

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1492
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The 79th Legislature, Regular Session, 2005, enacted H.B. 1567, which put Energy Gulf States, Inc. (EGSI), on a path toward introducing retail electric competition in its Texas service territory and setting milestones along the path. One of those milestones was the filing of a transition to competition plan (TTC plan) at the Public Utility Commission (PUC) not later than January 1, 2007. EGSI filed its TTC plan on December 29, 2006. Among other things, the TTC plan calls for the creation of EGSI-Texas, a separate, Texas-only utility, the integration of EGSI-Texas into the Electric Reliability Council of Texas (ERCOT), and the introduction of retail electric competition in EGSI-Texas territory. PUC declined to accept the plan as filed, and the case is still pending before PUC over two years later.

The TTC plan also estimates that its implementation would increase the retail rates of EGSI's residential customers and the transmission rates in ERCOT to a point where the costs could outweigh the benefits. After nearly two years of hearings in a contested docket, there has been no support shown from the numerous stakeholders who intervened in the matter for the move over to ERCOT. Additionally, EGSI and the electric cooperatives operating within its service territory would be required to make difficult and expensive long-term decisions regarding the planning, contracting for, and/or construction of generation and transmission facilities.

This bill provides a statutory postponement of the introduction of retail electric competition in the Texas portion of the Southeastern Electric Reliability Council to provide EGSI and the affected cooperatives the necessary certainty to make long-term commitments and assure cost-of-service rates for electric consumers in EGSI's service territory until the legislature acts to introduce retail electric competition in this area.

C.S.S.B. 1492 amends current law relating to the delay of retail electric competition in the areas of the state covered by the Southeastern Electric Reliability Council and to the recovery of certain transmission costs by electric utilities in those areas.

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 Section 36.209, Utilities Code, by amending Subsections (a) and (b), as follows:

(a) Provides that this section applies only to an electric utility that operates solely outside of Electric Reliability Council of Texas (ERCOT) in areas of this state included in the Southeastern Electric Reliability Council (SERC), the Southwest Power Pool, or the Western Electricity Coordinating Council and that owns or operates transmission facilities. Makes nonsubstantive changes.

(b) Makes no changes to this subsection

SECTION 2. Amends Section 39.452, Utilities Code, by amending Subsection (b) and adding Subsection (i), as follows:

(b) Requires an electric utility subject to this subchapter to propose a competitive generation tariff to allow eligible customers the ability to contract for competitive generation. Requires the Public Utility Commission (PUC) to approve, reject, or modify the proposed tariff not later than September 1, 2010. Requires PUC to ensure that a competitive generation tariff shall not be implemented in a manner that harms the sustainability or competitiveness of manufacturers that choose not to take advantage of competitive generation. Requires an electric utility subject to this subsection, pursuant to the competitive generation tariff, to purchase competitive generation service, selected by the customer, and provide the generation at retail to the customer. Requires an electric utility subject to this subsection to provide and price retail transmission service, including necessary ancillary services, to retail customers who choose to take advantage of the competitive generation tariff at a rate that is unbundled from the utility's cost of service. Prohibits such customers from being considered wholesale transmission customers. Prohibits PUC, notwithstanding any other provision of this chapter, from issuing a decision relating to a competitive generation tariff that is contrary to an applicable decision, rule, or policy statement of a federal regulatory agency having jurisdiction. Deletes existing text prohibiting a person, notwithstanding Subsection (a) (relating to the required regulated rates of the electric utility), except for adjustments authorized by Sections 36.203 (Fuel Cost Recovery; Adjustment of Fuel Factor), 39.454 (Recoupment of Transition to Competition Costs), 39.455 (Recovery of Incremental Capacity Costs), and 39.456 (Franchise Agreements), and except for proceedings and cost recovery mechanisms authorized by Sections 39.458 (Recovery and Securitization of Hurricane Reconstruction Costs; Purpose), 39.459 (Hurricane Reconstruction Costs), 39.460 (Standards and Procedures Governing Securitization of Hurricane Reconstruction Costs), 39.461 (Nonbypassable Charges), 39.462 (Determination of Hurricane Reconstruction Costs), 39.463 (Severability), from filing a proceeding to change, alter, or revoke any rate offered or charged by an electric utility subject to this subchapter before June 30, 2007, with an effective date no earlier than June 30, 2008. Deletes existing text requiring the utility, as part of Subchapter C (General Procedures for Rate Changes Proposed by Utility), Chapter 36 (Rates), rate proceeding, to propose a competitive generation tariff to allow eligible customers the ability to contract for competitive generation.

(i) Requires an electric utility subject to this subchapter, notwithstanding any other provision of this chapter, if PUC has not approved the transition to competition plan under this section before January 1, 2009, to cease all activities relating to the transition to competition under this section. Authorizes PUC, on its own motion or the motion of any affected person, to initiate a proceeding under Section 39.152 (Qualifying Power Regions), to certify a power region when the conditions supporting such a proceeding exist. Prohibits PUC from approving a plan under Subsection (g) (relating to the electric utility filing a transition to competition plan) until the expiration of four years from the time that PUC certifies a power region under Subsection (f) (relating to the electric utility filing a plan with PUC for identifying the applicable power region or power regions).

SECTION 3. Requires an electric utility operating in the SERC that is subject to traditional cost of service rate regulation and on the effective date of this Act has a transition to competition plan on file with PUC, not later than the 90th day after the effective date of this Act, to withdraw the plan from PUC and cease all activities related to the plan.

SECTION 4. Effective date: upon passage or September 1, 2009.