

RESOLUTION NO. R-2010-12

A RESOLUTION OF THE CITY OF TYLER, TEXAS, ENDORSING CERTAIN LEGISLATIVE CHANGES RELATING TO THE SUNSET REVIEW OF THE TEXAS PUBLIC UTILITY COMMISSION AND THE SPECIAL PURPOSE REVIEW OF THE ELECTRIC RELIABILITY COUNCIL OF TEXAS.

WHEREAS, the City of Tyler (“City”) is a member of the Steering Committee of Cities by Oncor created by 146 cities in the Oncor service territory to protect the interests of cities and their residents with regard to electric rates; and

WHEREAS, affordable and reliable power means economic development for our cities and a better standard of living for our citizens; and

WHEREAS, by deregulating the retail electric market, Senate Bill 7 of 1999 (“SB 7”) was intended to allow competitive forces to drive down the price of electricity; and

WHEREAS, the Texas electric retail market has failed to develop into a truly competitive market as envisioned by the Texas Legislature; and

WHEREAS, competition has failed to develop in the deregulated electric market because certain power generation companies own or control enough generation capacity to exercise market power to the detriment of customers and non-affiliated retail electric providers; and

WHEREAS, alleged market power abuse inquiries conducted by the Public Utility Commission (“PUC”) are hampered by the lack of adequate resources because the parties hurt by the illegal activity, like cities, are not allowed to participate in the investigations; and

WHEREAS, the managers at the Electric Reliability Council of Texas (“ERCOT”) have failed to adequately manage expenses and operations. The most obvious example is ERCOT’s implementation of a nodal market — a project now four years behind schedule and expected to cost at least eight times original estimates; and

WHEREAS, the Sunset Advisory Commission is expected to recommend legislative reforms for the PUC and ERCOT; and

WHEREAS, the City supports all such legislative reforms that promote a truly healthy electric market where competition can flourish and consumers can save money; and

WHEREAS, the City endorses efforts proposed by the Steering Committee that enhance electric competition, implement the original intent of SB 7, and reduce costs to the City and its residents.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, THAT:

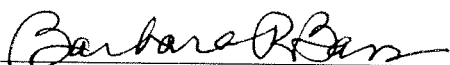
PART 1: The City urges reforming the PUC and ERCOT in such a way as to enhance competition in the deregulated market, to promote consumer protection and to

encourage the sale of affordable electricity. Specifically, the City urges the Texas Legislature, as it considers changes recommended by the Sunset Advisory Commission, to adopt reforms consistent with the following:

- All generators, regardless of size, should explicitly be barred from the unlawful exercise of market power.
- Entities such as municipalities, commercial customers or retail electric providers harmed by wholesale market abuse should be given explicit standing to participate in market power abuse enforcement actions brought by the PUC.
- Fines should be increased for market abuses in such a way that the PUC can order full restitution to the market, market participants, or parties injured by the violation.
- Activities defined as market abuse by the Federal Energy Regulatory Commission should be prohibited.
- The statutory purpose of the PUC should be modified to require it to harmonize its pursuit of competition with the protection of consumers of electricity.
- As a condition of conducting business within Texas, competitive Retail Electric Providers (“REPs”) should be required to include among their offers one standard electricity package that has PUC-approved terms and conditions.
- The number of consumer representatives on the ERCOT board should be increased from the current three members, to six.
- The Office of the Comptroller should be assigned a seat on the board as well as on appropriate budget oversight panels within ERCOT. The Comptroller’s office should be given access to all ERCOT contracting material and be charged with conducting a bi-annual performance review of ERCOT.
- The PUC should be required to pre-approve all debt financing by ERCOT.

PART 2: A copy of the resolution shall be sent to the elected lawmakers representing the City’s interests in the Texas House and Senate and to the legal counsel of the Steering Committee.

PRESENTED AND APPROVED on this 12th day of May, 2010.


BARBARA BASS, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:


CASSANDRA BRAGER, CITY CLERK



APPROVED:

GARY C. LANDERS, CITY ATTORNEY