

## 82nd End of Session Summary

### Issues affecting CoServ and its Members

With the Texas Legislature's regular session over, we want to take a moment to update you on legislation that was considered and to share with you what passed; what did not pass; and what could affect co-op members as we move forward.

#### **PUC/ERCOT Sunset Bill (SB661) – Did Not Pass**

SB661 was designed to improve the operations of the PUC and ERCOT. Much of the legislation was related to increasing PUC oversight of ERCOT, with focus being on the makeup of the ERCOT board of directors and their role in hiring and firing the CEO. Additional issues were related to the PUC's role in hiring, firing, and reappointing unaffiliated directors.

The Senate version of the legislation aimed to make clear that the PUC has no jurisdiction over selection, qualifications, or removal of an ERCOT board member. The legislation also clarified that only the ERCOT board can select or remove the ERCOT CEO or an unaffiliated board member.

This bill contained provisions that prohibited a PUC commissioner from being employed by ERCOT for two years after leaving the PUC.

#### **Co-op Pole Attachments – Did not pass**

The Co-op Pole Attachments bill represents an issue of significant concern for CoServ and other co-ops because the legislation being proposed is biased toward telecommunications companies and cable companies. We do not support this legislation because:

- It would have established terms and conditions for these entities to attach their own wires and infrastructure to our power poles that would have restricted CoServ's ability to adequately protect the reliability and integrity of our distribution system.
- It would have limited our ability to regulate the installation techniques used by other entities.
- It would have limited our ability to ensure ancillary pole attachments have been installed using appropriate ground clearances, proper hardware, and with consideration for the strain the additional equipment could place on the pole.
- It would have mandated an attachment fee rate that would have been a below cost fee creating a subsidization by CoServ's members of for-profit third party entities.

We anticipate this legislation will be introduced again, and we would support an initiative that gives co-ops, like CoServ, the ability to recoup costs and regulate the way our poles can be used and gives us the capability to engineer any and all attachments so they don't compromise our poles or system.

#### **Electric Co-op Governance – Did not pass**

This legislation was introduced by Senator Fraser and would have applied to co-ops with 170,000+ members and in counties with 1.0-1.5 million residents. The bill was primarily aimed at Pedernales Electric Co-op, as Sen. Fraser sought to equalize PEC's districts based on census data by creating single member districts for the PEC board. It also required Public Utility Commission (PUC) approval to acquire new generation assets and would enable guests of co-op members to attend board meetings. As a large co-op, CoServ doesn't support this legislation because it has the potential to adversely affect CoServ.

#### **Mandatory Fuel Switching – Did not pass**

Mandatory Fuel Switching legislation (SB 15) would have created a Texas Energy policy Council charged with developing a statewide energy plan. The bill was heavily biased and aimed to make natural gas the fuel of choice in Texas. We believe that a mix of fuel sources will be necessary to meet growing demand in Texas, so we don't support this legislation.

#### **Texas Commission on Environmental Quality Sunset—Passed**

The TCEQ Sunset bill doesn't affect CoServ specifically, but it could favorably affect the process for air permits for our wholesale power provider, Brazos Electric Co-op.

#### **Railroad Commission of Texas Sunset – Did not Pass**

This legislation is designed to evaluate the state's agency to determine its necessity and effectiveness. As the House and Senate couldn't agree on key issues regarding governance of the agency, the RRC will remain unchanged and will undergo Sunset Review again in two years.

#### **Annual Energy Efficiency Reporting for Co-ops—Passed**

This legislation was initially approved in 2007 but has been extended via SB 924. With this law, co-ops and MOUs are required to submit annual reports of their energy efficiency efforts to the State Energy Conservation Office (SECO). From there, SECO sends the reports to the energy systems laboratories at Texas A&M, where energy savings and estimated pollution reductions will be calculated as part of a larger report on all utilities. CoServ has and will continue to participate in this reporting requirement.

#### **Expanding Customer Choice to Schools and State Loads – Did not pass**

House Bill 2677 would require net metering at the full retail rate for school districts that have distributed renewable generation (DRG). The bill also included provisions that were aimed at helping to help offset budget cuts to state agencies and public schools by allowing agencies to aggregate their electrical loads and participate in customer choice. This had the potential to affect CoServ in that it would have required us to "opt-in" to the deregulated market. We don't feel that the timing is right for

opting into the deregulated market, but CoServ's board is actively monitoring, evaluating, and preparing for the future, as we feel that this legislation will likely be reintroduced in the future.

### **Eminent Domain – Passed**

A new Eminent Domain bill (SB 18) was introduced to protect and advance landowner private property rights. The law requires public and private entities with eminent domain authority to follow new requirements and disclose additional information during negotiation and acquisition phases of condemnation. The new standards are currently unknown, but CoServ will monitor this issue as it develops. The bill also requires all entities with the power to condemn land to submit documentation to the comptroller identifying statutory sections authorizing eminent domain authority.

### **Distributed Renewable Generation—Did not pass**

Several bills regarding DRG were introduced and/or amended to other bills this session and did not pass. The goal is to ensure that customers with DRG systems can interconnect and receive payment for surplus electricity. The legislation clarified the definition of a DRG owner, and provisions were added to exempt DRG owners (whose systems produce less than or equal to the customer's estimated electricity consumption) from registering with the PUC as an electric utility, power generation company, or retail electric provider. These definitions don't currently apply to co-ops, but we expect a continued push to incorporate co-ops into this legislation. CoServ is well-positioned to comply with future legislation regarding DRG.

### **Transmission Line CCNs – Passed**

HB 971 passed and has provisions relating to transmission line CCNs. The legislation removes a requirement that an applicant for a proposed transmission line designate a preferred route for the line. The legislation further clarified existing law to address potential future situations where a government agency (or quasi-government agency) seeks to stymie a PUC-approved CCN for transmission facilities. A "consumer benefits test" was also included in an effort to protect landowners whose property was being considered for transmission projects that aren't required for reliability purposes.

We don't expect this legislation to affect CoServ as much as it will affect Brazos Electric Co-op (our wholesale power provider).

### **Solar Generation Incentive Plan – Did not pass**

HB 2961 would have created a solar generation incentive program for all utilities, including co-ops. The bill would have implemented a \$1 per month fee for each residential meter, \$5 per month fee for every commercial meter, and \$50 per month fee for every industrial meter. The fees collected would have been used to provide rebates for solar devices. The incentive program was mandatory but consumers could opt out. Ultimately the bill failed because legislators considered the fee to be tantamount to a new tax and preferred an "opt in" program versus an "opt out" program.

### **Metal Recycling Regulation – Passed**

SB 894 requires metal recyclers to gather additional identification from sellers of regulated metals. The list of regulated metals includes any metal item clearly and conspicuously marked with any form of the name, initials, or logo of a governmental entity, utility, cemetery, and railroad. Also included are insulated utility, communications, or electrical wire that has been burned in whole or in part to remove the insulation. The Department of Public Transportation (DPS) will be responsible for enforcement and will create a public database of registered metal recyclers. The bill also implements penalties if a metal recycler fails to get a license or permit as required by local government authorities.

#### **Disgorgement for Market Power Abuses – Passed**

HB 2133 enhances punishment for power abuses under the Utilities Code. The PUC will be required to order the return of all revenue in excess of revenue that would have occurred absent a violation. Any excess revenue will be returned to the affected wholesale electric market participants to be used to reduce costs/fees incurred by retail electric consumers.

#### **PUC Review of Emergency Operations Plans – Passed**

This legislation requires the PUC to analyze emergency operations plans developed by electric providers (including cooperatives and municipally owned utilities) to ensure that utilities have plans in place to withstand extreme weather in order to maintain grid reliability. CoServ is working on our plan and will be conducting table top exercises to evaluate system reliability and to ensure preparedness for future extreme weather events.

#### **Public Power Utility Open Records – Passed**

Legislation was introduced that will require municipally owned utilities to be subject to open records and meeting laws. The bill provides additional transparency to municipal utilities while allowing public power systems to continue protecting competitive information that is considered relevant to competition. Co-ops are not currently included in this legislation, but we anticipate this legislation could ultimately affect co-ops via governance legislation.

#### **Standards for Emergency Notification Systems**

This legislation was passed authorizing utilities and other public service providers to enter into contracts for emergency notification systems that use dynamic database information to inform consumers about disasters/emergencies and required actions during such events. Currently, public service providers can contract with third parties for emergency notification systems, but there are no minimum standards and providers can't use a targeted system to send out notifications. This legislation establishes standards for notification systems and requires the use of a dynamic database. These new requirements don't replace traditional methods of emergency notification, but rather augment these methods.

#### **Priorities for Power Restoration – Passed**

Due to weaknesses exposed in the February 2011 extreme cold temperatures spurred this legislation, which establishes that assisted living facilities, nursing facilities, and hospice service facilities be given the same priority as hospitals in a utility's emergency operations plan for restoring power after an

extended power outage. The provisions of this law don't apply directly to co-ops, as we already prioritize such facilities; but it does require co-ops to report the emergency operations plan to the co-ops board of directors.

#### **General Land Office's State Power Program – Did not pass**

#### **Easements on State-Owned Land – Passed**

HB 1449 streamlines the process that the Texas Parks & Wildlife Department (TPWD) must follow to grant, lease, or renew right-of-way easements through state parks. New language will require the TPWD to charge fair market value for their easements as opposed to "fair and adequate" evaluation, which left the door open for above market valuations. This bill is favorable to co-ops and other utilities that require easements on state-owned land.

#### **Limited Liability for Utilities and Co-ops – Did not pass**

HB 3802 would have limited the liability of certain electric utilities and co-ops that permit people to enter their premises for recreation, exercise, education, relaxation, travel or pleasure.

#### **Noise Regulation Bill – Did not pass**

HB 2687 would have given county commissioners courts the ability to adopt regulations prohibiting sound levels that exceed 85 decibels at night. While co-ops were exempted in this bill, it was left pending in the House County Affairs Committee.

#### **Escheat Utility Deposits – Did not pass**

Legislation was designed to reduce the dormancy period for unclaimed utility deposits from three years to one year. Shortening the dormancy period of unclaimed property produces additional revenue for the state government. This bill doesn't affect the electric co-op program authorizing certain unclaimed funds to be used for scholarships, economic development, and energy efficiency.

#### **Prohibition on Condemnations for Generation Plants - Pending**

HB 2356 was left pending in committee. The bill would have prohibited gas and electric utilities, electric co-ops, and joint power agencies from using eminent domain to build generation sites.