

- SUBJECT:** Satisfaction of unbundling requirements by certain electric utilities
- COMMITTEE:** Regulated Industries — favorable, without amendment
- VOTE:** 7 ayes — P. King, Hunter, Baxter, R. Cook, Crabb, Hartnett, Turner  
0 nays
- SENATE VOTE:** On final passage, April 14 — 31-0, on Local and Uncontested Calendar
- WITNESSES:** For — David Carpenter, American Electric Power Company  
Against — None
- BACKGROUND:** The Electric Reliability Council of Texas (ERCOT) is one of 10 regional reliability councils in North America and the Independent System Operator for the ERCOT area. ERCOT is responsible for facilitating wholesale electricity transactions among power generators and retailers, ensuring customer information is provided to retailers, maintaining the reliability of the transmission network, and ensuring open access to the network.
- In 1999, the 76th Legislature enacted SB 7 by Sibley. Among its provisions, the bill required an electric utility to separate its power generation, retail electric provider, and transmission and distribution activities from one another. In order to prevent abuses of market power, this unbundling had to provide for a separation of personnel, information flow, and operations.
- DIGEST:** SB 1494 would allow an electric utility that had not finalized separation by September 1, 2005, to satisfy its requirements for unbundling its generation activities in ERCOT if the utility:
- had no more than 400 megawatts of Texas jurisdictional capacity from active units within ERCOT;
  - had a contract with a separate company for the sale of the output from its active units for either 20 years or the life of the generating units, whichever was shorter; and

- had a separate division within the utility for its generation activities.

The separate division would be considered a company and a competitive affiliate. The division would be subject to provisions in current law requiring the separation of personnel, information flow, and operations.

The bill would take effect September 1, 2005.

**SUPPORTERS  
SAY:**

SB 1494 would allow a utility that had not yet satisfied its unbundling requirements to do so by contracting with an independent company for the sale of its output. Some utilities that jointly own power plants with out-of-state companies have had trouble meeting the state's unbundling requirements. In certain cases, separation of a company's generation assets could allow out-of-state companies with a stake in those assets to exercise a contractual right of first refusal, which could allow for shipment of that capacity outside of ERCOT. This could be a problem because generation capacity within ERCOT already is at a premium.

SB 1494 would require a utility to establish a separate division to manage its relationship with the company with which it contracted to sell its output. In this manner, the bill would honor the intent of SB 7 by preventing market power abuses while ensuring that power from plants in ERCOT was not lost to the Southwest Power Pool or another regional reliability council across the state line.

**OPPONENTS  
SAY:**

No apparent opposition.