

BILL ANALYSIS

Senate Research Center
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S.B. 1437
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DIGEST AND PURPOSE

Currently, retail electric competition in areas of Texas located outside of the Electric Reliability Council of Texas (ERCOT) must meet several criteria to the Public Utility Commission's (PUC) satisfaction before competition is introduced. As proposed, S.B. 1437 delays full retail customer choice in some areas and establishes a structure for regulating the transition to competition among certain investor-owned electric utilities.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 39, Utilities Code, by adding Subchapter J, as follows:

SUBCHAPTER J. DELAY OF COMPETITION IN CERTAIN NON-ERCOT AREAS

Sec. 39.451. **APPLICABILITY.** (a) Provides that this subchapter applies to certain investor-owned electric utilities.

(b) Provides that the legislature finds that circumstances exist that require areas served by an electric utility described by Subsection (a) to be treated as areas in which it is not in the public interest to transition to full retail customer choice at this time.

Sec. 39.452. **REGULATION OF UTILITY AND TRANSITION TO COMPETITION.**

(a) Requires the rates of the electric utility to be regulated under traditional cost of service regulation and provides the electric utility is subject to all applicable regulatory authority prescribed by this subtitle and Subtitle A (Provisions Applicable to All Utilities), including Chapters 14 (Jurisdiction and Powers of Commission and Other Regulatory Authorities), 32 (Jurisdiction and Powers of Commission and Other Regulatory Authorities), 33 (Jurisdiction and Powers of Municipality), 36 (Rates), and 37 (Certificates of Convenience and Necessity), until the later of January 1, 2007, or the date on which an electric utility subject to this subchapter is authorized by the Public Utility Commission (PUC) to implement customer choice. Provides that the provisions of this chapter do not apply to that electric utility, other than this subchapter, Sections 39.904 (Goal for Renewable Energy) and 39.905 (Goal for Energy Efficiency), and the provisions relating to the duty to obtain a permit from the Texas Commission on Environmental Quality for an electric generating facility and to reduce emissions from an electric generating facility, until the date on which an electric utility subject to this subchapter implements customer choice.

(b) Authorizes an electric utility subject to this subchapter to choose to participate in customer choice on or after January 1, 2007. Requires an electric utility that chooses to participate in customer choice to file a transition to competition plan with the PUC. Requires the transition to competition plan to identify how electric utilities subject to this subchapter intend to achieve full customer choice.

Requires the utility to also include in the transition to competition plan, a provision to establish a price to beat for residential customers and commercial customers having a peak load of 1,000 kilowatts or less. Authorize PUC to prescribe additional information or provisions required to be included in the plan. Requires PUC to approve, modify, or reject a plan within 180 days after the date of a filing under this section unless a hearing is requested by any party to the proceeding. Provides that if a hearing is requested, the 180-day deadline will be extended one day for each day of the hearing. Authorizes the transition to competition plan to be updated or amended, subject to PUC approval, until the applicable power region is certified as a qualifying power region under Section 39.152 (Qualifying Power Regions) and the plan is approved.

(c) Provides that on implementation of customer choice, an electric utility subject to this subchapter is subject to the provisions of this subtitle and Subtitle A (Provisions Applicable to All Utilities) to the same extent as other electric utilities, including the provisions of Chapter 37 (Certificates of Convenience and Necessity) concerning certificates of convenience and necessity.

Sec. 39.453. CUSTOMER CHOICE AND RELEVANT MARKET AND RELATED MATTERS. Prohibits PUC, if an electric utility subject to this subchapter chooses on or after January 1, 2007, to participate in customer choice, from authorizing customer choice until the applicable power region has been certified as a qualifying power region under Section 39.152 (Qualifying Power Regions).

SECTION 2. Effective date: September 1, 2003.