

BILL ANALYSIS

Senate Research Center

S.B. 86
By: Nelson
Electricity Utility Restructuring
2/10/1999
As Filed

DIGEST

Currently, in Texas, there has been a marked increase in retail competition in the telecommunications services industry with a resulting increase in reported incidences of unfair or fraudulent business practices. There is additional concern that similar occurrences may result if the electric industry is restructured to allow retail competition as well. Ultimately, the inability of customers to make choices with confidence in any retail market because of the prevalence of unfair or fraudulent business practices reduces the degree of participation and, consequently, the competitiveness of that market. This bill provides greater consumer protections in the telecommunications and electric services industries.

PURPOSE

As proposed, S.B. 86 provides an increase in protection of telecommunications and electric services customers.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Public Utility Commission in SECTION 3 (Title 2A, Sections 17.003(c), 17.004(b), 17.051(a), 17.052, and 17.102, Utilities Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 11.002, Utilities Code, by adding Subsection (c) to establish the purpose of this title that significant changes have occurred in the telecommunications and electric power industries since the Public Utility Regulatory Act was adopted, requiring the need for an increase in consumer protection.

SECTION 2. Amends Section 15.024, Utilities Code, by deleting text concerning the prohibition of a penalty in which the person penalized remedies the violation within 30 days after receiving notice and stating that the violator has the burden of proof that the alleged violation was remedied and was accidental or inadvertent. Makes conforming changes.

SECTION 3. Amends Title 2A, Utilities Code, by adding Chapter 17, as follows:

CHAPTER 17. CUSTOMER PROTECTION SUBCHAPTER A. GENERAL PROVISIONS

Sec. 17.001. **CUSTOMER PROTECTION POLICY.** Sets forth the findings of the legislature regarding new developments in telecommunications services and the production and delivery of electricity. Sets forth the purpose of this chapter which is to provide customer safeguards and provide rulemaking authority to the Public Utility Commission (PUC) to adopt and enforce rules providing customer safeguards.

Sec. 17.002. **DEFINITIONS.** Defines "billing agent," "billing utility," "certificated telecommunications utility," "customer," "electric utility," "telecommunications utility."

Sec. 17.003. **CUSTOMER AWARENESS.** Requires the PUC to promote public awareness of electric and telecommunications market changes and provide information to customers

about available options and their rights as customers. Requires the PUC to compile a comparative customer service report yearly. Grants rulemaking authority to the PUC to require a certificated telecommunications utility or an electric utility to provide clear, uniform and understandable information to customers about rates, terms, services, customer rights, and other necessary information. Requires customer service awareness efforts to be conducted in English, Spanish, and any other language necessary.

Sec. 17.004. CUSTOMER PROTECTION STANDARDS. Establishes that all buyers of telecommunications and electric services have certain rights. Grants rulemaking authority to the PUC to adopt and enforce rules for minimum service standards on customer deposits, credit extensions, switching fees, levelized billing programs, service termination and service quality for certificated telecommunications utilities and electric utilities.

SUBCHAPTER B. LICENSING, CERTIFICATION, REGISTRATION, AND REPORTING REQUIREMENTS

Sec. 17.051. ADOPTION OF RULES. Grants rulemaking authority to the PUC regarding licensing, certification, registration, and reporting requirements for certificated telecommunications utilities, electric utilities, telecommunications utilities that are not dominant carriers, pay telephone providers, qualifying facilities, exempt wholesale generators, and power marketers. Requires that rules adopted under Subsection (a) are consistent with and no less effective than federal law.

Sec. 17.052. SCOPE OF RULES. Sets forth requirements for the creation and enforcement of the PUC's rules.

Sec. 17.053. REPORTS. Authorizes the PUC to require certificated telecommunications utilities or electric utilities to submit reports to the PUC over any matter the PUC has authority.

SUBCHAPTER C. CUSTOMER'S RIGHT TO CHOICE

Sec. 17.101. POLICY. Establishes a state policy to protect customers from unauthorized switching of a selected certificated telecommunications utility or electric utility.

Sec. 17.102. RULES RELATING TO CHOICE. Grants rulemaking authority to the PUC to ensure customers are protected from unauthorized switching of a selected certificated telecommunications utility or electric utility.

SUBCHAPTER D. PROTECTION AGAINST UNAUTHORIZED CHARGES

Sec. 17.151. REQUIREMENTS FOR SUBMITTING CHARGES. Authorizes a person, corporation, telecommunications or electric utility, or billing agent to submit charges on a customer's bill if certain requirements are met. Requires customer consent to be verified by the person, corporation, or telecommunications or electric utility offering the product or service in a manner prescribed by the PUC and a record kept of the authorization. Requires the record of the billing utility's written consent as required in Subsection (a) to be kept by certain entities. Prohibits the use of negative option marketing, sweepstakes, contests, or other techniques that cause customers to unknowingly subscribe to a service or product by any provider of such services.

Sec. 17.152. RESPONSIBILITIES OF A BILLING UTILITY. Requires a billing utility, upon its knowledge or notification of an unauthorized charge on a customer's bill, to promptly take certain actions by a certain date. Requires certain information to be contained in every report of an unauthorized charge to a customer's bill. Prohibits a billing utility from disconnecting or terminating service to any customer who disputes a billing charge under this section, or from filing an unfavorable credit report against a customer who disputed charges under this section unless the dispute is ultimately resolved against the customer.

Sec. 17.153. RECORDS OF DISPUTED CHARGES. Requires every person, corporation, or telecommunications or electric utility to maintain a record of every disputed charge placed on a customer's bill. Requires certain information to be contained in the record of a disputed charge to a customer's bill. Requires the record to be kept for at least 12 months following the completion of all steps required by Section 17.152(a).

Sec. 17.154. NOTICE. Requires a billing utility to provide notice of a customer's right in a manner prescribed by the PUC. Requires the notice to be provided by mail to each residential and business customer within 60 days of the effective date of this section. Requires each billing utility to send the notice to new customers at the initiation of service or to any customer upon their request.

Sec. 17.155. PROVIDING COPY OF RECORDS. Requires a billing utility to provide a copy of records to the PUC staff upon request.

Sec. 17.156. VIOLATIONS. Authorizes the PUC to implement penalties and other enforcement actions under Chapter 15 for any violation of this subchapter by a billing utility. Authorizes the PUC to enforce the provisions of Chapter 15 for any violation of this subchapter or for the knowing provision of false information to the PUC against any entity as if it was regulated by the PUC. Establishes that jurisdiction to regulate entities not otherwise subject to PUC regulation is not authorized other than as specifically provided by this chapter. Authorizes the PUC to deny a telecommunications or electric utility the right to provide service in this state if the billing utility repeatedly violates this subchapter. Authorizes the PUC to order a billing utility to terminate billing and collection services with a repeat violator of this subchapter. Establishes that a billing utility may terminate or restrict its billing and collection services on its own to provide customer safeguards.

Sec. 17.157. DISPUTES. Authorizes the PUC to resolve disputes between a customer and a certificated telecommunications utility or an electric utility. Authorizes the PUC to take certain actions in resolving disputes.

SECTION 4. Emergency clause.

Effective date: upon passage.