

Diana Liebmann in Law360: 4 Texas Legislative Moves to Know: Midyear Report

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Haynes Boone Partner [Diana Liebmann](#) contributed to *Law360*'s mid-year report about important changes implemented during the 2019 Texas Legislative Session, such as easing regulatory requirements for mergers in the power generation sector.

Here is an excerpt:

Legislators revised a portion of the Public Utility Regulatory Act [PURA] so that approval from the Public Utility Commission of Texas for mergers in the industry isn't required in as many cases.

S.B. 1211, set to go into effect in September, revised PURA so that approval from state regulators is only required if the electricity offered for sale by the post-merger or post-acquisition company exceeds 10% of the total electricity for sale in the state. The change will result in fewer required regulatory reviews and approvals for some corporate transactions, including tax equity investment and M&A involving power generation in Texas.

Until the bill passed, the threshold for PUCT review was 1% of total electricity for sale. That resulted in a backlog of cases for the commission and delayed deals for investors, said Diana Liebmann of Haynes Boone.

"I think this was really needed because most of the generating projects being built in [the Electric Reliability Council of Texas power region] are renewables, and they're financed through tax equity," she said, explaining that PUCT was actually required to greenlight applications for companies that controlled less than 20% of the market.

"So you had these entities just barely over 1% that had to make this filing, meaning they couldn't close on the transaction for 120 days, even though it was self-evident the commission was going to approve the application because it was so far below the 20% threshold," she said.

Liebmann said she believes both the commission and power generators wanted to see this change in the law, and attributed the 1% threshold to concerns that date back to when Texas deregulated the energy market in the 1990s.

"When we first opened the market, there was a lot of concern about the way parties would behave and how the market would function," she said. "So it was very cautious to start with, and it really didn't become as much of an administrative hassle until we had a lot of the renewable investments and tax equity investments, because each one of those investors had to go through that analysis as well."

To read the full article, click [here](#). (Subscription required)