

BILL ANALYSIS

Senate Research Center

S.B. 482
By: Fraser
Business & Commerce
2/19/2007
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law provides for the opening of the Texas electricity market for competition, resulting in customers in different segments of the market exercising their ability to choose a new provider of electricity. However, the lack of competitive forces in the residential market has led to increased electricity prices and little customer mobility between providers. During the recent past, retail electricity prices increased with the increase in the price of natural gas, the primary source of fuel for electricity generation in Texas. However, when natural gas prices fell, electricity prices did not, and customers did not switch companies in response to the price increases.

As proposed, S.B. 482 provides measures for furthering competition in the retail electricity market. The bill provides that the Public Utility Commission (PUC) can issue a customer ballot, study the reasonableness of rates, and implement actions to correct the market. The bill further provides that PUC can require an affiliated retail electric provider (affiliated provider) to provide information to customers via a bill insert, sets unbundling requirements for utilities, and provides an incentive for affiliated providers to compete out of their traditional service territory. Finally, the bill allows PUC to transfer residential customers from an affiliated provider to a competitive retail electric provider (competitive provider) and allows PUC to release customer data from an affiliated provider to a competitive provider, stating that the transfer of customers and customer data is not a violation of privacy.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Public Utility Commission under SECTION 4 (Section 39.110, Utilities Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 39.051, Utilities Code, by adding Subsection (h), as follows:

(h) Requires an electric utility affiliated with power generation companies that own 5,000 megawatts or more of generating capacity or with retail electric providers (retail providers) that have at least 10,000,000 annual sales of megawatt hours of electricity in the State of Texas to file with the Public Utility Commission (PUC), on or before January, 1, 2008, an unbundling plan for discontinuing, within a reasonable time determined by PUC, the utility's affiliation with power generation companies or retail providers.

SECTION 2. Amends Section 39.101, Utilities Code, by amending Subsection (a) and (b) and adding Subsection (i), as follows:

(a) Includes a provision requiring PUC to ensure that retail customer protections are established to entitle a customer to privacy of certain information provided that the release to competitive retail electric providers (competitive provider) of information identifying residential customers served by the affiliated retail electric provider (affiliated provider) at the end of the price to beat period is not to be considered to be a violation of customer privacy.

(b) Entitles a customer to the choice of a retail provider that must be honored and cannot be changed without the customer's consent provided, however, that a residential customer receiving service from an affiliated provider with a month-to-month service plan is

permitted to be transferred to a competitive provider after the end of the price to beat period in any PUC-authorized reallocation plan.

(i) Prohibits a retail provider from stating or implying that it can provide a greater level of reliability of electric service or preferential treatment in the restoration of service after an outage. Permits PUC to impose an administrative penalty for a violation of this subsection according to Section 15.024 (Administrative Penalty Assessment Procedure). Requires a violation of this subsection to be included in the highest class of violations in the classification system established by PUC under Section 15.023 (Administrative Penalties).

SECTION 3. Amends Section 39.102(b), Utilities code, as follows:

(b) Permits an affiliated provider serving a retail customer on December 31, 2001, to continue to serve a customer until the customer chooses service from certain different electric providers or until the customer is switched to another retail provider under Section 39.202(r) (Price to Beat).

SECTION 4. Amends Subchapter C, Chapter 39, Utilities Code, by adding Section 39.110, as follows:

Sec. 39.110. PROMOTION OF RESIDENTIAL CUSTOMER CHOICE. (a) Provides that the purpose of this section is to promote customer choice for residential customers by imposing a charge on certain retail providers to create an incentive for them to compete for residential customers.

(b) Provides that this section applies to a retail provider that on December 31, 2006, was required to offer service to residential customers at the price to beat, and to any successor of the retail provider, and any reference in this section to a retail service provider includes a successor to such provider. Provides that this section no longer applies to a retail provider if the provider is not assessed a charge under Subsection (c) for two consecutive years.

(c) Requires PUC to impose an annual charge on a retail provider that is subject to this section under certain conditions.

(d) Sets forth the manner of determining the amount of the annual charge under this section. Requires the annual charge to be paid to residential customers served by the retail provider in the transmission and distribution utility service territory in which the retail provider was required to offer the price to beat.

(e) Provides that the annual charge no longer applies to a retail provider if each of the retail providers that provided service in accordance with Section 39.202 (Price to Beat) in the two transmission and distribution utility service territories with the greatest number of residential customers are not assessed a charge under this section for two consecutive years.

(f) Authorizes the PUC to adopt and enforce rules necessary for the implementation of this section.

SECTION 5. Amends Section 39.202, Utilities Code, by adding Subsections (q) and (r), as follows:

(q) Requires affiliated providers to release information to competitive providers that identifies the residential customers receiving retail electric service from the affiliated providers on a schedule determined by the PUC.

(r) Authorizes PUC to conduct a program requiring residential customers receiving service from an affiliated provider under a month-to-month service plan to choose a retail provider. Authorizes customers who do not select a retail provider may be switched to a competitive provider or to a different product with their current provider.

SECTION 6. Amends Subchapter E, Chapter 39, Utilities Code, by adding Section 39.2025, as follows:

Sec. 39.2025. MARKET REVIEW BASED ON PRICE OF ELECTRICITY.

(a) Authorizes PUC, on its own motion, to conduct a review of a transmission and distribution service area that customer choice has been introduced to determine whether the retail price of electricity sold to residential customers is unreasonably high or is a threat to public safety. Requires PUC to conduct a review if it receives a request for the review from the Office of Public Utility Counsel, a municipality in the service area, or a standing committee of the Senate or House of Representatives of the State of Texas that has primary jurisdiction over the PUC.

(b) Authorizes PUC, while its conducting a review, to impose a cap on the retail price of electricity sold to residential customers in a transmission and distribution service area at a price the PUC deems appropriate. Requires that any cap PUC imposes will apply to all retail electric providers in the capped area that sell electricity to residential customers.

(c) Authorizes PUC to take any action in the public interest, including extending a cap imposed under Subsection (b), if, after the completion of a review, the PUC deems that the retail price of electricity sold to residential customers in the transmission and distribution service area is unreasonably high or is a threat to public safety.

SECTION 7. Amends Section 39.902, Utilities Code, by amending Subsection (c) and by adding Subsections (d) and (e), as follows:

(c) Authorizes PUC to provide customers information concerning marketplace prices available, savings available via switching retail providers, and information concerning certain specific retail provider.

(d) Authorizes PUC to require an affiliated provider to provide information to customers regarding savings available to the customer from switching to another retail provider or product in a manner specified by PUC.

(e) Authorizes PUC to require a transmission and distribution utility to issue public service announcements that inform customers of certain information regarding service following an outage is not contingent upon the customer's receiving service from a particular retail provider.

SECTION 8. Effective date: upon passage or September 1, 2007.