

TPSA

AN ACT

1-1 relating to electric utility restructuring and to the powers and
1-2 duties of the Public Utility Commission of Texas, Office of Public
1-3 Utility Counsel, and Texas Natural Resource Conservation
1-4 Commission; providing penalties.

1-5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-6 SECTION 1. Section 11.003, Utilities Code, is amended to
1-7 read as follows:

1-8 Sec. 11.003. DEFINITIONS. In this title:

1-9 (1) "Affected person" means:

1-10 (A) a public utility or electric cooperative
1-11 affected by an action of a regulatory authority;

1-12 (B) a person whose utility service or rates are
1-13 affected by a proceeding before a regulatory authority; or

1-14 (C) a person who:
1-15 (i) is a competitor of a public utility
1-16 with respect to a service performed by the utility; or
1-17 (ii) wants to enter into competition with
1-18 a public utility.

1-19 (2) "Affiliate" means:

1-20 (A) a person who directly or indirectly owns or
1-21 holds at least five percent of the voting securities of a public
1-22 utility;

1-23 (B) a person in a chain of successive ownership
1-24 of at least five percent of the voting securities of a public
2-1 utility;

2-2 (C) a corporation that has at least five percent
2-3 of its voting securities owned or controlled, directly or
2-4 indirectly, by a public utility;

2-5 (D) a corporation that has at least five percent
2-6 of its voting securities owned or controlled, directly or
2-7 indirectly, by:

2-8 (i) a person who directly or indirectly
2-9 owns or controls at least five percent of the voting securities of
2-10 a public utility; or

2-11 (ii) a person in a chain of successive
2-12 ownership of at least five percent of the voting securities of a
2-13 public utility;

2-14 (E) a person who is an officer or director of a
2-15 public utility or of a corporation in a chain of successive
2-16 ownership of at least five percent of the voting securities of a
2-17 public utility; or

2-18 (F) a person determined to be an affiliate under
2-19 Section 11.006.

2-20 (3) "Allocation" means the division among
2-21 municipalities or among municipalities and unincorporated areas of
2-22 the plant, revenues, expenses, taxes, and reserves of a utility
2-23 used to provide public utility service in a municipality or for a
2-24 municipality and unincorporated areas.

2-25 (4) "Commission" means the Public Utility Commission
2-26 of Texas.

3-1 (5) "Commissioner" means a member of the Public
3-2 Utility Commission of Texas.

3-3 (6) "Cooperative corporation" means:

3-4 (A) an electric cooperative [corporation
3-5 ~~organized under Chapter 161 or a predecessor statute to Chapter 161~~
3-6 ~~and operating under that chapter]; or~~

3-7 (B) a telephone cooperative corporation
3-8 organized under Chapter 162 or a predecessor statute to Chapter 162
3-9 and operating under that chapter.

3-10 (7) "Corporation" means a domestic or foreign
3-11 corporation, joint-stock company, or association, and each lessee,
3-12 assignee, trustee, receiver, or other successor in interest of the
3-13 corporation, company, or association, that has any of the powers or
3-14 privileges of a corporation not possessed by an individual or
3-15 partnership. The term does not include a municipal corporation or
3-16 electric cooperative, except as expressly provided by this title.

3-17 (8) "Counsellor" means the public utility counsel.

3-18 (9) "Electric cooperative" means:

3-19 (A) a corporation organized under Chapter 161 or
3-20 a predecessor statute to Chapter 161 and operating under that
3-21 chapter;

3-22 (B) a corporation organized as an electric
3-23 cooperative in a state other than Texas that has obtained a
3-24 certificate of authority to conduct affairs in the State of Texas;
3-25 or

3-26 (C) a successor to an electric cooperative
4-1 created before June 1, 1999, in accordance with a conversion plan
4-2 approved by a vote of the members of the electric cooperative,
4-3 regardless of whether the successor later purchases, acquires,
4-4 merges with, or consolidates with other electric cooperatives.

4-5 (10) "Facilities" means all of the plant and equipment
4-6 of a public utility, and includes the tangible and intangible
4-7 property, without limitation, owned, operated, leased, licensed,
4-8 used, controlled, or supplied for, by, or in connection with the
4-9 business of the public utility.

4-10 (11) [~~10~~] "Municipally owned utility" means a
4-11 utility owned, operated, and controlled by a municipality or by a
4-12 nonprofit corporation the directors of which are appointed by one
4-13 or more municipalities.

4-14 (12) [~~11~~] "Office" means the Office of Public
4-15 Utility Counsel.

4-16 (13) [~~12~~] "Order" means all or a part of a final
4-17 disposition by a regulatory authority in a matter other than
4-18 rulemaking, without regard to whether the disposition is
4-19 affirmative or negative or injunctive or declaratory. The term
4-20 includes:

4-21 (A) the issuance of a certificate of convenience
4-22 and necessity; and

4-23 (B) the setting of a rate.

4-24 (14) [~~13~~] "Person" includes an individual, a
4-25 partnership of two or more persons having a joint or common
4-26 interest, a mutual or cooperative association, and a corporation,
5-1 but does not include an electric cooperative.

5-2 (15) [~~14~~] "Proceeding" means a hearing,
5-3 investigation, inquiry, or other procedure for finding facts or
5-4 making a decision under this title. The term includes a denial of
5-5 relief or dismissal of a complaint.

5-6 (16) [~~15~~] "Rate" includes:

5-7 (A) any compensation, tariff, charge, fare,
5-8 toll, rental, or classification that is directly or indirectly
5-9 demanded, observed, charged, or collected by a public utility for a
5-10 service, product, or commodity described in the definition of
5-11 utility in Section 31.002 or 51.002; and

5-12 (B) a rule, practice, or contract affecting the

5-13 compensation, tariff, charge, fare, toll, rental, or
5-14 classification.
5-15 (17) [~~(16)~~] "Ratemaking proceeding" means[+]
5-16 [~~(A)~~] a proceeding in which a rate is changed[+]
5-17 and]
5-18 [~~(B)~~] ~~a proceeding initiated under Chapter 34].~~
5-19 (18) [~~(17)~~] "Regulatory authority" means either the
5-20 commission or the governing body of a municipality, in accordance
5-21 with the context.
5-22 (19) [~~(18)~~] "Service" has its broadest and most
5-23 inclusive meaning. The term includes any act performed, anything
5-24 supplied, and any facilities used or supplied by a public utility
5-25 in the performance of the utility's duties under this title to its
5-26 patrons, employees, other public utilities, an electric
6-1 cooperative, and the public. The term also includes the
6-2 interchange of facilities between two or more public utilities.
6-3 The term does not include the printing, distribution, or sale of
6-4 advertising in a telephone directory.
6-5 (20) [~~(19)~~] "Test year" means the most recent 12
6-6 months, beginning on the first day of a calendar or fiscal year
6-7 quarter, for which operating data for a public utility are
6-8 available.
6-9 (21) [~~(20)~~] "Trade association" means a nonprofit,
6-10 cooperative, and voluntarily joined association of business or
6-11 professional persons who are employed by public utilities or
6-12 utility competitors to assist the public utility industry, a
6-13 utility competitor, or the industry's or competitor's employees in
6-14 dealing with mutual business or professional problems and in
6-15 promoting their common interest.
6-16 SECTION 2. Section 12.005, Utilities Code, is amended to
6-17 read as follows:
6-18 Sec. 12.005. APPLICATION OF SUNSET ACT. The Public Utility
6-19 Commission of Texas is subject to Chapter 325, Government Code
6-20 (Texas Sunset Act). Unless continued in existence as provided by
6-21 that chapter or by Chapter 39, the commission is abolished and this
6-22 title expires September 1, 2005 [~~2004~~].
6-23 SECTION 3. Section 12.101, Utilities Code, is amended to
6-24 read as follows:
6-25 Sec. 12.101. COMMISSION EMPLOYEES. The commission shall
6-26 employ:
7-1 (1) an executive director; and
7-2 (2) [~~a general counsel; and~~]
7-3 [~~(3)~~] officers and other employees the commission
7-4 considers necessary to administer this title.
7-5 SECTION 4. Sections 12.151 and 12.152, Utilities Code, are
7-6 amended to read as follows:
7-7 Sec. 12.151. REGISTERED LOBBYIST. A person required to
7-8 register as a lobbyist under Chapter 305, Government Code, because
7-9 of the person's activities for compensation on behalf of a
7-10 profession related to the operation of the commission may not serve
7-11 as a commissioner [~~or act as general counsel to the commission~~].
7-12 Sec. 12.152. Conflict of Interest. (a) A person is not
7-13 eligible for appointment as a commissioner [~~or for employment as~~
7-14 ~~the general counsel~~] or executive director of the commission if:
7-15 (1) the person serves on the board of directors of a
7-16 company that supplies fuel, utility-related services, or
7-17 utility-related products to regulated or unregulated electric or
7-18 telecommunications utilities; or

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(2) the person or the person's spouse:

(A) is employed by or participates in the management of a business entity or other organization that is regulated by or receives funds from the commission;

(B) directly or indirectly owns or controls more than a 10 percent interest or a pecuniary interest with a value exceeding \$10,000 in:

(i) a business entity or other organization that is regulated by or receives funds from the commission; or

(ii) a utility competitor, utility supplier, or other entity affected by a commission decision in a manner other than by the setting of rates for that class of customer;

(C) uses or receives a substantial amount of tangible goods, services, or funds from the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses; or

(D) notwithstanding Paragraph (B), has an interest in a mutual fund or retirement fund in which more than 10 percent of the fund's holdings at the time of appointment is in a single utility, utility competitor, or utility supplier in this state and the person does not disclose this information to the governor, senate, commission, or other entity, as appropriate.

(b) A person otherwise ineligible because of Subsection (a)(2)(B) may be appointed to the commission and serve as a commissioner or may be employed as ~~[the general counsel or]~~ executive director if the person:

(1) notifies the attorney general and commission that the person is ineligible because of Subsection (a)(2)(B); and

(2) divests the person or the person's spouse of the ownership or control:

(A) before beginning service or employment; or

(B) if the person is already serving or employed, within a reasonable time.

SECTION 5. Section 13.002, Utilities Code, is amended to read as follows:

Sec. 13.002. APPLICATION OF SUNSET ACT. The Office of Public Utility Counsel is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished and this chapter expires September 1, 2005 [~~2001~~].

SECTION 6. Subsection (a), Section 13.003, Utilities Code, is amended to read as follows:

(a) The office:

(1) shall assess the effect of utility rate changes and other regulatory actions on residential consumers in this state;

(2) shall advocate in the office's own name a position determined by the counsellor to be most advantageous to a substantial number of residential consumers;

(3) may appear or intervene, as a party or otherwise, as a matter of right on behalf of:

(A) residential consumers, as a class, in any proceeding before the commission, including an alternative dispute resolution proceeding; and

(B) small commercial consumers, as a class, in any proceeding in which the counsellor determines that small

9-25 commercial consumers are in need of representation, including an
9-26 alternative dispute resolution proceeding;
10-1 (4) may initiate or intervene as a matter of right or
10-2 otherwise appear in a judicial proceeding;
10-3 (A) that involves an action taken by an
10-4 administrative agency in a proceeding, including an alternative
10-5 dispute resolution proceeding, in which the counsellor is
10-6 authorized to appear; or
10-7 (B) in which the counsellor determines that
10-8 residential electricity consumers or small commercial electricity
10-9 consumers are in need of representation;
10-10 (5) is entitled to the same access as a party, other
10-11 than commission staff, to records gathered by the commission under
10-12 Section 14.204;
10-13 (6) is entitled to discovery of any nonprivileged
10-14 matter that is relevant to the subject matter of a proceeding or
10-15 petition before the commission;
10-16 (7) may represent an individual residential or small
10-17 commercial consumer with respect to the consumer's disputed
10-18 complaint concerning utility services that is unresolved before the
10-19 commission; and
10-20 (8) may recommend legislation to the legislature that
10-21 the office determines would positively affect the interests of
10-22 residential and small commercial consumers.

10-23 SECTION 7. Section 13.024, Utilities Code, is amended to
10-24 read as follows:

10-25 Sec. 13.024. Prohibited Acts. (a) The counsellor may not[+]]

10-26 [~~(1)~~] have a direct or indirect interest in a utility
11-1 company regulated under this title[; or]

11-2 [~~(2) provide legal services directly or indirectly to~~
11-3 ~~or be employed in any capacity by a utility company regulated under~~
11-4 ~~this title], its parent, or its subsidiary companies, corporations,~~
11-5 or cooperatives or a utility competitor, utility supplier, or other
11-6 entity affected in a manner other than by the setting of rates for
11-7 that class of customer.

11-8 (b) The prohibition under Subsection (a) applies during the
11-9 period of the counsellor's service [and until the second
11-10 anniversary of the date the counsellor ceases to serve as
11-11 counsellor.]

11-12 [~~(c) This section does not prohibit a person from otherwise~~
11-13 ~~engaging in the private practice of law after the person ceases to~~
11-14 ~~serve as counsellor].~~

11-15 SECTION 8. Section 13.043, Utilities Code, is amended to
11-16 read as follows:

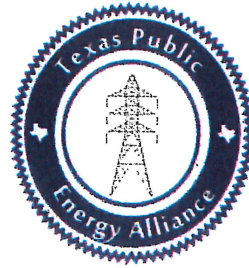
11-17 Sec. 13.043. PROHIBITION ON EMPLOYMENT OR REPRESENTATION.

11-18 (a) A former counsel may not make any communication to or
11-19 appearance before the commission or an officer or employee of the
11-20 commission before the second anniversary of the date the person
11-21 ceases to serve as counsel if the communication or appearance is
11-22 made:

11-23 (1) on behalf of another person in connection with any
11-24 matter on which the person seeks official action; or

11-25 (2) with the intent to influence a commission decision
11-26 or action, unless acting on his or her own behalf and without
12-1 remuneration.

12-2 (b) A former counsel may not represent any person or receive
12-3 compensation for services rendered on behalf of any person
12-4 regarding a matter before the commission before the second



The **Texas Public Energy Alliance** is a non-profit, political subdivision corporation created by local governments to save Texas public entities on their energy costs through a strong market presence, vigorous competition and favorable contract terms uniquely tailored to our Member needs. **The Texas Public Energy Alliance utilizes the vast experience of Van Brunt & Associates, Inc.**, a seasoned energy consulting firm to manage the energy procurement and cost management needs of its Members.

TPEA is uniquely positioned to serve the energy needs of:

- ~ School Districts
- ~ Municipal Utility Districts (MUD)
- ~ County Governments
- ~ Colleges
- ~ Municipalities
- ~ State Agencies
- ~ Other local governments & political subdivisions

MEMBER LOG IN

Member Services:

- Free Energy Management Software (VBEnergyZone)
- IDR Meter Analysis Service
- Power Factor Penalty Analysis
- Data Entry of Energy Use and Cost Information
- 4CP Notification Service
- Add/Delete Assistance
- TDSP (Utility) Cost Reduction assistance

Maximum competition

TPEA program gives you pricing from 10 of the top electricity suppliers in Texas. These suppliers include:

- Constellation
- EDF
- Gexa
- Hudson
- MidAmerican Energy
- MP2
- Reliant

TPEA process meets public procurement requirements

No need to run your own RFP. No need to hire a consultant.

Strong Contract Terms tailored for Local Governments

- Unlimited Swing
- Add/delete allowance
- Fixed Nodal Congestion (Hub to Load Zone bids)
- Appropriations and & Prompt Pay Act language
- No Monthly Customer Charge
- No unknown pass thru charges

Description of Services

Specialize in Energy Procurement

- Electricity
- Natural Gas
- Demand Response

Work with a variety of Retail Electric Providers

- Have awarded to 15 different REPs in our history
- Familiar with strengths and weaknesses of each

VBA's Model contract

- Originated with City of Dallas. Has evolved and now is being used by Houston ISD, Dallas ISD, Region One Pool (20+ districts), TCSA, and many others
- Provides best apples to apples comparison of offers
- Widely accepted in the REP community
- Streamlines the negotiation process

VBEnergyZone Portal



What is it?

- **Political Subdivision Corporation** (Provided for in Senate Bill 7 with the start of deregulation)
- Formed in 2015, by 2 public entities, for the purpose of negotiating the purchase of electricity for its members
- Only available to Public Sector Consumers such as:
 - School Districts
 - Municipalities, Counties
 - Public Universities, Community Colleges

How can TPEA benefit your County?

- Provides direct access to competitive supplies from up to 10 suppliers via state approved purchasing method
- Ability to contract now (no need to run RFP which can take months and a lot of human resources)
- No need to wait until a pool is formed
- Includes the full suite of energy procurement and energy management services from Van Brunt & Associates with proven track record of Savings
 - Standard Van Brunt & Associates contract

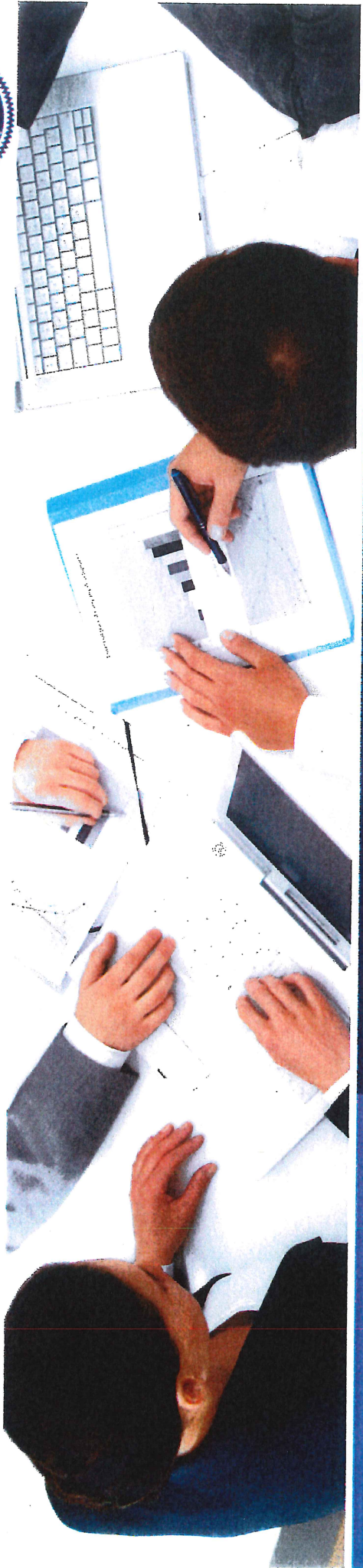
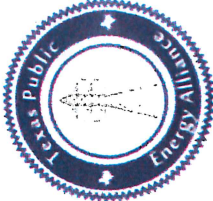
Contracts Awarded to

Houston Area	Dallas Area	Valley Area
Alvin ISD	Arlington ISD	Donna ISD
Fort Bend ISD	City of Carrollton	Harlingen CISD
Harmony Public Schools	Dallas ISD	La Feria ISD
Houston ISD	Irving ISD	La Joya ISD
Pearland	Wylie ISD	Los Fresnos ISD
Texas Southern University		Mission CISD
		Rio Hondo ISD
		South Texas ISD
		Weslaco ISD

• No RGV cities or counties.

• 80¢ a Megawatt hour fee.

How to become a Member



Approve Resolution which:

[Approves Certificate of Formation, Bylaws of TPEA, and Interlocal Agreement]

[Authorizes a representative to enter into electricity contract]