

1-1 By: Hancock S.B. No. 1358  
 1-2 (In the Senate - Filed February 28, 2019; March 7, 2019,  
 1-3 read first time and referred to Committee on Business & Commerce;  
 1-4 March 27, 2019, reported favorably by the following vote: Yeas 8,  
 1-5 Nays 0; March 27, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Hancock	X			
1-8 Nichols	X			
1-9 Campbell	X			
1-10 Creighton	X			
1-11 Menéndez			X	
1-12 Paxton	X			
1-13 Schwertner	X			
1-14 Whitmire	X			
1-15 Zaffirini	X			

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to procedures for imposing certain administrative  
 1-20 penalties or disgorgement orders by the Public Utility Commission  
 1-21 of Texas.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 15.024, Utilities Code, is amended by  
 1-24 amending Subsections (b), (e), and (f) and adding Subsection (b-1)  
 1-25 to read as follows:

1-26 (b) Not later than the 14th day after the date the report is  
 1-27 issued, the executive director shall give written notice of the  
 1-28 report to the person against whom the penalty may be assessed. The  
 1-29 notice may be given by regular or certified mail. The notice must:

- 1-30 (1) include a brief summary of the alleged violation;
- 1-31 (2) state the amount of the recommended penalty; and
- 1-32 (3) inform the person that the person has a right to a  
 1-33 hearing on the occurrence of the violation, the amount of the  
 1-34 penalty, or both the occurrence of the violation and the amount of  
 1-35 the penalty.

1-36 (b-1) If the commission sends written notice to a person by  
 1-37 mail addressed to the person's mailing address as maintained in the  
 1-38 commission's records, the person is deemed to have received notice:

- 1-39 (1) on the fifth day after the date that the commission  
 1-40 sent the written notice, for notice sent by regular mail; or
- 1-41 (2) on the date the written notice is received or  
 1-42 delivery is refused, for notice sent by certified mail.

1-43 (e) If the person accepts the executive director's  
 1-44 determination and recommended penalty or fails to timely respond to  
 1-45 the notice, the commission by order shall approve the determination  
 1-46 and impose the recommended penalty or order a hearing on the  
 1-47 determination and the recommended penalty.

1-48 (f) If the person requests a hearing or the commission  
 1-49 orders a hearing under Subsection (e) [~~fails to timely respond to~~  
 1-50 the notice], the commission [~~executive director~~] shall refer the  
 1-51 matter to the State Office of Administrative Hearings for [~~set~~] a  
 1-52 hearing and give notice of the referral [~~hearing~~] to the person.  
 1-53 The parties to a proceeding under this subchapter shall be limited  
 1-54 to the person and the commission, including the independent market  
 1-55 monitor. The hearing shall be held by an administrative law judge  
 1-56 of the State Office of Administrative Hearings and notice of the  
 1-57 hearing must be provided in accordance with Chapter 2001,  
 1-58 Government Code. The administrative law judge shall make findings  
 1-59 of fact and conclusions of law and promptly issue to the commission  
 1-60 a proposal for a decision about the occurrence of the violation and  
 1-61 the amount of a proposed penalty. Based on the findings of fact,

2-1 conclusions of law, and proposal for a decision, the commission by  
2-2 order may find that a violation has occurred and impose a penalty or  
2-3 disgorgement order or may find that no violation occurred.

2-4 SECTION 2. The changes in law made by this Act apply only to  
2-5 the procedures for an administrative penalty or disgorgement order  
2-6 for which a written notice is given under Section 15.024(b),  
2-7 Utilities Code, on or after the effective date of this Act. Those  
2-8 procedures for a penalty or order for which a written notice is  
2-9 given before the effective date of this Act are governed by the law  
2-10 in effect on the date the notice is given, and the former law is  
2-11 continued in effect for that purpose.

2-12 SECTION 3. This Act takes effect September 1, 2019.

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