

By: King of Parker

H.B. No. 1189

A BILL TO BE ENTITLED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

AN ACT

relating to competition and customer choice in the retail electric market; providing an administrative penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 39.051, Utilities Code, is amended by adding Subsection (h) to read as follows:

(h) On or before January 1, 2008, an electric utility that is affiliated with power generation companies that own 5,000 megawatts or more of generating capacity in this state or with retail electric providers that have annual sales of 10,000,000 megawatt hours or more of electricity in this state shall file with the commission an unbundling plan for discontinuing, within a reasonable time determined by the commission, the utility's affiliation with power generation companies or retail electric providers.

SECTION 2. Section 39.101, Utilities Code, is amended by amending Subsections (a) and (b) and adding Subsection (i) to read as follows:

(a) Before customer choice begins on January 1, 2002, the commission shall ensure that retail customer protections are established that entitle a customer:

(1) to safe, reliable, and reasonably priced electricity, including protection against service disconnections in an extreme weather emergency as provided by Subsection (h) or in

1 cases of medical emergency or nonpayment for unrelated services;

2 (2) to privacy of customer consumption and credit
3 information; provided, however, that the release to competitive
4 retail electric providers of information identifying residential
5 customers that were served by the affiliated retail electric
6 provider at the end of the price to beat period shall not be
7 considered a violation of customer privacy;

8 (3) to bills presented in a clear format and in
9 language readily understandable by customers;

10 (4) to the option to have all electric services on a
11 single bill, except in those instances where multiple bills are
12 allowed under Chapters 40 and 41;

13 (5) to protection from discrimination on the basis of
14 race, color, sex, nationality, religion, or marital status;

15 (6) to accuracy of metering and billing;

16 (7) to information in English and Spanish and any
17 other language as necessary concerning rates, key terms and
18 conditions, in a standard format that will permit comparisons
19 between price and service offerings, and the environmental impact
20 of certain production facilities;

21 (8) to information in English and Spanish and any
22 other language as necessary concerning low-income assistance
23 programs and deferred payment plans; and

24 (9) to other information or protections necessary to
25 ensure high-quality service to customers.

26 (b) A customer is entitled:

27 (1) to be informed about rights and opportunities in

1 the transition to a competitive electric industry;

2 (2) to choose the customer's retail electric provider
3 consistent with this chapter, to have that choice honored, and to
4 assume that the customer's chosen provider will not be changed
5 without the customer's informed consent; provided, however, that a
6 residential customer that is receiving service from an affiliated
7 retail electric provider under a month-to-month service plan may be
8 transferred to a competitive retail electric provider after the end
9 of the price to beat period in any commission-authorized
10 reallocation plan;

11 (3) to have access to providers of energy efficiency
12 services, to on-site distributed generation, and to providers of
13 energy generated by renewable energy resources;

14 (4) to be served by a provider of last resort that
15 offers a commission-approved standard service package;

16 (5) to receive sufficient information to make an
17 informed choice of service provider;

18 (6) to be protected from unfair, misleading, or
19 deceptive practices, including protection from being billed for
20 services that were not authorized or provided; and

21 (7) to have an impartial and prompt resolution of
22 disputes with its chosen retail electric provider and transmission
23 and distribution utility.

24 (i) A retail electric provider may not state or imply that
25 it can provide a greater level of reliability of electric service or
26 preferential treatment in the restoration of service following an
27 outage. The commission may impose an administrative penalty for a

1 violation of this subsection in accordance with Section 15.024. A
2 violation of this subsection shall be included in the highest class
3 of violations in the classification system established by the
4 commission under Section 15.023.

5 SECTION 3. Subsection (b), Section 39.102, Utilities Code,
6 is amended to read as follows:

7 (b) The affiliated retail electric provider of the electric
8 utility serving a retail customer on December 31, 2001, may
9 continue to serve that customer until the customer chooses service
10 from a different retail electric provider, an electric cooperative
11 offering customer choice, or a municipally owned utility offering
12 customer choice or until the customer is switched to another retail
13 electric provider under Section 39.202(r).

14 SECTION 4. Subchapter C, Chapter 39, Utilities Code, is
15 amended by adding Section 39.110 to read as follows:

16 Sec. 39.110. PROMOTION OF RESIDENTIAL CUSTOMER CHOICE.

17 (a) The purpose of this section is to promote customer choice for
18 residential customers by imposing a charge on certain retail
19 electric providers to provide an additional incentive for them to
20 compete for residential customers.

21 (b) This section applies to a retail electric provider that
22 on December 31, 2006, was required to offer service to residential
23 customers at the price to beat in accordance with Section 39.202,
24 and to any successor in interest of the retail electric provider,
25 and any reference in this section to a retail service provider
26 includes a successor in interest to such provider. This section no
27 longer applies to a retail electric provider if the retail electric

1 provider is not assessed a charge under Subsection (c) for two
2 consecutive years.

3 (c) The commission shall impose an annual charge on a retail
4 electric provider that is subject to this section if at the end of a
5 calendar year the retail electric provider's share of the
6 residential market in the transmission and distribution utility
7 service territory in which it was required to offer service at the
8 price to beat, expressed as a percentage of the number of customers,
9 minus the retail electric provider's share of the residential
10 market in areas where customer choice is available outside the
11 transmission and distribution utility service territory in which it
12 was required to offer the price to beat, expressed as a percentage
13 of the number of customers, is greater than 50 percent.

14 (d) The annual charge under this section shall equal \$300
15 multiplied by the difference between the number of residential
16 customers that the retail electric provider served during that year
17 in the transmission and distribution utility service territory in
18 which it was required to offer the price to beat and the number of
19 residential customers that the retail electric provider served
20 outside the transmission and distribution utility service
21 territory in which it was required to offer the price to beat. The
22 charge assessed under this section shall be paid to residential
23 customers served by the retail electric provider in the
24 transmission and distribution utility service territory in which
25 the retail electric provider was required to offer the price to
26 beat.

27 (e) The annual charge no longer applies to any retail

1 electric provider if each of the retail electric providers that
2 provided service in accordance with Section 39.202 in the two
3 transmission and distribution utility service territories with the
4 greatest number of residential customers are not assessed a charge
5 under this section for two consecutive years.

6 (f) The commission may adopt and enforce rules as necessary
7 or appropriate to carry out this section.

8 SECTION 5. Section 39.202, Utilities Code, is amended by
9 adding Subsections (q) and (r) to read as follows:

10 (q) On a schedule to be determined by the commission,
11 affiliated retail electric providers shall release information to
12 competitive retail electric providers that identifies the
13 residential customers receiving retail electric service from the
14 affiliated retail electric providers.

15 (r) The commission may conduct a program to require
16 residential customers receiving service from an affiliated retail
17 electric provider under a month-to-month service plan to select a
18 retail electric provider. Customers who do not affirmatively
19 select a retail electric provider may be switched to a competitive
20 retail electric provider or to a different product with their
21 existing provider.

22 SECTION 6. Subchapter E, Chapter 39, Utilities Code, is
23 amended by adding Section 39.2025 to read as follows:

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

25 (a) The commission, on its own motion, may conduct a review of a
26 transmission and distribution service area in which customer choice
27 has been introduced to determine whether the retail price of

1 electricity sold to residential customers in all or part of that
2 area is unreasonably high or is a threat to public safety. The
3 commission shall conduct a review if it receives a request for the
4 review from:

- 5 (1) the office;
6 (2) a municipality in the service area; or
7 (3) a standing committee of the senate or house of
8 representatives that has primary jurisdiction over the commission.

9 (b) While conducting a review under this section, the
10 commission may impose a cap on the retail price of electricity sold
11 to residential customers in all or part of a transmission and
12 distribution service area at a price the commission determines
13 appropriate. Any cap the commission imposes shall apply to all
14 retail electric providers in the capped area that sell electricity
15 to residential customers.

16 (c) If, after the completion of a review, the commission
17 determines that the retail price of electricity sold to residential
18 customers in all or part of the transmission and distribution
19 service area is unreasonably high or is a threat to public safety,
20 the commission may take any action consistent with the public
21 interest, including extending a cap imposed under Subsection (b).

22 SECTION 7. Section 39.902, Utilities Code, is amended by
23 amending Subsection (c) and adding Subsections (d) and (e) to read
24 as follows:

25 (c) After the opening of the retail electric market, the
26 commission shall conduct ongoing customer education designed to
27 help customers make informed choices of electric services and

1 retail electric providers. As part of ongoing education, the
2 commission may provide customers information concerning prices
3 available in the marketplace, savings available to customers by
4 switching retail electric providers, and information concerning
5 specific retail electric providers, including instances of
6 complaints against them and records relating to quality of customer
7 service.

8 (d) The commission may require an affiliated retail
9 electric provider to provide information to customers regarding
10 savings available to the customer from switching to another retail
11 electric provider or product in a manner specified by the
12 commission, including through bill inserts or statements on
13 customer bills.

14 (e) The commission may require a transmission and
15 distribution utility to issue public service announcements that
16 inform customers that service reliability and the restoration of
17 electric service following an outage is not contingent upon the
18 customer's receiving service from a particular retail electric
19 provider.

20 SECTION 8. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect September 1, 2007.