



Testimony

SB 2227

Testimony in Opposition Before the Texas Senate Business & Commerce Committee

by Brent Bennett, PhD
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Chairman Hancock and Members of the Committee:

Thank you for the opportunity to discuss this very important topic today. We appreciate the hard work of this committee and the Senate to address the fallout from Winter Storm Uri and to advance needed market reforms. It is critical that the issue of how to handle the debts from the storm continues to be debated as part of this process, and we appreciate Senator Hughes and the committee for bringing this discussion forward.

We support the use of securitization to reduce costs to ratepayers and to ensure repayment of debts to non-defaulting market participants. The tool has been used effectively numerous times over the past two decades, most notably to reduce the effect of stranded asset costs following the market restructuring and to mitigate losses due to other natural disasters, such as hurricanes.

However, we must oppose SB 2227 because it proposes making customers of entities that were properly hedged during the storm pay the debts of entities that were short in the market. This violates the principles that markets are self-disciplining and that risks should fall on market participants and not consumers. This would be an unprecedented use of securitization by the state to redistribute costs among market participants and would set a dangerous precedent by subsidizing risk-taking in the market. Entities that knowingly took certain risks in the market and benefited from those risks over many years should not be rescued because of an event that they failed to foresee.

These measures should only be considered in the event of a clear and imminent market collapse. We do not see clear evidence of such a collapse right now. There are only 13 entities currently listed as short-paying entities in the ERCOT market. While there are other entities in bankruptcy or at risk of bankruptcy that are not on that list, the market can sort itself out, especially if securitization, properly done, is able to spread out the costs from the storm.

Bankruptcies are undesirable but are a necessary part of ensuring proper risk management in a competitive market. Bailing out entities at risk of bankruptcy—not unlike what was done during the 2008 financial crisis—is an affront to market principles that will cause lasting damage to the investment environment in Texas. Furthermore, this bill would not save many of the entities currently in bankruptcy or at risk of bankruptcy, so if that is the goal, then a different mechanism should be considered. It also does not provide an insurance policy for market liquidity because it does not require the largest entities that are short to pay their bills.

TPPF is opposing this bill both on behalf of market principles and on behalf of the vast majority of the consumers in the ERCOT market who will not benefit from this bill but will be harmed both directly and indirectly by its consequences. For example, TPPF—as a customer of Austin Energy, which benefited from its high-performing generation assets during the storm—will see its electric rates go up because of this bill. As a customer of Austin Energy myself, this bill will cause my rates to go up. We should not punish customers of companies that performed well during the crisis simply to keep other market participants from going bankrupt.

Much of this debate centers around whether the PUC made the correct decision to hold prices at the offer cap through February 18 and 19, after firm load shedding had ended. **We do not have a position on whether the decisions made by the PUC to alter prices during Winter Storm Uri were an appropriate policy response.** The debate over how to change

the pricing structure, including the offer caps and the reliability deployment price adders, is an important one that will be carried on well after this session is over. However, the PUC was acting well within its authority when it took those actions, and market participants entered the market knowing these rules. **Attempting to undo the thousands of decisions based on the prices that existed during the storm is virtually impossible and sets a terrible precedent for future investment and risk management in the ERCOT market.**

The questions around hedging are also important. **The notion that the costs incurred during the storm were unhedgeable is patently false.** Ancillary services are regularly traded between parties on a bilateral basis, through online platforms such as the Intercontinental Exchange or through broker markets. The extent of the storm and the degree of load shedding were difficult to foresee but not impossible to hedge against. Customers of market participants who are under fixed-rate plans will have to bail out this risk-taking on the back end, having not benefited from it themselves on the front end. This plan runs roughshod over the fundamental market principles around hedging and risk-taking.

Again, we appreciate the fact that these issues are being brought forward in a public hearing and that all the market participants are having an opportunity to weigh in. However, this is a dangerous proposal, and we respectfully ask the committee to vote against it. ★

ABOUT THE AUTHOR



Brent Bennett, PhD, is the policy director for Life:Powered, an initiative of the Texas Public Policy Foundation that reframes the national discussion on energy and the environment. As part of the Life:Powered team, Bennett regularly speaks with policymakers, energy experts, and industry associations across the country. He is responsible for fact-checking the team's work and spearheading many of the team's policy and regulatory initiatives. He has written extensively on how America has improved its environment while growing its energy use and on the physical limitations of renewable energy and energy storage.

Prior to joining the Foundation, Bennett worked for a startup company selling carbon nanotubes to battery manufacturers, and he continues to provide technology consulting to energy storage companies. His early years were spent in the oil country of Midland, Texas—the heart of the oil patch—where he has been a student of energy his entire life.

Bennett has an MSE and PhD in materials science and engineering from the University of Texas at Austin and a BS in physics from the University of Tulsa. His graduate research focused on advanced chemistries for utility-scale energy storage systems.

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