility shall report to the commission within a reasonable time each transaction that involves the sale of at least 50 percent of the stock of the utility. On the filing of a report with the commission, the commission shall investigate the transaction, with or without a public hearing, to determine whether the action is consistent with the public interest. In reaching its determination, the commission shall consider:

(1) the reasonable value of the property, facilities, or securities to be acquired, disposed of, merged, transferred, or consolidated;

(2) whether the transaction will:

(A) adversely affect the health or safety of customers or employees;

(B) result in the transfer of jobs of citizens of this state to workers domiciled outside this state; or

(C) result in the decline of service;

(3) whether the public utility will receive consideration equal to the reasonable value of the assets when it sells, leases, or transfers assets; and

(4) whether the transaction is consistent with the public interest.

(c) If the commission finds that a transaction is not in the public interest, the commission shall take the effect of the transaction into consideration in ratemaking proceedings and disallow the effect of the transaction if the transaction will unreasonably affect rates or service.

(d) This section does not apply to:

(1) the purchase of a unit of property for replacement;

(2) an addition to the facilities of a public utility by construction; or

(3) transactions that facilitate unbundling, asset valuation, minimization of ownership or control of generation assets, or other purposes consistent with Chapter 39.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 405, Sec. 9, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 129 (H.B. 1753), Sec. 1, eff. September 1, 2011.

Sec. 14.102. REPORT OF PURCHASE OF VOTING STOCK IN PUBLIC UTILITY. A public utility may not purchase voting stock in another public utility doing business in this state unless the utility reports the purchase to the commission.

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

Sec. 14.103. REPORT OF LOAN TO STOCKHOLDERS. A public utility may not loan money, stocks, bonds, notes, or other evidence

of indebtedness to a person who directly or indirectly owns or holds any stock of the public utility unless the public utility reports the transaction to the commission within a reasonable time.
Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER D. RECORDS

Sec. 14.151. RECORDS OF PUBLIC UTILITY. (a) Each public utility shall keep and provide to the regulatory authority, in the manner and form prescribed by the commission, uniform accounts of all business transacted by the utility.

(b) The commission may prescribe the form of books, accounts, records, and memoranda to be kept by a public utility, including:

(1) the books, accounts, records, and memoranda of:

(A) the provision of and capacity for service;

and

(B) the receipt and expenditure of money; and

(2) any other form, record, and memorandum that the commission considers necessary to carry out this title.

(c) For a public utility subject to regulation by a federal regulatory agency, compliance with the system of accounts prescribed for the particular class of utilities by the federal agency may be considered sufficient compliance with the system prescribed by the commission. The commission may prescribe the form of books, accounts, records, and memoranda covering information in addition to that required by the federal agency. The system of accounts and the form of books, accounts, records, and memoranda prescribed by the commission for a public utility or class of utilities may not be inconsistent with the systems and forms established by a federal agency for that public utility or class of utilities.

(d) Each public utility shall:

(1) keep and provide its books, accounts, records, and memoranda accurately in the manner and form prescribed by the commission; and

(2) comply with the directions of the regulatory

authority relating to the books, accounts, records, and memoranda.

(e) In this section, "public utility" includes a municipally owned utility.

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

Sec. 14.152. MAINTENANCE OF OFFICE AND RECORDS IN THIS STATE. (a) Each public utility shall maintain an office in this state in a county in which some part of the utility's property is located. The utility shall keep in this office all books, accounts, records, and memoranda required by the commission to be kept in this state.

(b) A book, account, record, or memorandum required by the regulatory authority to be kept in this state may not be removed from this state, except as:

- (1) provided by Section 52.255; and
- (2) prescribed by the commission.

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

Sec. 14.153. COMMUNICATIONS WITH REGULATORY AUTHORITY. (a) The regulatory authority shall adopt rules governing communications with the regulatory authority or a member or employee of the regulatory authority by:

- (1) a public utility;
- (2) an affiliate; or
- (3) a representative of a public utility or affiliate.

(b) A record of a communication must contain:

- (1) the name of the person contacting the regulatory authority or member or employee of the regulatory authority;
- (2) the name of the business entity represented;
- (3) a brief description of the subject matter of the communication; and
- (4) the action, if any, requested by the public utility, affiliate, or representative.

(c) Records compiled under Subsection (b) shall be available to the public monthly.

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

Sec. 14.154. JURISDICTION OVER AFFILIATE. (a) The commission has jurisdiction over an affiliate that has a transaction with a public utility under the commission's jurisdiction to the extent of access to a record of the affiliate relating to the transaction, including a record of joint or general expenses, any portion of which may be applicable to the transaction.

(b) A record obtained by the commission relating to sale of electrical energy at wholesale by an affiliate to the public utility is confidential and is not subject to disclosure under Chapter 552, Government Code.

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

SUBCHAPTER E. AUDITS AND INSPECTIONS

Sec. 14.201. INQUIRY INTO MANAGEMENT AND AFFAIRS. A regulatory authority may inquire into the management and affairs of each public utility and shall keep itself informed as to the manner and method in which each public utility is managed and its affairs are conducted.

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

Sec. 14.202. MANAGEMENT AUDITS BY COMMISSION. (a) The commission shall:

(1) inquire into the management of the business of each public utility under its jurisdiction;

(2) keep itself informed as to the manner and method in which the utility's business is managed; and

(3) obtain from the public utility any information necessary to enable the commission to perform a management audit.

(b) The commission may audit a utility under its jurisdiction as frequently as needed. Six months after an audit, the utility shall report to the commission on the status of the implementation of the recommendations of the audit and shall file subsequent reports at times the commission considers appropriate.

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

Sec. 14.203. AUDIT OF ACCOUNTS. A regulatory authority may require the examination and audit of the accounts of a public or municipally owned utility.

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

Sec. 14.204. INSPECTION. (a) A regulatory authority and, to the extent authorized by the regulatory authority, its counsel, agent, or employee, may:

(1) inspect and obtain copies of the papers, books, accounts, documents, and other business records of a public utility within its jurisdiction; and

(2) inspect the plant, equipment, and other property of a public utility within its jurisdiction.

(b) An action under this section must be conducted at a reasonable time for a reasonable purpose.

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

Sec. 14.205. EXAMINATIONS UNDER OATH. In connection with an action taken under Section 14.204, the regulatory authority may:

(1) examine under oath an officer, agent, or employee of a public utility; or

(2) authorize the person conducting the action to make the examination under oath.

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

Sec. 14.206. ENTERING PREMISES OF PUBLIC UTILITY. (a) A member, agent, or employee of a regulatory authority may enter the premises occupied by a public utility to conduct an inspection, examination, or test or to exercise any other authority provided by this title.

(b) A member, agent, or employee of the regulatory authority may act under this section only during reasonable hours and after reasonable notice to the public utility.

(c) A public utility is entitled to be represented when an inspection, examination, or test is conducted on its premises. The utility is entitled to a reasonable time to secure a representative before the inspection, examination, or test begins.

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

Sec. 14.207. PRODUCTION OF OUT-OF-STATE RECORDS. (a) A regulatory authority may require, by order or subpoena served on a public utility, the production, at the time and place in this state that the regulatory authority designates, of any books, accounts, papers, or records kept by that public utility outside this state or, if ordered by the commission, verified copies of the books, accounts, papers, or records.

(b) A public utility that fails or refuses to comply with an order or subpoena under this section violates this title.

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